

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

GEORGE RICHEY,

*Plaintiff,*

v.

SAINT CLAIR COUNTY, MISSOURI;  
KAREN HUBBARD, in her official  
capacity as St. Clair County Circuit  
Court Clerk; LEE HILTY, in his official  
Capacity as St. Clair County Sheriff;  
and GILA, LLC, a Texas limited  
liability company d/b/a MUNICIPAL  
SERVICES BUREAU (MSB),

*Defendants.*

Case No. 4:21-cv-109

COMPLAINT

**Introduction**

1. Jail board bills are debts owed to government entities as reimbursement for the cost of providing room and board to people previously detained or incarcerated. Until two years ago, Missouri courts used these bills to operate modern-day debtor's prisons. If someone failed to make a payment, the court would often end up sending them back to jail—forcing them to incur new debt on top of the old debt and trapping them in a cycle of indebtedness and incarceration.

2. But in March 2019, the Missouri Supreme Court sought to end the practice of jailing someone because they could not pay their board bill. In that case—which involved two of the same parties as in this case, George Richey and St. Clair County—the County sought to collect money from Mr. Richey to reimburse jail board bills, and a trial court ordered him jailed when he was unable to pay. The Missouri Supreme Court unanimously held that the trial court violated state

law in doing so because board-bill debt “cannot be taxed as court costs and the failure to pay that debt cannot result in another incarceration.” *State v. Richey*, 569 S.W.3d 420, 425 (Mo. 2019).

3. Although the Missouri Supreme Court did away with one particularly abusive debt-collection tactic, local court systems and government entities throughout the state have continued to target even their poorest residents for revenue generation. These entities pursue all manner of court-ordered “legal financial obligations” (or LFOs), including court fines, fees, costs, and jail board bills. And they do so regardless of the financial situation of the person who owes them—even if their only source of income is the assistance that they receive in Social Security benefits.

4. This case is an example of such practices. Between April 2016 and September 2018, the St. Clair County Circuit Court ordered Mr. Richey to pay thousands of dollars in LFOs. He paid what he could, when he could—some \$1,640 all told—but he still often came up short. Today, he owes \$1,155.00 in board bills and \$434.50 in fines, fees, and costs, for a total of \$1,589.50 in LFOs. Mr. Richey is a disabled veteran whose only income is needs-based, means-tested public assistance totaling approximately \$658.40 per month from Social Security Disability Income (or SSDI). The only income he could use to pay the jail debt, therefore, is his SSDI.

5. But that income is protected. As an SSDI recipient, Mr. Richey is entitled to the protections of the Social Security Act, which forbids the use of any “attachment, garnishment, or other legal process” to reach a recipient’s Social Security funds. 42 U.S.C. § 407(a). As a result, “federal law prohibits courts from ordering [someone] to pay LFOs if the person’s only source of income is social security disability.” *Richland v. Wakefield*, 380 P.3d 459, 466 (Wash. 2016).

6. To stop this violation of the law, Mr. Richey brings this action under 42 U.S.C. § 1983 and in equity. He seeks a declaration that defendants are violating federal law by collecting and attempting to collect his LFOs, and an injunction against continued violations.

### **Jurisdiction and Venue**

7. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

8. Venue is appropriate under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this complaint occurred in this District.

### **Parties**

9. Plaintiff George Richey is an honorably discharged Air Force veteran, father, and grandfather who resides in St. Clair County, Missouri, and he has resided there at all times relevant to this complaint. Since at least January 2015, Mr. Richey's sole source of income has been and remains SSDI because of mental and physical conditions that render him unable to work.

10. Defendant St. Clair County is a political subdivision of the State of Missouri. At all relevant times, the County has been responsible for the actions, inactions, policies, procedures, and practices of the St. Clair County Court Clerk and its respective employees and agents.

11. Defendant Karen Hubbard has been the Clerk of the Circuit Court of St. Clair County at all times relevant to this complaint. As clerk, Ms. Hubbard has been and remains responsible for collecting outstanding court fines, fees, and costs owed to the County. *See, e.g.*, Mo. Ann. Stat. § 488.012. At all times relevant, Defendant Hubbard has acted under the color of law in her capacity as the Circuit Court Clerk and acted in the course and scope of her employment for St. Clair County.

12. Defendant Lee Hilty became the St. Clair County Sheriff on January 1, 2021. His predecessor, Scott Keeler, held the position from 2015 to 2020. At all relevant times, the Sheriff's department collected jail board bills owed to St. Clair County and the Sheriff acted in the scope and course of his employment for St. Clair County.

13. Defendant Gila, LLC, doing business as Municipal Services Bureau (or MSB), is a Texas limited liability company that regularly conducts business in the State of Missouri. Upon information and belief, beginning in approximately 2015, MSB contracted with the Office of State Courts Administrator (OSCA) as a debt-collection agency responsible for collecting LFOs—including any fines, fees, costs, and jail board bills—owed to St. Clair County. At all times relevant to this action, Defendant MSB acted under the color of law.

### **Factual Background**

14. *How court-ordered LFOs are collected in Missouri.* “Court-ordered legal financial obligations (LFOs) include all discretionary and mandatory fines, costs, fees, state assessments, and/or restitution in civil and criminal cases.” Mo. Sup. Ct. Rule 37.04, App. D.

15. In Missouri, the Circuit Court Clerk is “responsible for collecting court costs [and] shall collect the court costs authorized by statute.” Mo. Ann. Stat. § 488.012.

16. As the Circuit Court Clerk for St. Clair County, Defendant Hubbard has been and remains responsible for collecting LFOs owed by Mr. Richey to St. Clair County.

17. State law permits a Circuit Court Clerk “[t]o collect on past-due court-ordered” LFOs by “contract[ing] with public agencies or with private entities operating under a contract with a state agency or the office of state courts administrator.” Mo. Ann. Stat. § 488.5030.

18. Upon information and belief, the St. Clair County Circuit Court Clerk has a Memorandum of Understanding with OSCA, a state agency, to provide services for LFO collection. OSCA, in turn, contracts with MSB to collect LFOs owed to St. Clair County.

19. The St. Clair County Sheriff’s Department is separately responsible for collecting payments for St. Clair County’s jail-board-bill debts. Mo. Ann. Stat. § 221.070.2. The Sheriff has the authority to enter into “an agreement with [an individual] to make payments toward such debt

according to a repayment plan.” *Id.* If the sheriff is unable to collect the debt, “the sheriff may certify the amount of the outstanding debt to the clerk of the court.” *Id.* In that scenario, the Court Clerk must then transfer collection of the debt to OSCA, *id.*, in accordance with its Memorandum of Understanding, and OSCA then forwards the jail board bills to MSB for debt collection.

20. ***The Social Security Act’s anti-attachment provision.*** At all times relevant to this Complaint, Mr. Richey’s sole source of income has been (and remains) Social Security Disability Income. As a recipient of SSDI, Mr. Richey is entitled to the protections of Section 407(a) of the Social Security Act, which provides: “The right of any person to any future payment under this subchapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process.” 42 U.S.C. § 407(a).

21. Section 407(a), also known as the “anti-attachment provision,” promotes the underlying policy of the Act to provide a minimum standard of living for low-income individuals and individuals with disabilities by protecting security beneficiaries and their dependents from creditor’s claims, thereby ensuring that those benefits are used to “meet the most basic needs of the poor.” H.R. Rep. No. 92-231 (1972), *as reprinted in* 1972 U.S.C.C.A.N. 4989, 5142.

22. As used in section 407(a), the term “other legal process” covers any judicial or quasi-judicial mechanism, even a rudimentary one, that transfers control over property from one person to another for the purpose of discharging or securing discharge of an existing or anticipated debt. *Wash. Dep’t of Soc. & Health Servs. v. Guardianship Estate of Keffeler*, 537 U.S. 371, 385 (2003). And section 407(a)’s protections apply equally to claims by state and local governments. *See Philpott v. Essex County Welfare Bd.*, 409 U.S. 413, 417 (1973); *Bennett v. Arkansas*, 485 U.S. 395, 397 (1988) (barring attachment of Social Security benefits of those imprisoned to pay

for cost of imprisonment). “Based on these Supreme Court cases,” courts have held that when a state court demands or “order[s] LFO payments from a person who receives only social security disability payments,” the demand or order “is an ‘other legal process’ by which to reach those protected funds” that is prohibited by the Social Security Act’s anti-attachment provision. *Richland*, 380 P.3d at 465–66.

23. ***Defendants’ earlier efforts to force Mr. Richey to pay court-ordered LFOs using protected Social Security benefits.*** Defendants have violated and will continue to violate the Social Security Act’s anti-attachment provision by requiring Mr. Richey to use his SSDI benefits to pay for LFOs imposed by the Circuit Court of St. Clair County.

24. From around 2015 to present, Mr. Richey incurred LFO debt by way of court costs, fines, fees, and jail board bills imposed in six separate cases. Defendants have demanded LFO payments from Mr. Richey, who receives only SSDI and has no other income to pay these LFO debts.

25. In June 2015, the Associate Circuit Court Judge of St. Clair County, Jerry J. Rellihan, entered a judgment against Mr. Richey for a misdemeanor and ordered him to pay \$3,266.50 in LFOs to St. Clair County. At the time, Mr. Richey’s sole source of income was approximately \$630 per month in SSDI. Mr. Richey has been receiving SSDI because he is unable to obtain gainful employment due to his disability. Because Mr. Richey lives on a fixed income, he was unable to pay his LFOs. And because Mr. Richey failed to pay his LFOs, St. Clair County Judge Rellihan ordered his arrest.

26. On February 2, 2016, Mr. Richey was arrested and booked into the St. Clair County Jail. He remained incarcerated for 65 days because he could not afford to pay his LFO debt and because of his inability to meet the County’s financial demands.

27. A month later, on March 6, 2016, while he was still incarcerated, Mr. Richey informed the Circuit Court that his sole source of income was SSDI and that, after rent, utilities, and personal expenses, he was left to survive on just \$55 per month.

28. Despite knowing his sole source of income was SSDI, the court ordered Mr. Richey on April 6, 2016 to pay \$750 toward his outstanding LFOs to obtain his freedom. Faced with this Hobson's choice, Mr. Richey handed over his SSDI benefits. He used the benefits to pay \$750 to Defendant Hubbard and was then released from the St. Clair County Jail.

29. Upon his release, the Circuit Court ordered Mr. Richey pay \$2,275 for the jail board bill he received after spending 65 days in detention. The addition of the jail board bill caused Mr. Richey's outstanding LFOs to balloon to \$5,541.50.

30. In April 2016, the court ordered Mr. Richey to make monthly payments of \$250 payments toward his outstanding LFOs—payments that would necessarily have to come out of his SSDI benefits. The court also ordered that if Mr. Richey failed to pay the \$250 for a particular month, he would have to attend a monthly review hearing to explain his inability to pay the court. Failure to attend any payment-review hearing would result in the issuance of a warrant for Mr. Richey's arrest and detention (and further accompanying jail-board-bill debt).

31. When he could not make the full \$250 monthly payment—which was often given that his fixed monthly expenses left him with only \$55 to work with each month—Mr. Richey dutifully attended his payment-review hearings, even if it meant that he had to walk over 50 miles to get from his home in Appleton City to the courthouse in Osceola. Between May 2016 and January 2017, Mr. Richey attended nine payment-review hearings. During this period, Mr. Richey used his SSDI benefits to pay a total of \$500 toward his outstanding LFOs.

32. On December 21, 2016, the court ordered Mr. Richey to begin paying \$350 per month towards his outstanding LFOs. The payment was more than 55% of the \$630 monthly benefits Mr. Richey received from SSDI at that time, and nearly an order of magnitude more than the \$55 he was left with each month after paying his fixed living expenses.

33. On February 1, 2017, Mr. Richey did not appear or pay as ordered by the court, and Judge Rellihan issued a warrant for his arrest. Mr. Richey appeared in court two days later and explained that he misunderstood his court date. Judge Rellihan recalled the warrant.

34. Between March 2017 and September 2017, Mr. Richey attended seven payment review hearings and used his SSDI benefits to pay a total of \$200 toward his outstanding LFOs.

35. After being arrested and incarcerated for a misdemeanor on August 16, 2017, Mr. Richey pleaded guilty to a misdemeanor on September 20, 2017. The judge sentenced him to one year in the St. Clair County Jail with execution of sentence suspended, placed him on two years of probation, and ordered him to pay costs and his board bills before the end of his probation.

36. On October 4, 2017, Mr. Richey attended a payment review hearing. Judge Rellihan reset the hearing for December 13, 2017. On December 13, 2017, Judge Rellihan reset Mr. Richey's payment review hearing to February 7, 2018. Mr. Richey then attended two payment review hearings between February and March 2018, and he used his SSDI benefits to pay \$100 toward his outstanding LFOs.

37. Facing the impossibility of paying the costs of his LFOs, and seeking to avoid further jail time, Mr. Richey filed a Motion to Retax Costs on March 19, 2018, in the Circuit Court of St. Clair County. This motion was essentially an appeal of Judge Rellihan's decision to impose the \$2,275 jail board bill as a "court cost" for which nonpayment could result in jail time, in the absence of any express statutory authority for doing so.



38. On May 2, 2018, the court denied Mr. Richey's motion to retax. The next day, Mr. Richey appealed the denial in the Missouri Court of Appeals, Southern District.

39. On May 10, 2018, Mr. Richey filed an application to transfer the motion to the Missouri Supreme Court. The Southern District denied the application on May 14, 2018.

40. Between June 2018 and December 2018, Mr. Richey attended four payment-review hearings. He used his SSDI benefits to remit \$40 toward his outstanding LFOs.

41. In total, between April 2016 and December 2018, the St. Clair County Court forced Mr. Richey to attend 23 payment-review hearings and pay a total of \$1,640 of his SSDI benefits for outstanding court-ordered LFOs owed to Defendant County and Hubbard.

42. ***The Missouri Supreme Court holds that the St. Clair County Circuit Court violated state law by jailing Mr. Richey for failing to pay his board bill.*** On November 7, 2018, Mr. Richey filed a petition for a writ of prohibition in the Southern District, asking the court to bar Judge Rellihan from compelling him to attend the payment-review hearings. The next day, the Southern District denied the writ, and Mr. Richey appealed to the Missouri Supreme Court.

43. On December 21, 2018, the Missouri Supreme Court accepted the appeal as to both the motion to retax and the writ of prohibition for "consideration of the general interests and importance of questions involved in the case."

44. On January 24, 2019, the Missouri Supreme Court issued a preliminary writ prohibiting Mr. Richey's mandated attendance at payment-review hearings. Preliminary Writ of Prohibition, *State v. Richey*, SC97533 (Mo. banc Jan. 24, 2019).

45. On March 19, 2019, the Missouri Supreme Court issued an opinion holding that Judge Rellihan acted unlawfully by jailing Mr. Richey for 65 days for failing to pay his jail board bill. *Richey*, 569 S.W.3d at 425. Because the underlying incarceration was illegal, the Missouri

Supreme Court also held that Mr. Richey was not responsible for the \$2,275 jail board bill from his detention between February and April 2016. *Id.* The Missouri Supreme Court concluded that the circuit court “should not have required [Mr. Richey] to repeatedly appear to account for debts the courts could not legally designate as court costs,” and that Mr. Richey should not have been sent to jail for his failure to pay the board bills. *Id.*

46. Ultimately, the Missouri Supreme Court ordered the removal of the \$2,275 charge from Mr. Richey’s liabilities and ordered the circuit court to “apply any funds Richey has paid towards that debt to the jail debt incurred during his underlying lawful incarceration.” *Id.*

47. ***After the Missouri Supreme Court’s decision, the St. Clair County Circuit Court again incarcerates Mr. Richey.*** While his case was proceeding in the Missouri Supreme Court, Mr. Richey was arrested for a misdemeanor on December 4, 2018. Using his SSDI benefits, Mr. Richey posted 10% of his \$2,500 surety bond and was released the same day.

48. On December 7, 2018, Mr. Richey’s public defender submitted a letter to the Clerk of the St. Clair County Circuit Court explaining that requiring Mr. Richey to pay his LFOs using his SSDI, as the court had done before, violated the Social Security Act. The public defender also submitted and filed the letter with the Clerk of the Missouri Supreme Court.

49. On December 11, 2018, Mr. Richey was arrested for violating his probation. He was released on December 20, 2018, after using his SSDI benefits to pay 10% of a \$2,500 surety bond. On February 26, 2019, Mr. Richey was arrested for two misdemeanors. Using his SSDI benefit, Mr. Richey posted 10% of his \$3,500 surety bond and was released the same day.

50. On June 9, 2019, having been reversed by the Missouri Supreme Court a few months before, Judge Rellihan sentenced Mr. Richey to 755 days in jail as a result of probation

violations and misdemeanors. Mr. Richey remained incarcerated at the St. Clair County Jail until February 3, 2021.

51. ***Mr. Richey’s current court-ordered-LFO debt.*** Upon information and belief, Mr. Richey currently owes \$1,589.50 to St. Clair County in outstanding LFOs—\$434.50 in fines, fees, and costs, and another \$1,155.00 in jail board bills<sup>1</sup>. The precise breakdown of this debt is as follows:

Case Number	Board Bill	Board Bill Paid	Costs	Costs Paid
14SR-CR00320	\$1,533.50	\$1,533.50	\$116.50	\$106.05
16SF-CR00534	\$350.00	\$0.00	\$141.50	\$0.00
17SR-CR00011	\$0.00	\$0.00	\$141.50	\$0.00
17SR-CR0395	\$805.00	\$0.00	\$141.50	\$0.00
Totals	\$2,688.50	(-\$1,533.50)	\$541.00	(-\$106.50)
Board Bills Owed	\$1,155.00		Total Costs Owed	\$434.50
Total Remaining Balance			\$1,589.50	

52. This means that the Clerk is responsible for collecting the \$434.50 in fines, fees, and costs, and the Sheriff is responsible for collecting the \$1,155.00 in jail board bills.

53. Under Missouri law, Defendant Hubbard, in her official capacity as Clerk, is statutorily required to obtain payment from Mr. Richey for his LFOs even though any money he currently has or will have comes solely from SSDI benefits. *See* Mo. Ann. Stat. § 488.012.

54. Upon information and belief, Defendant Hubbard, in her official capacity as Clerk of the Circuit Court, has a Memorandum of Understanding with OSCA to collect the LFOs, and OSCA in turn contracts with MSB to act as a collection agency on behalf of St. Clair County.

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<sup>1</sup> These amounts have been calculated using the fee-assessment sheets for case numbers 14SR-CR00320, 16SR-CR00534, 17SR-CR00011, and 17SR-CR00395.

55. Upon information and belief, Defendant Hilty, in his official capacity as St. Clair County Sheriff, has sought (or will soon seek) to collect payment from Mr. Richey for the jail board bills, even though any money Mr. Richey currently has or will have comes solely from SSDI benefits, and has certified (or will soon certify) the jail board bill debt owed by Mr. Richey to Defendant Hubbard. Defendant Hubbard has forwarded (or will then forward) the debt to OSCA, which contracts with Defendant MSB to act as a collection agency for the County.

### **Claims for Relief**

#### **Claim one: Violation of section 407(a) of the Social Security Act (under 42 U.S.C. § 1983)**

56. Section § 1983 creates a cause of action to remedy violations by any “person” acting “under color of law” of “any rights, privileges, or immunities secured by the Constitution and [federal] laws.” 42 U.S.C. § 1983.

57. Section 407(a) of the Social Security Act provides that “[t]he right of any person to any future payment ... shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process.” *Id.* § 407(a). This provision creates an enforceable right that can be vindicated through a civil action brought under section 1983.

58. During the entire period relevant to this case, Mr. Richey’s sole source of income has been and remains SSDI. He is an intended beneficiary of the SSA and entitled to the protection of its anti-attachment provision, which precludes a state or state actor from subjecting his SSDI benefits to pay via any legal process. Fee assessment sheets generated by the Circuit Court Clerk indicate that Mr. Richey currently owes \$1,589.50 in LFOs.

59. Each defendant is a “person” under section 1983 and a state actor for purposes of sections 407(a) and 1983. MSB is state actor for purposes of sections 407(a) and 1983 because it is acting on behalf of the other defendants and OSCA as a debt-collection agency for the County.

60. As a pattern and practice, defendants St. Clair County, Hilty, and Hubbard have collected or attempted to collect Mr. Richey’s court-ordered LFO debt and will continue to collect or attempt to collect his debt in the future. These defendants have thus demanded, and will continue to demand, that Mr. Richey use his SSDI benefits to pay for his outstanding LFOs, including his jail board bills. In doing so, defendants have required, and will continue to require, Mr. Richey to use his SSDI to pay for LFOs, in violation of section 407(a) of the Social Security Act.

61. As a debt-collection agency, Defendant MSB, acting on behalf of Defendant Hubbard and under the color of law, will demand Mr. Richey use his SSDI benefits to pay for the outstanding LFOs, including his jail board bills.

62. St. Clair County and its employees, agents, and representatives were, at all times relevant, acting under the color of ordinances, regulations, customs, and laws of the State of Missouri.

**Claim two: Violation of the Supremacy Clause of the U.S. Constitution (in equity)**

63. By violating section 407(a) of the Social Security Act, defendants have also violated, and will continue to violate, the U.S. Constitution’s Supremacy Clause, which provides that “the Laws of the United States . . . shall be the supreme Law of the Land.” Art. VI, cl. 2. Defendants’ actions are therefore not only unlawful but also unconstitutional.

64. “The ability to sue to enjoin unconstitutional actions by state . . . officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracking back to England.” *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–28

(2015); *see also id.* at 337–39 (Sotomayor, J., dissenting) (elaborating on point). Because Congress did not displace this traditional equitable remedy when it enacted section 407(a), by “implicitly preclud[ing] private enforcement” of section 407(a), Mr. Richey brings this suit “in equity,” *id.* at 327, in addition to his claim under section 1983.

**Claim three: Mo. Ann. Stat. § 488.012 is preempted by section 407(a), and therefore unconstitutional, as applied to Mr. Richey’s LFOs (under 42 U.S.C. § 1983 and in equity)**

65. Section 488.012 of the Missouri code provides that “the clerk of each court of this state responsible for collecting court costs shall collect the court costs authorized by statute.” Mo. Rev. Stat. § 488.012. By its terms, this statute places a non-discretionary obligation on the clerk to collect *all* court costs authorized by state law—even if a person’s only source of income is the benefits that they receive under the Social Security Act (as is the case for Mr. Richey).

66. As applied to the LFOs owed by Mr. Richey, this state statute is preempted by section 407(a) of the Social Security Act and is thus unconstitutional under the Supremacy Clause.

**Request for Relief**

Plaintiff requests that the Court:

- A. Declare that defendants have violated, continue to violate, and/or will violate Mr. Richey’s rights under the Social Security Act by requiring payment of court-ordered legal financial obligations, including his jail board bill, using his Social Security Disability Income benefits;
- B. Declare that Mo. Ann. Stat. § 488.012 is preempted by section 407(a) of the Social Security Act, and therefore unconstitutional, as applied to Mr. Richey’s court-ordered legal financial obligations, and enjoin its enforcement against him.

- C. Enjoin defendants from requiring or attempting to require Mr. Richey to pay court-ordered legal financial obligations, including his jail board bill, using his Social Security Disability Income benefits; from issuing any order to that effect; and from taking any other step to collect or attempt to collect the debt as long as Mr. Richey's only source of income remains SSDI benefits;
- D. Award plaintiff his reasonable costs, expenses, and attorneys' fees under 42 U.S.C. § 1988; and
- E. Grant plaintiff all other appropriate relief.

Dated: February 23, 2021

Respectfully submitted,

By: /s/ Corrigan L. Lewis  
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February 2021, I electronically filed the foregoing with the clerk of the court for the U.S. District Court, Western District of Missouri, using the electronic case filing system of the Court. The Summons and Complaint will be served in accordance with the Federal Rules of Civil Procedure.

By: /s/ Corrigan Lewis