

MOTION TO REFUSE

7007 2680 0000 6418 3295

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TULSA OK 74103  
OFFICIAL USE

Postage	\$ 0.42	0713
Certified Fee	\$2.70	08
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.32	07/18/2008

Sent To Terrence C. Ken  
 Street, Apt. No.,  
 or PO Box No. General Delivery  
 City, State, ZIP+4 Tulsa, OK 74103  
 PS Form 3800, August 2006 See Reverse for Instructions

7007 2680 0000 6418 3301

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Postage	\$ 0.42	0713
Certified Fee	\$2.70	08
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.32	07/18/2008

Sent To Paul J. Clear  
 Street, Apt. No.,  
 or PO Box No. General Delivery  
 City, State, ZIP+4 Tulsa, OK 74103  
 PS Form 3800, August 2006 See Reverse for Instructions

7007 2680 0000 6418 3288

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Postage	\$ 0.42	0713
Certified Fee	\$2.70	08
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.32	07/18/2008

Sent To Phil Lombardi  
 Street, Apt. No.,  
 or PO Box No. General Delivery  
 City, State, ZIP+4 Tulsa, OK 74103  
 PS Form 3800, August 2006 See Reverse for Instructions

7007 2680 0000 6418 3318

U.S. Postal Service™  
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DENVER CO 80203  
OFFICIAL USE

Postage	\$ 0.42	0713
Certified Fee	\$2.70	08
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.32	07/18/2008

Sent To Elisabeth A. Shumaker  
 Street, Apt. No.,  
 or PO Box No. General Delivery  
 City, State, ZIP+4 Denver, CO 80203  
 PS Form 3800, August 2006 See Reverse for Instructions

In the 5<sup>th</sup> District Court of Clarke County  
State of Iowa

Jerry DeWayne Mercer and	)	
Eddie Leon Andrews	)	
	)	
	)	Case Number EQCV010968
	)	
Vs.	)	
	)	
Terence C. Kern, an individual, and	)	
Paul J. Cleary, an individual and	)	
Phil Lombardi, an individual and	)	
Elisabeth A. Shumaker, an individual	)	

**MOTION TO RECUSE**

Comes now Petitioner, Jerry DeWayne Mercer, pro per and moves to recuse the Honorable Gary Kimes from the above entitled matter under 28 USCS Sec. 455, and *Marshall v Jerrico Inc.*, 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980).

"The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."

The above is applicable to this court by application of Article VI of the United States Constitution and *Stone v Powell*, 428 US 465, 483 n. 35, 49 L. Ed. 2d 1067 (1976).

"State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law."

**CONCLUSION**

Wherefore, Petitioner respectfully moves and requests that the Honorable Gary Kimes remove and disqualify himself as judge, or that the Motion for Summary Judgment be heard by a judge other than those judges named in the Federal Case # 4:05-CV-00009. Exhibit 1: Federal Case # 4:05-CV-00009 Court Stamped Filings (*Deprivation Civil Rights*), detailing conduct which gives Petitioner good reason to "believe" the above Judge is easily swayed from protecting citizenry constitutional rights, so **cannot** hear the above case in a fair and impartial manner pursuant to the Iowa Code of Judicial Conduct and the doctrine of *Johnson v. District Court*, 674 P. 2d 952 (1984), to the end that another judge be assigned to hear and try all matters in this case of Mail Fraud.

AFFIDAVIT

I, Jerry DeWayne Mercer, hereinafter "Affiant" and Plaintiff, of lawful age and competent to testify, by my signature below, hereby verify under penalty of perjury, under the laws of the United States of America, without the "United States" [federal government], that the foregoing Motion to Recuse is true, correct, complete, and not misleading, to the best of my current knowledge and belief, pursuant to Title 28, United States Code, Section 1746 (1), so help me Almighty God,  
Signed by my hand below at Clarke County, Iowa, on this 18<sup>th</sup> day of July in the year of our Lord Yahushua Ha Massiac, 2008.

All Rights Reserved

Jerry DeWayne Mercer  
Jerry DeWayne Mercer

STATE OF IOWA

INDIVIDUAL ACKNOWLEDGMENT

COUNTY OF CLARKE

Before me, the undersigned, a Notary Public in and for said County and State on this 18<sup>th</sup> day of July, 2008, personally appeared Jerry DeWayne Mercer to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he/she executed the same as his/her free and voluntary act.

Given under my hand and seal the day and year last above written.

My commission expires 4-26-11



Cindy West

Notary Public

Certificate of Mailing

I, Jerry DeWayne Mercer, certify that on July 18, 2008, I mailed a true and correct copy of the above and foregoing motion for "Motion to Recuse" to:

Terence C. Kern, Tulsa, Oklahoma,  
Phil Lombardi, Tulsa, Oklahoma,

Paul J. Cleary, Tulsa, Oklahoma  
Elisabeth A. Shumaker, Denver, Colorado

Jerry DeWayne Mercer  
Jerry DeWayne Mercer  
General Delivery  
Osceola, Iowa [ 50213-9999 ]

Exhibit 1

RECEIVED

In the United States District Court for the Southern District of Iowa Central Division

Jerry DeWayne Mercer  
Plaintiff

05 JAN -7 PM 3:00

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF IA

v.

Interstate Power and Light Company, Alliant Energy Corporate Services, Inc.,  
Deborah Knoebl, Daniel L. Siegfried, Deborah Neyens, Verle W. Norris, John D. Lloyd,  
Gary G. Kimes, Peter A. Keller, et al  
Defendants

File No.: **4:05 - CV - 00009**

**Petition and Complaint in the Nature of a Suit for Deprivation of Federally Protected  
Rights 42 USC 1983, for Injunctive and Declaratory Relief and Other Damages**

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Triable Issues of Fact - (Causes of Actions, incorporated within).....Pages 3 to 9

Injunctive and Declaratory Relief Request.....# 21 of Page 8

Basis for Venue - (Standard of Review).....#24 of Pages 9,10

Remedy Sought .....Page 12

Judicial Notice .....Pages 13,14

Exhibit 2 - Notice and Demand

Exhibit 3 – Domestic Return Receipts

Exhibit 4 - Notarized Certification of Non-Response

Exhibit 9 - Court Calendar of Actions for Case No. EQCV010233

Exhibit 10 - Certified Combined General Docket for Case No. EQCV010233

Exhibit 11- Petition in Equity

Exhibit 14 - Motion for Reconsideration of Plaintiff's Motion to Set Aside Order ... Motion to Dismiss

Received From Sheriff. 01/10/05. No. Courtroom

Severe

AO 440 (Rev 1/90) Summons in a Civil Action

United States District Court

DISTRICT OF

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

4:05 - CV - 00009

To: Gary G. Kimes
100 South Main St.
Courthouse, 2nd Floor
Osceola, Iowa 50213

641-342-6096

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon Plaintiff:

Jerry DeWayne Mercer
c/o general delivery
Osceola, Iowa

FILED
2005 JAN 10 PM 1:16
CLERK DISTRICT COURT
CLARKE COUNTY IOWA

an answer to the complaint which is herewith served upon you, within Twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

James R. Rosenbaum

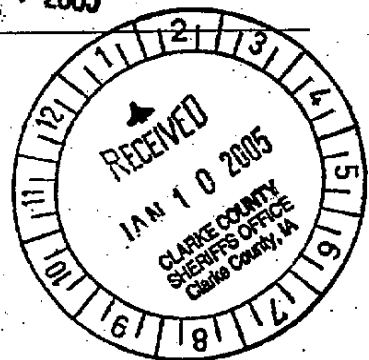
CLERK

JAN 07 2005

DATE

Susan Kern

BY DEPUTY CLERK



### Returns of Service

RECEIVED

In the Iowa District Court, for US District Court County \_\_\_\_\_

Case Name Gary G. Kinn

Case No. 4:05-CV-00009

Notice recorded this date 01-10-05

STATE OF IOWA

\_\_\_\_\_ COUNTY } ss.

- Return of Service:
- Personal ..... 1
  - Dwelling/Substitute ..... 2
  - Hotel, Boarding/Rooming House ..... 3
  - Corporation/Association ..... 4
  - Official (State, County, City) ..... 5
  - Spouse away from residence ..... 6
  - Other ..... 7

05 JAN 19 AM 10:38

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF IA

I certify that I served a copy of:

- Petition and Original Notice
- Modification/Application and Notice
- Order to Show Cause

- Order Filed
- Writ
- Other Summons

Served:

Gary G. Kinn by Delivering Copy to Clerk County Court House 01-10-05 Type Code 5

\_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_

\_\_\_\_\_ by serving \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_ (a person residing therein who was then at least 18 years old) or (spouse away from residence). [Strike non-applicable part.]

\_\_\_\_\_ by serving \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_

Notes: (Diligent Search, etc.)

**PAID**  
\$47.00 CK# Cash DATE 1-18-05

Fees:

Service 15

Mileage 2

Copy 2

Total 17.00

B. Kinn #20-2  
\_\_\_\_\_  
Official Title

Fees charged to/paid by Attorney/Party:

Note: Copy of Original Notice, if served, must be attached to this form.