

WILLIAM JOHNSON : 31st JUDICIAL DISTRICT COURT
Vs. C-056717 : PARISH OF JEFFERSON DAVIS
JACOB COLBY PERRY : STATE OF LOUISIANA
FILED: _____ : _____
DEPUTY CLERK OF COURT

MOTION TO RECUSE AND
FOR STAY OF ALL PROCEEDINGS DURING THE PENDENCY OF THIS MOTION

NOW INTO COURT, through undersigned counsel, comes Plaintiff, **WILLIAM JOHNSON** (hereinafter, "Plaintiff"), who respectfully move that the Honorable Steve Gunnell (hereinafter, "the judge") be recused from the above matter, for the following reasons:

1.

On November 16, 2017 counsel for Plaintiff was provided certain testimony via affidavits, attached as Exhibits A and B). of Pamela Benoit and Arnold Benoit (collectively, "the Benoits").

2.

The testimony of the Benoits establishes that the judge has a close personal and familial relationship with Defendant and his family.

3.

The testimony of the Benoits establishes that the Judge personally represented the grandparents of Defendant (Allen Jeff Perry and Marguerite Jeanette Broussard Perry) prior to becoming a judge.

4.

The testimony of the Benoits establishes that the Judge has recused himself from previous cases involving the family of Defendant. In the matter *Arnold Benoit v. Allen J Perry & Margaret Perry*, Docket 4700 in the City Court of Jennings, the judge recused himself from hearing the mater due to his past relationships with Allen Jeff Perry and Marguerite Jeanette Broussard Perry (Please see attached Exhibit C).

5.

The testimony of the Benoits establishes that the Judge is a close, friend of the uncle of Defendant, Dr. James Perry. The testimony further establishes that Dr. James Perry has an exceptionally close relationship to Defendant, almost as if he was a father figure of Defendant.

6.

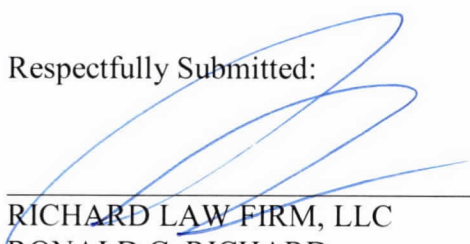
The Benois contacted counsel for Plaintiff after the hearing of November 7, 2017 after they heard about the case through various forms of media. Accordingly, counsel for Plaintiff was not aware of these issues when the hearing occurred, so this motion is timely.

7.

Further, as no formal judgment has been issued in the matter, all matters should be stayed until a final determination on this motion is adjudged.

WHEREFORE, Plaintiff prays that this motion be deemed good and sufficient, that all matters before this court be stayed until the disposition of this motion, and that a hearing be held with an *ad hoc* judge appointed by the Louisiana Supreme Court to determine whether or not the Hon. Steve Gunnell should be recused from the subject matter.

Respectfully Submitted:

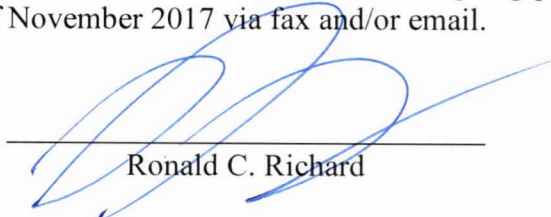


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ATTORNEY FOR PLAINTIFF

Certificate of Service

I hereby certify that I have delivered a copy of the foregoing pleading to all counsel of record on this 17th day of November 2017 via fax and/or email.



Ronald C. Richard

WILLIAM JOHNSON : 31st JUDICIAL DISTRICT COURT
Vs. C-056717 : PARISH OF JEFFERSON DAVIS
JACOB COLBY PERRY : STATE OF LOUISIANA
FILED: _____ : _____
DEPUTY CLERK OF COURT

ORDER

After reviewing the Motion to Recuse and Stay for Stay of all Proceedings During the Pendency of this Motion,

IT IS HEREBY ORDERED:

1. The following *ad hoc* judge be appointed to consider the instant Motion to Recuse;

2. A hearing date to consider the Motion to Recuse be set for the _____ day of _____, 20_____ at ____ o'clock ____ m. in the 31st Judicial District Court, Parish of Jefferson Davis, to determine if the Hon. Steve Gunnell should be recused from this matter; and
2. All proceedings of the subject matter are hereby stayed during the pendency of the Motion to Recuse.

Signed in Jennings, Louisiana on this _____ day of November 2017.

Hon. District Court Judge

WILLIAM JOHNSON : 31st JUDICIAL DISTRICT COURT
Vs. C-056717 : PARISH OF JEFFERSON DAVIS
JACOB COLBY PERRY : STATE OF LOUISIANA
FILED: _____ : _____
DEPUTY CLERK OF COURT

MEMORANDUM IN SUPORT OF
PLAINTIFF'S MOTION TO RECUSE

NOW INTO COURT, through undersigned counsel, comes Plaintiff, **WILLIAM JOHNSON** (hereinafter, "Plaintiff"), who respectfully submits this memorandum in support of its motion to recuse the Hon. Judge Gunnell from this matter.

Legal Argument.

1. **Motion to recuse, generally.**

Pursuant to Louisiana law, a judge **shall** be recused when that judge, "Is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that he would be unable to conduct fair and impartial proceedings." La. Code Civ. Proc. Ann. § art.151. "Recusation of judges is a serious and important legal procedure. It involves a judge's removing himself or being removed from a case and being replaced by another judge. Recusal may be voluntary as when a judge takes himself off a case for legally compelling reasons or simply because he believes that he cannot fairly and impartially judge a matter before him." *In re Lemoine*, 686 So. 2d 837, 839 (La. 01/14/97).

2. **Hon. Judge Gunnell should be recused from the instant matter due to his personal relationship with the Perry family as well as his prior professional relationship with the Perry family.**

As the affidavits of Pamela Benoit and Arnold Benoit (collectively, "the Benoits") describe, Hon. Judge Gunnell has a close familial relationship with the grandparent and uncle of Defendant. This relationship will present a bias or prejudice towards Defendant, even if it is an unintentional bias. This bias, accordingly, would present a bias against Plaintiff in the subject suit, which requires a recusal of Hon. Judge Gunnell in this matter.

As the affidavits of the Benoits, as well as the prior recusal shows, Judge Gunnell previously represented family of Defendant. He acted essentially as a "family attorney" for Allen Jeff Perry and Marguerite Jeanette Broussard Perry prior to joining the bench (initially as Jennings City Court Judge). In addition to his role as attorney for the family of Defendant, Judge Gunnell maintains a very close relationship with Dr. James D Perry, uncle of Defendant. Dr. Perry that

dates back to high school. Dr. Perry is not only close to Judge Gunnell, but maintains an extremely close relationship with Defendant, personally. This is a clear and inherent bias for Judge Gunnell, whether he intends it or not.

Further, Judge Gunnell has previously recused himself from matters involving the Perry family. While acting as City Court Judge of Jennings, Judge Gunnell recused himself in *Arnold Benoit v. Allen J Perry & Margaret Perry*, Docket 4700 in the City Court of Jennings. The plaintiffs in this matter were the Benois while the Defendants were the grandparents of Defendant. The reasons for recusal are the prior representation of Judge Gunnell of Allen Jeff Perry and Marguerite Jeanette Broussard Perry, the grandparents of Defendant herein. It is clear that not only due to the personal relationships involved, there is a bias involved due to the professional history and relationships between Judge Gunnell and the Perry family.

3. **Hon. Judge Gunnell should appoint an *ad hoc* judge to hear the pending motion and stay all proceedings until there is a ruling on this motion.**

When a proper motion for recusal is filed, “[T]he judge shall either recuse himself, or refer the motion to another judge or a judge ad hoc, as provided in Articles 155 and 156, for a hearing.” La. Code Civ. Proc. Ann. § art.154. As the 31st Judicial District Court of the Parish of Jefferson Davis has only a single judge, due the grounds alleged, the hearing over this motion may be heard either by, a district court judge of an adjoining district or , “[A] lawyer domiciled in the judicial district who has the qualifications of a district judge.” La. Code Civ. Proc. Ann. § art.156. Accordingly, if Judge Gunnell will not outright recuse himself from this matter, he should appoint an *ad hoc* judge to oversee and rule on this motion. Until the matter of recusal is resolved, Judge Gunnell should not make any rulings in the subject matter.

4. **The timing of this motion is proper.**

A motion to recuse, “[S]hall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusation thereafter, in which event it shall be filed immediately after these facts are discovered, but prior to judgment.” La. Code Civ. Proc. Ann. § art.154. “[T]he motion to recuse must be filed immediately after the party discovers the facts constituting the grounds for recusation.” *Slaughter v. Bd. of Supervisors of S. Univ.*, 76 So. 3d 465, 471 (La. App. 1 Cir 08/02/11).

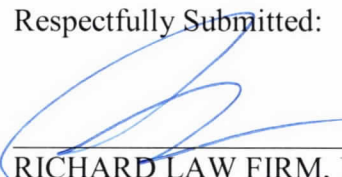
Plaintiff received the testimony related to the allegations requiring recusal on November 16, 2017 (please see attached Exhibits A and B, affidavits of Pamela Benoit and Arnold Benoit). Plaintiff is filing the subject motion and this memorandum one day later. There was a hearing over

a Motion to Strike filed by Defendant on or about November 7, 2017 and no formal, written judgment has been delivered in that matter. Accordingly, the timing of the motion is sufficient.

Conclusion.

While no bias may be intentional, the prior professional relationship with the Perry family as well as the current personal relationship with the Perry family presents a clear situation of bias involving the presiding Hon. Judge Gunnell. In fact, this bias is so apparent that recusal in this matter would not be the first time that Judge Gunnell has recused himself from hearing matters involving the Perry family.

Respectfully Submitted:

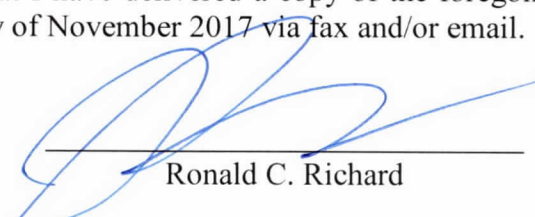


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ATTORNEY FOR PLAINTIFF

Certificate of Service

I hereby certify that I have delivered a copy of the foregoing pleading to all counsel of record on this 14th day of November 2017 via fax and/or email.



Ronald C. Richard

Exhibit A

STATE OF LOUISIANA
PARISH OF CALCASIEU

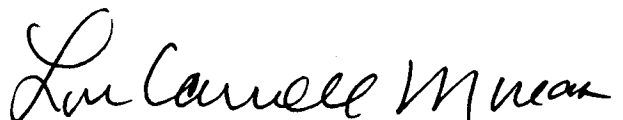
AFFIDAVIT OF PAMELA BENOIT

BEFORE ME, the undersigned authority, personally came and appeared **PAMELA BENOIT**, who being first duly sworn, did depose and say the following:

I am the aunt of Colby Perry and the daughter of Allen Jeff Perry and Marguerite Jeanette Broussard Perry. Judge Steve Gunnell has previously represented Allen Jeff Perry and Marguerite Jeanette Broussard Perry, the grandparents of Jacob Colby Perry, prior to becoming a judicial officer. I believe that the judge acted as a "family attorney" for the Perry family. Further, Judge Gunnell has a close relationship with Allen Jeff Perry, Marguerite Jeanette Broussard Perry, and Dr. James D Perry, my brother and the uncle of Jacob Colby Perry. Due to these conflicts, Judge Gunnell previously recused himself in a matter involving Marguerite Jeanette Broussard Perry in *Arnold Benoit v. Allen J Perry & Margaret Perry*, Docket 4700, City Court of Jennings, Ward 2, Jefferson Davis Parish. I have personal knowledge that Judge Gunnell still maintains a close relationship with the family of Jacob Colby Perry and participates in events and social functions with them. I have personal knowledge that Jacob Colby Perry is so close to Dr. James D Perry that Jacob Colby Perry house sits for Dr. Perry when he goes out of town. I have personal knowledge that Judge Gunnell and Dr. Perry maintain a very close relationship, and have been close since high school. I contacted Attorney Ron Richard to advise him of these conflicts after seeing reports on television and in the media after the hearing of November 7, 2017. I believe that the relationships between my various family members and Judge Steve Gunnell, if not a direct conflict, certainly appears to be improper for him to hear cases involving them.


PAMELA BENOIT

SWORN TO AND SUBSCRIBED before me, at Lake Charles, Louisiana, this 16 day
of November, 2017.


Notary Public

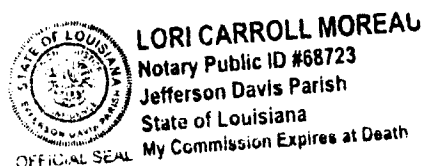


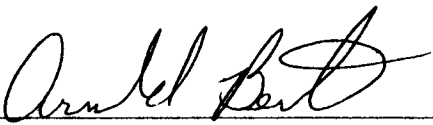
Exhibit B

STATE OF LOUISIANA
PARISH OF CALCASIEU

AFFIDAVIT OF ARNOLD BENOIT

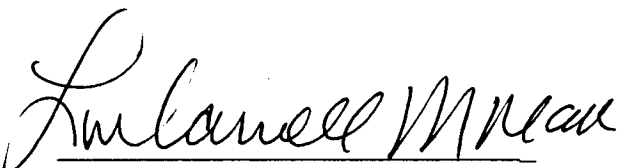
BEFORE ME, the undersigned authority, personally came and appeared **ARNOLD BENOIT**, who being first duly sworn, did depose and say the following:

I am the husband of Colby Perry's aunt, Pamela Benoit. Judge Steve Gunnell has previously represented Allen Jeff Perry and Marguerite Jeanette Broussard Perry, the grandparents of Jacob Colby Perry, prior to becoming a judicial officer. I believe that the judge acted as a "family attorney" for the Perry family. Further, Judge Gunnell has a close relationship with Allen Jeff Perry, Marguerite Jeanette Broussard Perry, and Dr. James D Perry, the uncle of Jacob Colby Perry. Due to these conflicts, Judge Gunnell previously recused himself in a matter involving myself and Marguerite Jeanette Broussard Perry in *Arnold Benoit v. Allen J Perry & Margaret Perry*, Docket 4700, City Court of Jennings, Ward 2, Jefferson Davis Parish. I have personal knowledge that Judge Gunnell still maintains a close relationship with the family of Jacob Colby Perry and participates in events and social functions with them. I have personal knowledge that Jacob Colby Perry is so close to Dr. James D Perry that Jacob Colby Perry house sits for Dr. Perry when he goes out of town. I have personal knowledge that Judge Gunnell and Dr. Perry maintain a very close relationship, and have been close since high school. I contacted Attorney Ron Richard to advise him of these conflicts after hearing about the decision on television and in the media after the hearing of November 7, 2017. I believe that the relationships between my various family members and Judge Steve Gunnell, if not a direct conflict, certainly appears to be improper for him to hear cases involving them.



ARNOLD BENOIT

SWORN TO AND SUBSCRIBED before me, at Lake Charles, Louisiana, this 16 day
of November, 2017.



Notary Public



LORI CARROLL MOREAU
Notary Public ID #68723
Jefferson Davis Parish
State of Louisiana
My Commission Expires at Death

Exhibit C

STEVE GUNNELL
Judge
CLARENCE CORMIER, JR.
Marshal
KEVIN D. MILLICAN
City Attorney



CITY COURT OF JENNINGS

WARD TWO OF JEFFERSON DAVIS PARISH

P.O. BOX 609
110 NORTH BROADWAY
JENNINGS, LA 70546
PHONE (337) 821-5514
FAX (337) 821-5539

STINA S. BROUSSARD
Clerk
PHYLLIS C. GRAY
D. Clerk
DENISE NAVARRE
D. Clerk
SUSAN COURVILLE
D. Clerk

August 13, 2003

Supreme Court
State of Louisiana
Judicial Administrator's Office
1555 Poydras Street, Suite 1540
New Orleans, LA 70112-3701

Re: Arnold Benoit
Vs Docket 4700
Allen J. & Margaret Perry

Dear Sir or Madame;

Please allow this letter to serve as a request for a judge ad hoc in the above referenced matter. Judge Gunnell has a conflict with this matter because he has represented the defendant in other matters.

If you need further information, please call our office. Thanking you in advance, I remain,

Sincerely yours,

Steve Gunnell

Steve Gunnell
City Judge

Post-it Fax Note	7671	Date	8/13/03	# of pages	1
To	Mary Duckert	From	Stina Broussard		
Co./Dept.		Co.	Jenns City Court		
Phone #		Phone #	(337) 821-5514		
Fax #	(504) 310-2582	Fax #	821-5539		

*Will follow in
mail w/ orig.*

SUPREME COURT OF LOUISIANA

O R D E R

Acting under the authority of Article V, Section 5(A), Constitution of 1974, and considering the request of Judge C. Steve Gunnell to assign a judge ad hoc to Jennings City Court in the below mentioned matter because of his recusal, and further considering the willingness of Judge Edward B. Broussard to accept such assignment,

IT IS ORDERED THAT:

Judge Edward B. Broussard, Abbeville City Court, Parish of Vermilion, be and he is hereby assigned as judge ad hoc of Jennings City Court, Parish of Jefferson Davis, for the purpose of hearing and disposing of the matter entitled "Arnold Benoit vs. Allen J. & Margaret Perry," No. 4700 on the docket of said court, subject to the completion of any unfinished business.

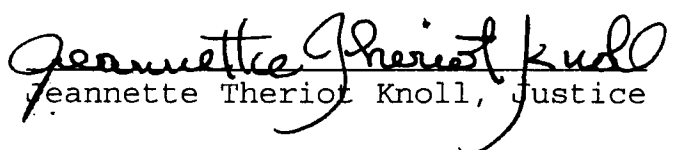
This order shall not deprive Judge C. Steve Gunnell of his office as judge of Jennings City Court, Parish of Jefferson Davis, or of any other court to which he may have been assigned by previous order of this Court, nor shall it deprive Judge Edward B. Broussard of his office as judge of Abbeville City Court, Parish of Vermilion, or of any other court to which he may have been assigned by previous order of this Court.

The Court or Judge requesting ad hoc or pro tempore assistance shall have the duty and obligation to provide the requisite courtroom and office space, legal support personnel (if necessary), court reporting and secretarial personnel, and related equipment to enable ad hoc or pro tempore judges to fulfill their obligations.

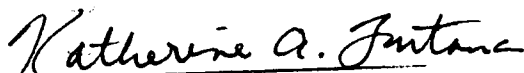
The judge assigned to sit ad hoc or pro tempore hereunder in any district, juvenile, parish, city, municipal or traffic court shall be subject to Supreme Court General Administrative Rule, Part G, Section 2. "Cases Under Advisement," with respect to deciding matters timely and reporting to this court's Judicial Administrator.

Given under our hands and seal this 7th day of September, A.D., 2004, New Orleans, Louisiana.

FOR THE COURT:


Jeannette Theriot Knoll, Justice

SUPREME COURT OF LOUISIANA
A TRUE COPY


Katherine A. Fontana
Deputy Clerk of Court