ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SHARRON MANGUM Plaintiff, Vs. THE COCA-COLA COMPANY Defendant.	}	CIVIL ACTION FILE NO. 1:01-CV-2866 (RWS)

PLAINTIFF'S MOTION TO DISQUALIFY MAGISTRATE JUDGE E. CLAYTON SCOFIELD AND DISTRICT COURT JUDGE RICHARD W. STORY PURSUANT TO 28 U.S.C. §§144, 455 AND MOTION FOR DEFAULT SUMMARY JUDGMENT BASED ON COLLUSION

NOW COMES the Plaintiff, Sharron Mangum and hereby moves this Court to issue an order disqualifying Magistrate Judge E. Clayton Scofield III (Herein "Judge Scofield") and the District Court Judge Richard W. Story (Herein "Judge Story") from this matter, pursuant to 28 U.S.C. §§144, 455, and any other applicable statutes and/or rules, due to their personal biases and prejudices against Plaintiff.

I. INTRODUCTION

March 19, 2001 Plaintiff entered into a contractual agreement with Gary, Williams, Parenti, Finney, Lewis, McManus & Sperando (Herein "Gary Firm") for legal representation of her

claims against the Defendant, Coca-Cola. A joint action against the Defendant, Coca-Cola, Civil Action File No. 1:01-CV-2525 was filed September 21, 2001. Shortly after, the Court issued an ORDER severing plaintiff's Mangum, Everson, Starks and Graham October 25, 2001 [DOC. 4] and, subsequently, Civil Action File No. 1:01-CV-2866 was filed October 25, 2001.

A second complaint by Plaintiff, Civil Action File No. 1:03-CV-00223 against the Defendant, Coca-Cola was filed January 27, 2003 [DOC. 1], and was consolidated with Civil Action File No. 1:01-CV-2866 April 17, 2003 [DOC. 8] by CONSENT ORDER of this Court.

June 25, 2003, amid allegations of fraud and racketeering filed with the Florida Bar Association (See Goodman, Mangum et. al. vs. Gary, et. al., Civil Action File No. 1:03-CV-3387 [DOC. 47]), the Gary Firm filed a MOTION TO WITHDRAW [DOC. 53] as Plaintiff's counsel, which was granted by this Court and an ORDER issued July 15, 2003 [DOC. 54]. Subsequently, Plaintiff filed a MOTION FOR ADMISSION to appear in PROPRIA PERSONA September 9, 2003 [Doc. 60].

August 18, 2003, Plaintiff filed a joint complaint against the Defendant, Coca-Cola, Civil Action File No. 03-CV-73797 in the Superior Court of Fulton County, for fraud and racketeering allegations against the Defendant, Coca-Cola resulting in

Plaintiff's wrongful firing March 15, 2003. September 12, 2003 the Defendant, Coca-Cola, filed a NOTICE OF REMOVAL with COMPLAINT [DOC. 1] in this Court, and subsequently the case was transferred, Civil Action File No. 1:03-CV-2739.

November 18, 2003 Plaintiff entered into her second contractual agreement for legal representation with Breedlove & Lassiter, attorney Levi Breedlove. March 16, 2004, amid allegations of fraud [DOC. 80, 83], Breedlove & Lassiter filed a MOTION TO WITHDRAW [DOC. 74] as Plaintiff's counsel, which was granted by this Court and an ORDER issued April 14, 2004 [DOC. 79]. Subsequently, Plaintiff's second MOTION FOR ADMISSION to appear in PROPRIA PERSONA was filed May 5, 2004 [Doc. 84], and Plaintiff has represented herself since that time.

II. FACTS

1. September 21, 2001 the Gary Firm filed a joint complaint, Civil Action File No. 1:01-CV-2525 [DOC. 1], for Plaintiff and three other individuals, Jacqueline Everson, Wanda Starks and Tinlyn Graham. On this exact date, CASE was REFERRED to Magistrate Judge Joel M. Feldman (Herein Judge Feldman).

2. October 15, 2001 an ORDER [DOC. 3] issued by Judge Willis B. Hunt, Jr. recusing himself and the case was reassigned to Judge Richard W. Story.

3. October 17, 2001 CASE REFERRED to Magistrate Judge E. Clayton Scofield.

a. Likewise in the highly profiled discrimination class action lawsuit, Abdalla et. al., vs. Coca-Cola, Civil Action File No. 1:98-CV-3679, did Magistrate Judge John R. Strother, Jr. issue an ORDER January 11, 1999 [DOC. 3] to recuse himself and Magistrate Judge John E. Dougherty issue an ORDER January 15, 1999 [DOC. 4] to recuse himself as well. Finally, on March 10, 1999 the case was REFERRED to Magistrate E. Clayton Scofield.

b. Likewise in Tangela Gaines vs. Coca-Cola, Civil Action File No. 1:02-CV-2046 did Magistrate Judge Linda T. Walker issue an ORDER December 4, 2002 [DOC. 8] recusing herself and CASE REFERRED to Magistrate Judge E. Clayton Scofield.

c. Likewise in Darryl Wallace vs. Coca-Cola, Civil Action File No. 1:03-CV-2590 did Magistrate Judge Janet F. King issue an ORDER October 30, 2003 [DOC. 11] GRANTING Defendant Coca-Cola's "motion for reassignment and transfer of case to District Judge Richard Story" and CASE REFERRED to Magistrate Judge E. Clayton Scofield.

d. Likewise in Darryl Wallace and Sharron Mangum vs. Coca-Cola, Civil Action File No. 1:03-CV-2739 was removed from Superior Court of Fulton County (03-CV-73797) and on September 12, 2003 CASE REFERRED to Magistrate Judge E. Clayton Scofield.

e. Likewise in Marietta Goodman, Sharron Mangum et. al., vs. Gary, et. al. Civil Action File No. 1:03-CV-3387 did District Court Judge Richard W. Story take assignment of this case through a CONSENT ORDER December 8, 2003 [DOC. 2].

i. This action under the Racketeering Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961, et seq, arose from an illegal scheme that was created, owned, operated, managed and controlled by Willie Gary (Herein Gary) and their co-conspirators the Coca-Cola Company, wherein, twelve of the seventeen Coca-Cola individuals represented by

Gary, were fraudulently induced into settling their claims with the Defendant, Coca-Cola.

ii. Additionally, three of the four remaining individuals allege that Gary and his co-conspirators acted in a manner to commit: racketeering OCGA § 16-14-3(8 & 9); theft in violation of OCGA § 16-8-1 *et seq.*; securities fraud in violation of OCGA § 10-5-24; mail fraud in violation of 18 U.S.C. § 1341; obstruction of justice in violation of 18 U.S.C. § 1512; influencing witnesses in violation of OCGA § 16-10-93; tampering with evidence in violation of 16-10-94; and extortion in violation of 18 U.S.C. § 1951.

a. See also Laosebikan vs. Coca-Cola, Civil Action File No. 1:01-CV-3040, Goodman vs. Coca-Cola, Civil Action File No. 1:01-CV-1774 and Everson vs. Coca-Cola 1:01-CV-2525.

4. October 25, 2001 Judge Story entered an ORDER SEVERING the claims of Plaintiff and three other individuals, Jacqueline Everson, Wanda Starks and Tinlyn Graham and DIRECTING the clerk to assign new and separate civil case numbers [DOC. 4].

a. Likewise in joint Civil Action File No. 1:01-CV-1336 against the Defendant, Coca-Cola, did Judge Story issue an ORDER SERVERING the claims of plaintiff's Motisola Abdallah, Ajibola Laosebikan, and Gregory Clark November 13, 2001 [DOC. 23].and DIRECTING the clerk to assign new and separate civil case numbers.

b. Likewise in joint Civil Action File No. 1:00-CV-1774 (Originally filed in Superior Court of Fulton County, 00-CV-6139.) against the Defendant, Coca-Cola did Judge Story during a TELE-CONFERENCE October 12, 2001 [DOC. 66] "raised concerns regarding case assignment" and on October 22, 2001 [DOC. 68] issue an ORDER SERVERING the claims of plaintiff's Marietta Goodman, Kathy Fain, Dana Allen and Angela Graham and DIRECTING the clerk to assign new and separate civil case numbers.

c. Likewise in joint Civil Action File No. 1:01-CV-2105 against the Defendant, Coca-Cola, did Judge Story issue an ORDER SERVERING the claims of plaintiff's Diletha Waldon, Nicole Suddeth, Lesmer Morton Orr, Velma Thomas, Bonnita Thomas, and V. Freeston Warner October 25, 2001 [DOC. 13].and DIRECTING the clerk to assign new and separate civil case numbers

5. Each of the aforementioned cases, whether joint or successive individual complaints, as enumerated in paragraphs 3 and 4 above have been DISMISSED WITH PREJUDICE with the exception of Laosebikan vs. Coca-Cola, Civil File No. 1:01-CV-3040, Wallace vs. Coca-Cola, Civil File No. 1:03-CV-2590, Goodman and Mangum et. al. vs. Gary, et. al, Civil Action File No. 1:03-CV-3387 (in which Coca-Cola stands accused of collusion with the Gary Firm arising from the joint cases and their successive individual cases as enumerated in paragraphs 3 and 4 above), and the above styled action. A total of seventeen (17) cases against the Defendant, Coca-Cola, in which fraud has been alleged, have come before this Court between 2001 and 2003 and were referred to Magistrate Judge E. Clayton Scofield and District Court Judge Richard W. Story, and consequently dismissed in favor of the Defendant, Coca-Cola.

Fifteen of these individual cases were represented by prominent Stuart, Florida attorney, Willie Gary of Gary, Williams, Parenti, Finney, Lewis, McManus & Sperando. One case was represented by Decatur, Georgia attorney, Levi Breedlove,

who has established ties to Willie Gary, and Gary's longtime friend, Jesse Jackson.

6. April 22, 2004 [DOC. 82] Judge Scofield issued an ORDER DENYING Plaintiff's motion for leave to file third (3rd) amended complaint because Plaintiff did not exercise due diligence to assert any new matters when the case was initially filed or within the 30-day time period set forth in the rules, thus "...Plaintiff has not shown good cause for modifying the scheduling order." On May 12, 2004 [DOC. 84] issued an ORDER STRIKING Plaintiff's amended complaint from the record.

7. May 26,2004, [DOC. 96] Plaintiff filed a MOTION for admission of her third amended complaint, wherein, Plaintiff seeks to add criminal claims:

a. Retaliation in violation of Title VII and Section 1981 and Title IX of the Civil Rights Act of 1964 (42 U.S.C § 2000h-2)

b. Slander and Defamation of Character in violation of Title VII and Section 1981 and in violation of Title IX of the Civil Rights Act of 1964 (42 U.S.C § 2000h-2)

c. Conspiracy to injure citizens in violation of 18 U.S.C. § 241 and Title IX of the Civil Rights Act of 1964 (42 U.S.C § 2000h-2)

It would have been impossible for Plaintiff to assert any new matters when the case was initially filed October 25, 2001 or within the 30-day time period set forth in the rules, because:

d. Plaintiff's wrongful firing did not occur until March 15, 2003 [DOC. 151].

e. Plaintiff's slander and defamation did not occur until May 17, 2003 [DOC 151].

f. Plaintiff's assertion that fraud was committed by her legal representation, the Gary Firm, wasn't until June 2003 [DOC. 144, 146 and 148].

g. Plaintiff's assertion that fraud was committed by her legal representation, Levi Breedlove, wasn't until April 2004 [DOC. 78, 79, 80, 81 and 83].

8. May 21, 2004 [DOC. 89 and 90] Plaintiff's filed NOTICE to take deposition of Taneisha Dixon and Kerri Morse, two individuals Plaintiff alleged engaged in criminal activity with Defendant Coca-Cola during her employment and were involved in her wrongful firing March 15, 2003 (Civil Action File No. 1:03-CV-2739, which was removed from Superior Court of Fulton County (03-CV-73797)). Depositions were scheduled to be held on June 3, 2003 and June 4, 2003.

9. June 1, 2004 [DOC. 99] Plaintiff received a telephone call from Judge Scofield's chamber informing her that an ORDER was issued staying discovery "including all pending discovery" and requesting a fax number to which the ORDER could be sent.

10. Pursuant to F.R.C.P. 6(e), there is "three days" for mailing, therefore Plaintiff would not be held to Judge Scofield's ORDER [DOC. 99] until June 4, 2004, which would occur

one day after Taneisha Dixon was deposed and possibly hours after Kerri Morse had been deposed.

11. Subsequently, Taneisha Dixon advised Plaintiff the morning of her deposition, June 3, 2004 [DOC. 89], that her attorney (Michael Johnston, an attorney for the Defendant, Coca-Cola implied.) told her that she did not have to participant in anything, as indicated in the NOTICE Of Filing Notary's Certification Re Failure of Witness to Appear for the Taking of Her Deposition [DOC. 117] August 3, 2004.

12. June 5, 2004 Plaintiff received court documents from Michael Johnston, attorney for the Defendant, Coca-Cola, wherein Kerri Morse filed an OBJECTION June 3, 2004 [DOC. 100] to Plaintiff's notice to subpoena her for a deposition.

13. June 15, 2004 during a Motion HEARING before Judge Scofield [DOC. 105], a VERBAL ORDER was issued "GRANTING [100-1] objection construed as a motion to quash by non-party Kerri [Morse]" despite neither Kerri Morse nor her legal representation being present.

14. June 24, 2004 Judge Scofield issued an ORDER [DOC. 106] allowing Defendant, Coca-Cola to designate twelve witnesses[1] Plaintiff can depose despite:

a. Plaintiff's request to present evidence to the Court of individuals having knowledge of the allegations outlined in her complaint,

b. and Plaintiff's objections [DOC. 110] pursuant to F.R.C.P. 30(a)(2)(A), where in it states, "that a party may depose anyone with discoverable information, party or non-party."

c. Plaintiff was disallowed to depose Amanda Pace, Defendant Coca-Cola's Ombuds Director and Kerri Morse, President of M&S Specialty Welding.

d. Additionally, Plaintiff's request third request to have her Third Amended Complaint added was denied.

15. August 19, 2004 Judge Story issued an ORDER [DOC. 125] to concur "with the rulings and conclusions of Magistrate Judge and OVERRULES" Plaintiff's objection [DOC. 110].

a. Every litigant has the right to rely upon the rules as written, and it is the Court's duty to enforce the rules where an objection is made in reliance upon the language of the rule cited. *Continental Air Lines Inc. v. City and County of Denver*, 266P.2d 400, 129 Colo.1 (Colo. 01/18/1954).

[1] [DOC. 106] "These depositions are: Milagros Tomei, Marsha Holsombeck, Dianne Krantz, Deborah Haseley, Melissa Renninger, Dianna Haddon, Patricia Keener, James Garris, Peter Simpson, Bevin Newton, Tracy Koll and

b. The standard in Federal Court for amendment of pleadings is set forth in *Foman v. Davis,* 371 U.S. 178, 181-182-82 (1962) as follows: "[I]n the absence of...undue delay, bad faith or dilatory motive on the part of the movant...undue prejudice to the opposing party...[or] futility of amendment," leave to amend pleadings should be allowed.

16. August 24, 2004 Judge Scofield issued ORDER [126] scheduling a hearing on September 1, 2004 on several pending motions three of which were Plaintiff's Motion to Compel discovery responses from the Defendant, Coca-Cola, and, two subpoenas issued to non-party M&S Specialty Welding and non-party Bashen Consulting.

17. September 3, 2004 Judge Scofield issued an ORDER [DOC. 128] sustaining M&S Specialty Welding and Bashen Consulting's objection to subpoenas despite neither non-party being present nor their legal representation being present at the hearing September 1, 2003. Additionally, Plaintiff's Motion to Compel discovery responses was DENIED, while Defendant's Motion to Compel was GRANTED, Defendant's Motion for Sanctions ($14, 943.88) was GRANTED and Defendant's first Motion to Dismiss was DENIED.

Rick Watson."

18. October 4, 2004 discovery closed in the above styled case as establish by the ORDER of Judge Scofield September 8, 2004 [DOC. 130].

19. October 19, 2004 Judge Scofield issued an ORDER [139] "extending the time for filing motions for summary judgment until twenty (20) days after this Court issues it Report and Recommendation on Defendant, Coca-Cola'S Motion to Dismiss w/Prejudice [DOC. 138] filed October 8, 2004.

a. February 23, 2004 Defendant Coca-Cola filed its third Motion to Dismiss w/Prejudice.

b. March 1, 2004 Plaintiff filed a Default Summary Judgment in Response to Defendant's Supplemental Motion to Dismiss based on an ORDER issued by Judge Scofield January 6, 2005 in which Plaintiff believed that the ORDER denied Defendant's October 8, 2004 Motion to Dismiss [DOC. 138].

c. Though mistaken unintentionally March 1, 2005, Plaintiff has come to realize that Judge Scofield had not ruled on the Defendant's Motion to Dismiss and the motion has been sitting on the docket for five (5) months.

20. October 28, 2004 Judge Scofield issued an ORDER [142] requiring Plaintiff to pay to the Defendant within thirty (30) days $14, 943.88 awarded them in Sanctions [DOC. 128], and

warning Plaintiff if she did not it could lead up to dismissal of this action. In response to this ORDER Plaintiff filed a Proposed Settlement Agreement [DOC. 125] January 25, 2004 wherein she states, "Plaintiff Mangum is financially destitute having no income to sustain the normal means of daily survival—food, clothing and shelter."

a. In Newland v. Superior Court (1995) 40 Cal.App.4th 608, Epstein wrote, "The time has come to reassert a well-established but apparently not well-known rule about monetary sanctions in discovery. The rule is that it is an abuse of discretion for a trial court to issue a terminating sanction for failure to pay the sanction."

21. November 17, 2004 Plaintiff filed a Request to Charge the Defendant, Coca-Cola and several other named individuals with criminal charges pursuant to Title 18 §371, §1002, §1028, §1031, §1111, §1113, §1506, §1509, §1621, §1622, § 1623, §1512, §1513 and OCGA § 16-14-4(a), (b), and (c).

a. Pursuant to the provisions of Criminal Justice Act of 1964 (18 U.S.C. 3006A) as amended by the Act of October 14, 1970 (P.L. 91-447, 91st Cong., 84 Stat. 916), and by Title II of P.L. 98-473, 98 Stat. 1837, the Comprehensive Crime Control Act of 1984, the Judges of the United States District Court for the Northern District of Georgia have adopted, effective March 18, 1986, the following amended Plan for the adequate representation of any person, unable to obtain adequate representation:

i. who is a person for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel. Representation shall include counsel

> and investigative, expert, and other services necessary for an adequate defense and may request such services in an ex parte application submitted to a judge before whom the case is pending, or before a magistrate if the services are required in connection with a matter over which the magistrate has jurisdiction (or if the judge otherwise refers such application to a magistrate for findings and report).

22. Judge Scofield or Judge Story have not issued an order in this request nor have they appointed federal authorities to investigate these claims—leaving it on the docket unaddressed for four (4) months.

23. Finally, it would be obvious to any reasonable law abiding citizen that a pattern exists across all the cases enumerated in paragraphs 3 and 4 above. A pattern of fraud, collusion, obstruction of justice, and so forth in which Plaintiff and the other named individuals have been deprived of their Due Process Rights under the Constitution of the United States.

24. Never during the course of this litigation and the other cases enumerated in paragraphs 3 and 4 above, did Judge Scofield and Judge Story alert federal authorities to the systematic pattern of fraud and corruption (abandoning claims, voluntary dismissal of claims, withholding evidence, creating false documents, etc.) committed by the Defendant, Coca-Cola and the attorneys for the plaintiffs: the Gary Firm, Levi

Breedlove, Damien Turner, Howard Evans, Alan Garber and so many others, against the plaintiffs and this Court. This truly is a travesty of justice.

III. LAW PURSUANT TO 28 U.S.C. §§144, 455

25. Plaintiff charges Judge Scofield and Judge Story with personal biases and prejudices against Plaintiff for various reasons, including, but not limited to, denying, depriving, and overlooking Plaintiff's Due Process Rights; violating the Constitutional Rights of Plaintiff to have Plaintiff's motions heard and ruled upon in a timely manner, which denies Plaintiff meaningful access to the courts; manipulating hearings to deprive, and to deny, Plaintiff a meaningful hearing on the merits of Plaintiff's cause; issuing orders, which did not provide Plaintiff with any meaningful time to respond to the exhibits of the Defendant; violating Plaintiff's duty to comply with the Supreme Law of the Land; and violating Plaintiff's duty to apply the Law even if the judge does not agree with the Law.

26. This personal prejudice and bias evidenced by Judge Scofield and Judge Story is an extension of the prejudice and bias of the Georgia Federal District Courts and the Eleventh Circuit Court of Appeals towards non-represented litigants, as

evidenced by case law from the time of **Haines v. Kerner**, 404 U.S. 520, 92 S.Ct. 594 (1972), to present.

27. Judge Scofield and Judge Story violated their Oath to be a Judge, when they did not uphold the U.S. Constitution in this matter. Judge Scofield and Judge Story's actions in denying, depriving, and overlooking the Plaintiff's legal and constitutional rights were prejudicial against the Plaintiff pursuant to 28 U.S.C. §453. Judge Scofield and Judge Story did not faithfully and impartially discharge and perform all the mandated duties incumbent upon them.

28. Judge Scofield and Judge Story intentionally and effectively denied the Plaintiff's constitutional right to effectively "petition...for a redress of grievances".

> **U.S. Constitution, Amendment I**. The Plaintiff has filed Motions with this court, which this court has refused to hear and rule on at a meaningful time. The failure of these judges to promptly hear, in a meaningful manner and at a meaningful time, the Motions of the Plaintiff does not satisfy the constitutional right to a redress of the Plaintiff's grievances. The failure of this court to hear at a meaningful time and in a meaningful manner the Motions of the Plaintiff deprives the Plaintiff of her legal and constitutional rights; it is prejudicial and biased against the Plaintiff. Some of the Petitions-Motions include, but are not limited to, "Plaintiff's Motion to File Amended Complaint", Plaintiff's Motion to Compel Defendants in Discovery Requests", Plaintiff's Response to Defendant's Motion to Dismiss" and "Plaintiff's Motion for a Proposed Settlement of Sanctions".

29. Judge Scofield and Judge Story effectively denied Plaintiff of her rights of equal protection under the law under **Article VI of the U.S. Constitution**. Judge Scofield and Judge Story have been prejudicial and biased against Plaintiff, by refusing to rule pursuant to the Supreme Law of the Land. Judge Scofield and Judge Story have deprived Plaintiff of the equal protection of the law, by not applying the Supreme Law of the Land to the Plaintiff's position.

30. The United States Supreme Court stated,

> "Chief Justice Marshall had long before observed in **Ross v. Himely**, 4 Cranch 241, 269, 2 L.ed. 608, 617, that, upon principle, the operation of every judgment must depend on the power of the court to render that judgment. In **Williamson v. Berry**, 8 How. 495, 540, 12 L.ed. 1170, 1189, it was said to be well settled that the jurisdiction of any court exercising authority over a subject 'may be inquired into in every other court when the proceedings in the former are relied upon and brought before the latter by a party claiming the benefit of such proceedings,' and the rule prevails whether 'the decree or judgment has been given, in a court of admiralty, chancery, ecclesiastical court, or court of common law, or whether the point ruled has arisen under the laws of nations, the practice in chancery, or the municipal laws of states.'" **Old Wayne Mut. L. Assoc. v. McDonough**, 204 U.S. 8, 27 S.Ct. 236 (1907).

By not complying with the law, Judge Scofield and Judge Story have prejudiced this Plaintiff.

31. While this court has limited discretion, it must rule pursuant to law at all times. The Seventh Circuit, Chief Justice Marshall state:

> "Courts are the mere instruments of the law, and can will nothing. When they are said to exercise a discretion, it is a mere legal discretion, a discretion to be exercised in discerning the course prescribed by law, and, when that is discerned, it is the **duty** of the court to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the judge; always for the purpose of giving effect to the will of the legislature; or, in other words, to the will of the law." ' **Littleton v. Berbling**, 468 F.2d 389, 412 (7th Cir. 1972), citing **Osborn v. Bank of the United States**, 9 Wheat (22 U.S.) 738, 866, 6 L.Ed 204 (1824); **U.S. v. Simpson**, 927 F.2d 1088 (9th Cir. 1990).

While a judge **may** have **discretion** to make a ruling which may be erroneous, he has a **duty** to rule on all valid issues, especially those issues which deprive a party of his/her constitutional rights, presented before the court. **Littleton**, supra." Failure to rule on the issues presented to this court denies, deprives, and overlooks this Plaintiff's constitutional rights. Judge Scofield and Judge Story have repeatedly acted in a manner prejudicial and biased against Plaintiff.

32. Judge Scofield and Judge Story have manipulated the judicial process to deny, deprive, and to overlook the rights of Plaintiff. Judge Scofield and Judge Story have selected only those motions that they want to hear, mostly those of the

Defendants. Judge Scofield and Judge Story have intentionally selected only those specific demands of the Plaintiff's motions that they desire to hear and to grant, while intentionally ignoring, not considering, and not ruling on the other specific demands of the Plaintiff's motions that they do not desire to grant. Such manipulation of the judicial process is prejudicial and biased against the Plaintiff.

33. Judge Scofield and Judge Story must not be an advocate for either side; yet they have acted as an advocate for the Defendants.

34. Judge Scofield and Judge Story must give advice to a non-represented litigant, otherwise he has deprived and denied the non-represented litigant of his/her legal and constitutional rights. Judge Scofield and Judge Story must inform the non-represented Plaintiff at every stage of the proceedings of the Plaintiff's rights, whether Federal, State, or Local, in a timely manner and in a manner that the Plaintiff can understand. If the court fails to observe this free and natural person's rights in every respect, if the court denies, deprives, or overlooks any legal or Constitutional right of the Plaintiff, the court invalidates the judicial process. The failure of Judge Scofield and Judge Story to advise the non-represented

litigant of all of her rights, as above, further evidences the prejudice and bias of the judge against this Plaintiff.

35. Judge Scofield and Judge Story must comply with the Federal Code of Judicial Conduct. Judge Scofield and Judge Story must comply with, among others, Canon 3. They do not have discretion to pick and choose which Canon or Canons they will, or will not comply with. **Littleton**, supra.

36. By Judge Scofield and Judge Story's failure to comply with the mandatory requirement of reporting the misconduct of an attorney, **U.S. v. Anderson**, 798 F.2d 919 (7th Cir. 1986)., Judge Scofield and Judge Story have acted prejudicially and biased against the Plaintiff.

37. The hearings scheduled and manipulated by Judge Scofield June 14, 2004 and September 1, 2004 is another "sham" hearing. If the purported non-party's have no valid claims against the Plaintiff's subpoenas for depositions and discovery, then the purported non-parties have no standing to bring a motion to be heard before this court, specifically if they do not appear. The validity of the purported claims against the Plaintiff, must be first heard in a meaningful manner.

38. Plaintiff states that it is unquestionable that a reasonable person would consider that Judge Scofield and Judge

Story' actions were prejudicial and biased against the Plaintiff.

39. Though this court has set extensions of time and set dates for hearings, this court has not ruled in any substantive matters, and Plaintiff is entitled to disqualification of judge, pursuant to 28 U.S.C. §144.

40. Under Article VI, clause 3, of the U.S. Constitution, every judge or government attorney takes an oath to support the U.S. Constitution. Whenever any judge or government attorney violates the Constitution in the course of performing his/her duties, then that judge or government attorney is acting without lawful authority, has defrauded not only the Defendant or the Plaintiff involved, but has also defrauded the government. The judge or the government attorney is paid to support the U.S. Constitution. By not supporting the Constitution, the judge or the government attorney is collecting monies for work not performed.

41. A judge is not the court. People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980). A judge is a state judicial officer, paid by the State to act impartially and lawfully. A judge is also an officer of the court, as well as are all attorneys.

42. Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

43. "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

44. It is also clear and well-settled Illinois law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E.

Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ..."); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

45. Under Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect.

46. Furthermore, pursuant to U.S.C. 28 sections 455(a) and (b) provide separate (though substantially overlapping) bases for recusal. The former deals exclusively with the appearance of partiality in any circumstance, whereas the latter pertains to conflicts of interest in specific instances. Thus, the existence of the facts listed in section 455(b) requires recusal, even if the judge believes they do not create an appearance of impropriety.1 1 Any circumstance in which a

judge's impartiality might reasonably be questioned, whether or not touched on in section 455(b), requires recusal under section 455(a).1 2

47. Plaintiff believes that Judge Scofield and Judge Story have exhibited sufficient prejudice against Plaintiff that disqualification of Judge Scofield and Judge Story, pursuant to 28 U.S.C. §144 and §455, is appropriate.

48. Title VII of the Civil Right Act prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or authorize or permit the denial to any person of the due process of law required by the Constitution.

WHEREFORE, Plaintiff demands that the court suspend all proceedings until such an order can be issued that Judge Scofield and Judge Story be disqualified for, inter alia, their failure to perform their Constitutional duties in this cause, and for their prejudicial and biased actions against Plaintiff. That the Defendant, Coca-Cola be denied Summary Judgment based on collusion between Judge Scofield, Judge Story, and the Defendant, Coca-Cola. That Plaintiff be awarded all claims: equitable (including back pay and front pay) damages, compensatory damages, treble damages, and punitive damages,

costs to include costs of investigation, attorney's fees, expenses and pre-judgment and post-judgment interest, and such other relief and benefits as the cause of justice may require.

Respectfully submitted this the 14th day of March 2005.

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PLAINTIFF IN PROPRIA PERSONA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SHARRON MANGUM	}	
	}	
Plaintiff,	}	
	}	CIVIL ACTION
Vs.	}	FILE NO. 1:01-CV-2866 (RWS)
	}	
THE COCA-COLA COMPANY	}	
	}	
Defendant.	}	

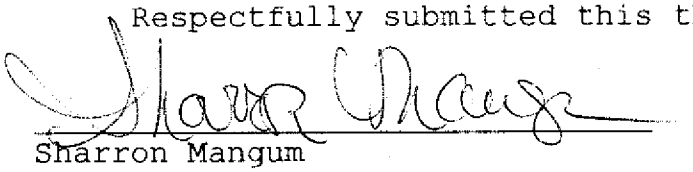
CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the within and foregoing PLAINTIFF'S MOTION TO DISQUALIFY MAGISTRATE JUDGE E. CLAYTON SCOFIELD AND DISTRICT COURT JUDGE RICHARD W. STORY PURSUANT TO 28 U.S.C. §§144, 455 AND MOTION FOR DEFAULT SUMMARY JUDGMENT BASED ON COLLUSION by depositing same in the U.S. Mail with sufficient postage thereon and addressed:

MICHAEL JOHNSTON
King & Spalding
191 Peachtree Street
Atlanta, Georgia 30303

ELIZABETH FINN JOHNSON
The Coca-Cola Company
One Coca-Cola Plaza
Atlanta, Georgia 30313

Respectfully submitted this the 14th day of March 2005.



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Plaintiff in Propria Persona