

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

ARTHUR DOE, *et al.*

Plaintiff,

v.

FITCH,<sup>1</sup> *et al.*,

Defendants.

**Case No. 3:16-cv-00789 (CWR) (FKB)**

**DECLARATION OF CLIFF JOHNSON IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS**

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*Attorneys for Plaintiffs*

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<sup>1</sup> Lynn Fitch is substituted for former Attorney General Jim Hood. Fed. R. Civ. P. 25(d).

## DECLARATION OF CLIFF JOHNSON

I, CLIFF JOHNSON, declare:

1. My name is Cliff Johnson; I am over eighteen years of age and am fully competent to testify to the facts set forth in this declaration. I submit this declaration in support of plaintiffs' motion for attorney's fees, expenses, and costs.

### Experience and Qualifications

2. I am an Assistant Professor of Law and the Director of the Roderick and Solange MacArthur Justice Center at the University of Mississippi School of Law. I joined the faculty in 2014, after being selected as the first Director of the MacArthur Justice Center's Mississippi office. As Director, I oversee all of the MacArthur Justice Center's Mississippi litigation efforts-which are focused on criminal justice and civil rights issues-and provide instruction and supervision to law students participating in the MacArthur Justice Clinic.

3. The MacArthur Justice Center has successfully litigated cases challenging practices such as illegal and excessive bail, the operation of "debtors' prisons," the denial of appointed counsel for indigent defendants, illegal sentencing of juvenile offenders, and the failure to provide inmates with decent prison conditions.

4. Prior to joining the faculty, I practiced law in Mississippi for more than 20 years. I was admitted to the Mississippi Bar in 1992, after receiving a Juris Doctor degree from Columbia University School of Law in 1992 and a Bachelor of Arts degree from Mississippi College in 1989. I served as a law clerk to the Hon. William H. Barbour, Jr. (1992-1993); then worked in private practice as an associate at Butler, Snow, O'Mara, Stevens & Cannada (1993- 1996); then served as an Assistant U.S. Attorney for the Southern District of Mississippi (1996- 2001); and then returned to private practice as a shareholder and founding partner of Pigott & Johnson, P.A.

(2001-2014), handling a wide variety of complex civil and criminal matters. During 2005-2006, I was Fulbright Scholar at the Raoul Wallenberg Institute for Human Rights and Humanitarian Law and Lund University School of Law in Sweden where I taught Law and History of the American Civil Rights Movement.

5. I have been honored as one of the “Top 40 Under 40” (2003) by the Mississippi Business Journal, as a “Mid-South Super Lawyer” (2011-2014), as a National Trial Lawyer of the Year (2016) by Public Justice, and as one of the “Best Lawyers in America” (2017). I also was presented with the Inspector General’s Integrity Award by the United States Department of Health and Human Services (1997).

**Plaintiffs’ Need to Obtain Out-of-State Counsel in this Case**

6. Based on my experience, I am familiar with the small handful of attorneys who regularly practice in the area of civil rights litigation in Mississippi.

7. While there are Mississippi attorneys—such as Rob McDuff and myself—who are willing to assist as local counsel in case involving the rights of sex offenders, I am not aware of any Mississippi lawyers with the combination of the necessary skills, experience, time, and resources who would have been willing and able to take on a complex, multi-year sex-offender rights case without substantial assistance from out-of-state counsel.

8. In this matter, plaintiffs needed to retain experienced litigators with access to substantial resources and support staff. Plaintiffs’ out-of-state attorneys also had unique experience in this type of challenge, with the Center for Constitutional Rights having litigated similar challenges in both *Doe v. Jindal*, 853 F. Supp. 2d 596 (M.D. La. 2012) and *Doe v. Caldwell*, 913 F. Supp. 2d 262, 265 (E.D. La. 2012). Plaintiffs also needed those lawyers to commit to a representation that

could easily last several years and in which compensation for their time or reimbursement for expenses would not be available—except at the end of the case, as a prevailing party.

9. While there are obviously law firms in Mississippi with the time and resources to handle complex litigation, I am not aware of any such firm that would have been willing to handle a complex pro bono matter for sex offenders. For several reasons, such a case would be highly undesirable to such local lawyers. Obviously, sex offenders are a reviled class. Many Mississippi lawyers would not represent sex offenders for personal reasons or because they are concerned about losing paying matters from clients or potential clients. Moreover, even if there are firms who would be able to expend the time and resources to handle a complex multi-year sex-offender rights case, I am aware of none with any background in this area of the law, which would significantly increase the time necessary to litigate the case while their lawyers got up to speed. And even if they were otherwise willing and had the time and resources, I am not aware of any firms that would commit that sort of time and resources where the prospect of payment was uncertain, where a premium on their fees was unlikely, and where any such payment would not come until well after the conclusion of the case.

10. In my opinion, plaintiffs could not have obtained adequate representation in this matter—much less representation of the same quality as that plaintiffs’ out-of-state attorneys—from a team comprised exclusively of in-state lawyers. I thus view plaintiffs’ decision to retain out-of-state counsel as entirely reasonable.

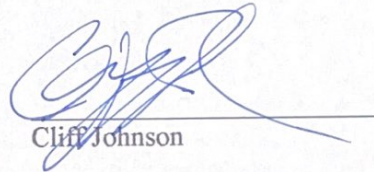
#### **Reasonable Hourly Rates for Robert McDuff and Jacob Howard**

11. I am familiar with the skill, reputation, and experience of Mr. McDuff, having collaborated with him as co-counsel in several matters over the years. He is one of Mississippi’s preeminent lawyers, and I can think of no lawyer more qualified to provide the services for

which he now seeks compensation. Similarly, I am familiar with the skill, reputation, and experience of Mr. Howard. Previously, he worked in Mr. McDuff's office and now works with me at the MacArthur Center. He too is a highly skilled lawyer and was qualified to provide the services for which he now seeks compensation.

12. I am familiar with the market in the Southern District for complex litigation. In my opinion the \$450/hour rate sought by Mr. McDuff and \$400 for Mr. Howard do not exceed the rates charged to fee-paying clients by lawyers based in the Southern District of Mississippi of reasonably comparable skill, reputation, and experience.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of December, 2021 at Oxford, Mississippi.

  
Cliff Johnson

**CERTIFICATE OF SERVICE**

This is to certify that on this day I, Matthew Strugar, Counsel for Plaintiffs, electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notice of such filing to the following:

WILSON MINOR, MSB No. 102663  
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ATTORNEY FOR DEFENDANTS

THIS, the 10th day of December, 2021.

/s/Matthew Strugar  
Matthew Strugar