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SECTION: 5

CIVIL DISTRICT COURT

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the shared interests of the proposed class (an issue class to determine Entergy's liability) and subclasses for damages. As shown in the Supporting Memorandum, experts have been retained, a drone has been employed to photograph the sites at issue, and other actions necessary to prosecuting this action have been undertaken by counsel below.

Movers also request that an order issue that should any party wish to intervene or conduct discovery or take any other action relative to this matter that they be ordered first to meet and confer with Interim Class Counsel so that economies and efficiencies may first be discussed.

For all these reasons and those set forth in the Memorandum Supporting this Ex Parte Motion for Appointment of Interim Class Counsel the following **Exhibits 1-6**

1. Declaration of Juan Lafonta, Esq
2. Andy Jacoby CV
3. Juan LaFonta CV
4. Jack Harang CV
5. Cooper Law Firm Profile
6. Stuart H. Smith CV

Movers pray this motion is granted.

Respectfully Submitted:

Stuart H. Smith (LA#17805)
Barry J. Cooper, Jr. (LA#27202)
Celeste Brustowicz (LA#16835)
Andrew Jacoby (LA# 32512)
COOPER LAW FIRM, LLC
1525 Religious Street
New Orleans, Louisiana 70130
Phone: 504-399-0009
Fax: 504-309-6989
Email: ssmith@sch-llc.com
bcooper@clfnola.com
cbrustowicz@clfnola.com
ajacoby@clfnola.com

AND

Jack Harang (LA#15083)
HARANG LAW OFFICES
3500 North Hullen Street
Metairie, Louisiana 70002
Phone: (504) 810-4734
Email: jwharang@gmail.com

AND

Juan Lafonta (LA#27541)
JUAN LAFONTA AND ASSOCIATES
6305 Elysian Fields Avenue, Suite 207
New Orleans, LA 70122
Phone: (504) 288-4911
Email: jlafonta@lafontalaw.com

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CIVIL DISTRICT COURT
CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

DOCKET NO. 2021-07365

SECTION: 5

DIVISION: B

ANTHONY J. STEWART, DIANE RALEY, TOMIKA JORDAN, SHEENA ALTINE, TYELGA J. KEARNEY, PHYLLIS BANKS, RYAN COOPER, ROSLYN ROBERT, CHRISHANTE RUFFIN, JOYCE WATKINS, JASON C. TULLOS, RANDOLPH H. GONZALES, JR., 516 ST. PHILIP, LLC, MERCH DAT, LLC., CARNIVAL COLLECTIBLES LLC, WILLIAM A MYERS, JR., WILLIAM A MYERS, III., AND ALL OTHER SIMILARLY EFFECTED INDIVIDUALS AND ENTITIES

v.

ENTERGY CORP., ENTERGY NEW ORLEANS, LLC,
and ENTERGY LOUISIANA, LLC

DECLARATION OF JUAN LAFONTA, ESQ.

I, JUAN LAFONTA, Esq., being a person of majority age and a United States Citizen on this 1st day of October 2021, under penalty of perjury, attest to the following facts:

1. I am a licensed and practicing attorney (LSBA No 27541.) in good standing with the Louisiana State Bar Association.
2. On September 21, 2021. I personally travelled to the site of the collapsed Avondale Tower and found it gone from the premises and the area where it had been located was cleared and the dirt smoothed over as if nothing has happened.
3. Dumpsters were present which appeared to contain metal pieces consistent with the former tower.
4. After my visit, one of the dumpsters was removed, all of which suggested to me that the area had been cleaned of all evidence concerning the tower's collapse.
5. Attached are photographs taken while I was present, **Exhibits 1-10.**

I do declare under the penalty of perjury under the law of the United States that these statements are true and correct to the best of my knowledge, information, and belief.



Juan Lafonta, Esq. (LA#27541)

EXHIBIT 1

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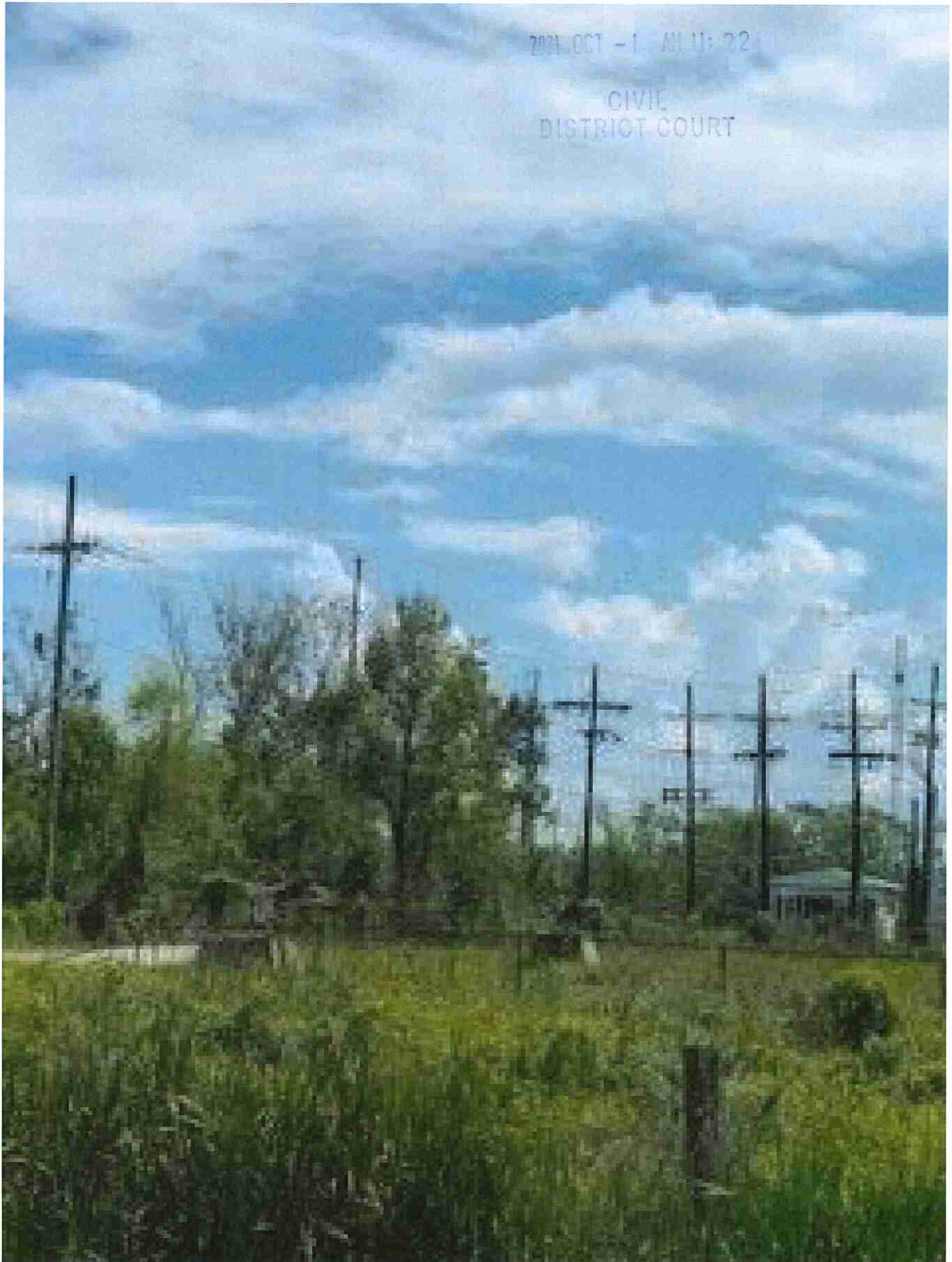
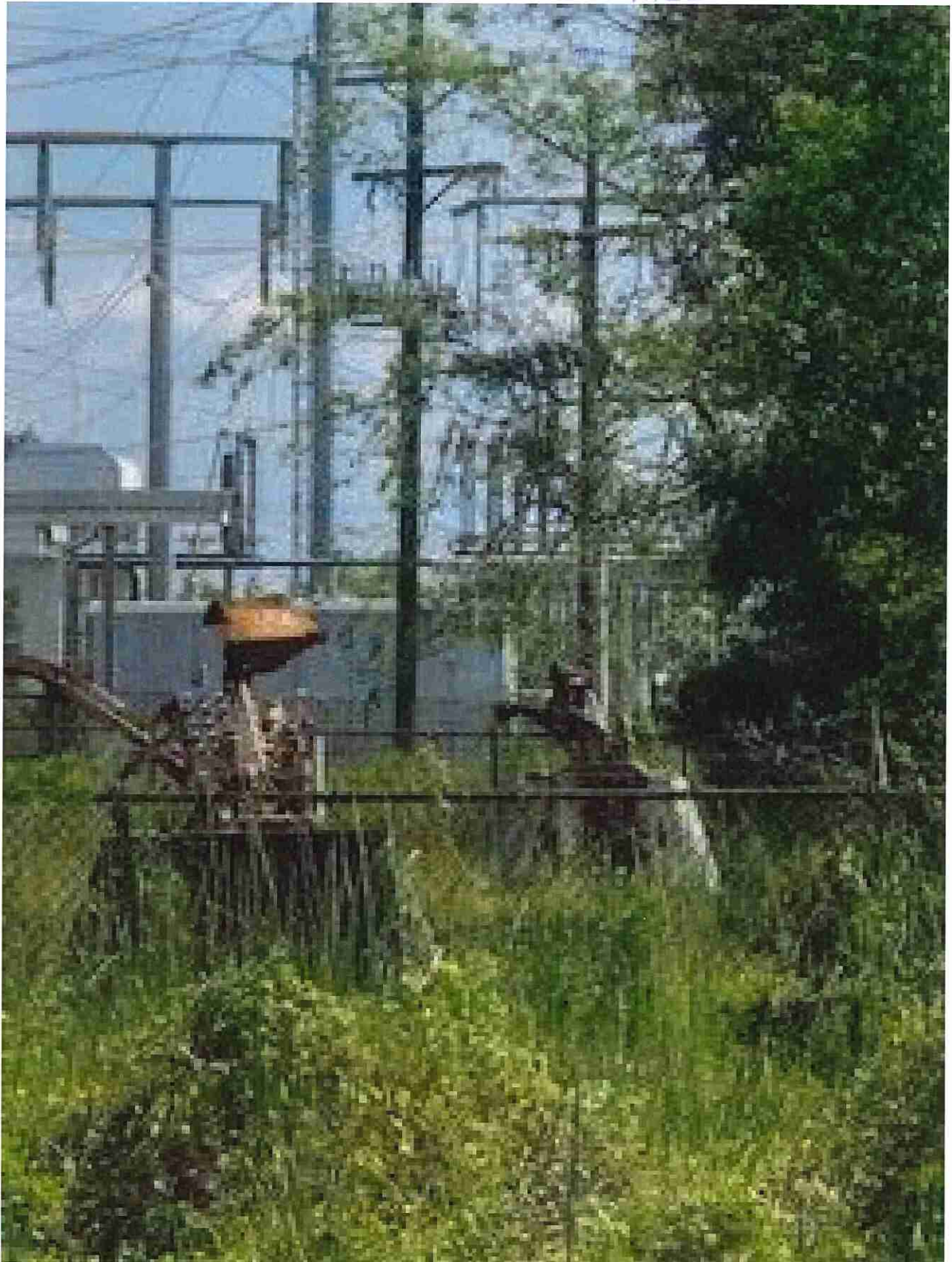


Exhibit 2

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Exhibit 4



Exhibit 5

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Exhibit 6

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Exhibit 7

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CIVIL
DISTRICT COURT



Exhibit 8



Exhibit 9



Exhibit 10

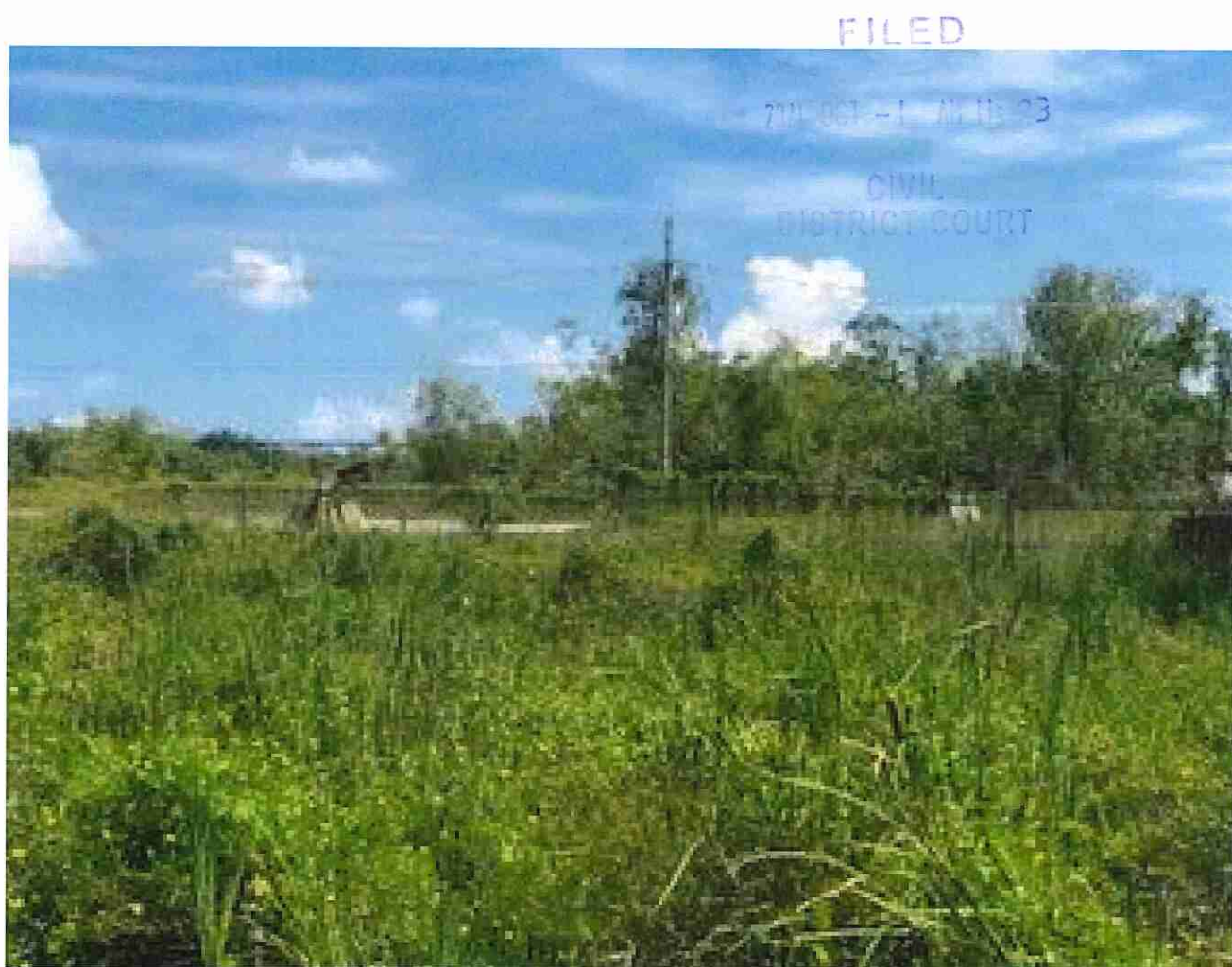


EXHIBIT 2

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Andrew Jacoby

BAR ADMISSIONS

Louisiana and Texas

LEGAL EXPERIENCE

Cooper Law Firm

Associate

New Orleans, Louisiana

Apr. 2020 – current

Litigator with a primary focus on environmental, property, and personal injury cases. Statutory claims grounded in Clean Water Act, Clean Air Act, RCRA, CERCLA, and Price-Anderson Act.

Law Office of Andrew Jacoby

Owner

New Orleans, Louisiana

Dec. 2019 – current

Litigator with a primary focus on environmental, oilfield contamination, property, zoning, and historic preservation cases.

Scott, Vicknair, Hair, & Checki

Partner

New Orleans, Louisiana

May 2015 – Dec. 2019

Litigator and contract negotiator, with primary focus on state court cases involving property damage, zoning disputes, contamination and other environmental matters, personal injury, tree damage cases, solar energy, and public records request disputes.

Jones Swanson Huddell, & Garrison

Associate Attorney

New Orleans, Louisiana

August 2010 – May 2015

Litigator focused on oil and gas and environmental cases, with additional work on commercial litigation (contract disputes and fraud cases). Responsibilities included all aspects of litigation from initial research through trial, with a primary focus on research and motion practice. Managed part of complex coastal erosion case on behalf of a Louisiana levee authority, a case involving a Coastal Use Permit issuance dispute, and a case involving a leaking underground storage tank. Part of team that challenged location of one of potentially one of the world's largest import/export terminals. Statutory focus on the Louisiana Mineral Code, CWA, NEPA, RCRA, CZMA, SDWA, FIFRA, and Louisiana tort and contract law.

Texas Water Development Board

Attorney

Austin, Texas

March 2009 – August 2010

Member of seven-lawyer team charged with overseeing billions of dollars in public infrastructure investments, state water planning and groundwater management. Responsibilities included advising on bond and public finance law, water law, state water planning, and groundwater management rules. Personally reviewed and approved over \$300 million in water infrastructure investment loans and grants, mostly stemming from the EPA's CWSRF and DWSRF programs. Performed legal review of bond deals and other financing arrangements for large-scale civil works projects. Statutory focus on CWA, SDWA, ESA, Texas water rights law, Texas Open Meetings Act, and Texas Public Information Act.

PRE-LAW SCHOOL EXPERIENCE

After graduating with a business degree from the University of Texas, I had a one-year internship focused on finance with **Motorola, Inc.**, and worked for an I.T. auditing association (**ISACA**) for several years before attending law school.

VOLUNTEER WORK

Approximately 150 hours per year of volunteer work, including:

- **Retired Maj. Gen. Russel Honoré's GreenARMY**, a coalition of public health and conservation advocates. I draft legislation, testify, and brief Maj. Gen. Honoré on any matter of his interest.
- The **Center for Human-Environmental Research**, a non-profit studying, among other things, the threat that coastal erosion poses to natural and cultural heritage, such as preserving communities and protecting Native American burial mounds.

EDUCATION

Tulane University Law School

New Orleans, Louisiana

J.D., Environmental Law Certificate

2008

Tulane Environmental Law Clinic, Student Attorney

- Represented plaintiffs in legal action to oppose landfill pollution.
- Drafted amended complaint for suit involving levee failure during Hurricane Katrina.

Honors:

- Managing Editor, Tulane Environmental Law Journal
- Guest Editor, Tulane Law Review (Vol. 82, No. 6, special issue, complex litigation)
- CALI Excellence for the Future Award, highest grade, Environmental Enforcement
- Clerkship, Lloyd Gosselink Rochelle & Townsend, summer 2007, Austin, Texas
- Certificate for Mediation Training, from Professor Edward F. Sherman
- 2008 Brian P. McSherry Community Service Award – given to the graduating student who has demonstrated the greatest dedication to Tulane's community service program
- Orleans Parish Criminal Court Constitutional Project, Summer Volunteer, 2006
- Disaster Legal Project, Hurricane Relief Effort Volunteer Law Clerk, 2005

University of Texas

Austin, Texas

B.B.A., International Business & B.A., Spanish

1999

Internship: Matura Investments, Ukraine. Assisted investment company by writing economic briefs and encouraging American investment in former Soviet Union industry.

PUBLICATIONS & PRESENTATIONS (available upon request)

The Extraordinary Clash of Personality and Constitutional Principles of General Andrew Jackson and Judge Dominic Hall During the 1815 Battle of New Orleans (seeking publisher).

Louisiana Wetlands Permitting. Essay released concurrent with CLE presentation for HalfMoon Seminars CLE (2020).

Guest lecturer at Loyola University undergraduate Environmental Communications class on the topic of environmental law (2019).

The Formosa Plant: Legal Issues in Permitting and Operations, presentation at Tulane Law School's Summit on Environmental Law & Policy (2019)

Local Regulation and State Preemption of Drilling and Fracking, essay and presentation at Rocky Mountain Mineral Law Foundation oil and gas law conference, Colorado (2019)

Louisiana Surface Water Rights. Essay released concurrent with CLE presentation for HalfMoon Seminars CLE (2017).

Examining the Public Trust Doctrine's Role in Conserving Natural Resources on Louisiana's Public Lands. Tulane Environmental Law Journal (2017), with co-author John Arnold.

Guest lecturer at University of New Orleans undergraduate class on the topic of environmental law (2016).

Fracking Contamination Lawsuits. Essay released concurrent with webinar presentation, ABA Section on Environment, Energy, and Resources (SEER) (2014).

Texas Water Scarcity and the Endangered Species Act 'Whooping Crane' Litigation. Essay and presentation at the Tulane Law School's Summit on Environmental Law & Policy (2014).

Fracking Contamination and Litigation – Case Law Update. Essay released concurrent with presentation on panel at ABA SEER, 42nd Annual Spring Conference, Utah (2013).

Constitutional Safeguards for Future Victims in Class Action Litigation. ABA SEER Constitutional Law Committee Newsletter (2013).

Recent Developments in Oilfield Pollution Lawsuits. Essay released for Tulane Summit on Environmental Law & Policy (2012).

Demolition by Neglect in Detroit and the Battle to Save Historic Tiger Stadium: Lessons for Baseball Park Preservationists. University of Denver Sports & Entertainment Law Journal (2010).

Toxic Tour. Served as tour guide for environmental lawyers of regional environmental lawsuits, as part of Tulane's Summit on Environmental Law & Policy (2010).

Coeur Alaska v. Southeast Alaska Conservation Council, 557 U.S. ____ (2009): The Court Shores Up Permitting Authority for the Army Corps of Engineers, and Gives Broad Deference to Informal Agency Interpretations of Ambiguous Statutes. ABA SEER Constitutional Law Committee Newsletter (2009).

Water Pressure: The Eightieth Texas Legislature Attempts to Protect Instream Flows of Rivers and Streams, and Freshwater Inflows to Bays and Estuaries. Tulane Environmental Law Journal (2007).

EXHIBIT 3

Juan A LaFonta, Esq

2442 Jay Street New Orleans, Louisiana 70122
(504) 288-4911 jlafonta@lafontalaw.com

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EDUCATION

Southern University Law Center , New Orleans, Louisiana
Juris Doctor Candidate, May 2000

University of New Orleans, New Orleans, Louisiana
Bachelor of General Studies, August 1997

EXPERIENCE

Juan Lafonta and Associates, L.L.C., October 2001-Present

20 years experience, managing a high volume personal injury law practice servicing thousands of clients while managing the staff and logistics for operations. Drafted motions, conducted trials, and helped assist my client and associates in any way possible to become a well respected and organized law firm in New Orleans, Louisiana. First trial in 2004 went for 1 million dollars. Adjudicated or negotiated millions since the first trial.

Louisiana State Legislature, Louisiana State Representative of the 96th District , February 2005-January 2012

Elected leader in the Louisiana State Legislature. Assisted teams to support and evacuate scores of people out of New Orleans after Hurricane Katrina. Lead negotiator and facilitator for over a billion dollars of Hurricane Katrina Relief Money. Testified before the United States Congress to facilitate a federal loan program for displaced Louisiana Citizens as a result of Hurricane Katrina. Testified numerous times over a 4 year period at the Congressional Black Caucus in committees that dealt with Hurricane Katrina, poverty, and prison to pipeline opinions. Testified on panels for recently deceased Honorable Elijah Cummings.

Louisiana State Legislature, Chairman of the Legislative Black Caucus, Spring 2006 – Spring 2007

Directed the Legislative Agenda for the House and Senate. Led the coordinated logistics, grass root support, and political support with Reverend Jessie Jackson, Rev. Al Sharpton, and community stakeholders of the New Orleans community and electorate in the aftermath of Hurricane Katrina. Led the coordinated efforts of support with Reverend Al Sharpton, Michael Baisden, and the statewide NAACP on JENA 6 march,

Louisiana State Legislature, Staff Attorney, July 2019-August 2019

Researched and prepared briefs for hearings. Operated as a researcher for Senator John Hainkel on several committee investigations. Drafted legislation for Senators John D Johnson. Coordinated information, constituents, experts, and marches on the capitol. Assisted in several processes throughout the state capital as per Sen Jon Hainkel's direction.

Dillard University, adjunct professor of public health law, August 2001-August 2007

Taught students in health sciences programs theory and law as it related to public health.

Family District Court, Judge Luke Lavergne, Judicial Intern, May 2000

Observed civil and criminal pre-trial motions and trials. Assisted pro se litigants in filing divorce and child custody motions.

COMMUNITY INVOLVEMENT

Former United States 2nd Congressional District Candidate, 2010

Campaign Management and Support for various candidates, 2001-Present

Assisted on the successful election of Lambert Boissiere, jr in Louisiana Senate and City Constable Races

Assisted and endorsed the Hillary Clinton

Assisted in and directed statewide appearances of Former President Bill Clinton

One of four campaign directors for Mayor Ray Nagin's successiessfull reelection bid

One of eight campaign directors for Congressman William Jefferson's re-election efforts

Friends of King Charter Schools, board member, June 2016 – June 2018

Assisted the other board members on development of the Charter School and problem solved on issue before the board

Central City Housing Development, Board Member, *June 2016 – June 2018*

Assisted the board members and its chairperson on getting the non-profit into good standing and produce affordable housing for seniors.

Phi Beta Sigma Fraternity, Inc, Former Chapter President, *Spring 1992 - Presen*

EXHIBIT 4

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Biography of Jack W. Harang

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My name is Jack W. Harang. I was born in Baton Rouge, Louisiana in 1944. I graduated from law school in 1971.

It was in law school that I developed my infatuation, and then love, of the jury trial system, so much so, that I began cutting classes to go downtown to watch what were, at that time truly great trial lawyers, try cases. I spent a great amount of my time with my father's lawyer, Cicero Sessions, who was in the National Trial Council for Time Life Magazines. Remember, this is the eve of the development of the first amendment rights of the press to freedom of speech. This influence gave me an early introduction into Federal major complex litigation.

My love of speaking before the juries grew from my early childhood. My uncle was Earl Long, three time governor of the State of Louisiana, a great speaker and a person with the great ability to communicate with everyone in society. My cousin was United States Senator Russell Long. Russell ended his thirty year career in the United State Senate as chairman of the Ways and Means Committee.

After passing the bar, I had several job offers, but chose one that promised to get me in front of juries, and that it did. On my first day at work, which happened strangely to be a Friday, the firm's senior partner handed me a file and said, "This is yours." The trial was on Monday. I asked him simply two questions: first, where was the courthouse, and secondly, where was I to sit. I figured if I could get those two things accomplished, I could handle the rest. I tried the case to the jury, and won. Life was never the same. Since that time, I have at best count, stood in front of around a thousand juries in thirty states, both criminal and civil. I did at one period of time, represent both the number one and number three white collar criminals in the United States. I chose not to try any more criminal cases in the 1980's. Although I do not recall ever losing a criminal jury trial, I was afraid my given abilities could not serve to a good end.

In cases that I have handled from their formulative stages, if my memory serves me right, I have only lost less than a handful of cases. Throughout my career, I have handled many complex litigations, from Maritime litigation involving multiple parties and numerous British insurance clubs; to toxic courts that involved entire communities; to explosions in which I have been lead or co-lead counsel, handling up to nine thousand claimants. It was one of these cases that my verdict stopped the trading of CSX Railroad on the New York Stock Exchange; to environmental cases that affected the welfare and health of thousands of people.

I have attached a very brief summary of some of the cases that I consider significant in my career. I have not included any cases that resolution was less than three million dollars.

If there can be any area of the law that I excel at, it is the preparation, organization, and presentation of complex cases to a jury in a manner that they will understand and recognize the importance of righting the wrong that we have experienced.

I have been honored as twice invitee to participate in The President Eisenhower's Trust Fund Fellowship Exchange Program being asked to teach both in Russia and China about our legal system, and jury trials particularly. I have presented to the American Trial Lawyers Association on jury trials and punitive damages. I have presented before the American Bar Association on damages and punitive damages. I was one of the co-founders on the Nursing Home Section of the American Trial Lawyers Association. I am an honored member of Who's Who Among Outstanding Americans. I am currently working on the story of my legal career at the request of the editor of Southern Legal History.

Respectfully submitted.

EXHIBIT 5

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Cooper Law Firm Profile

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Cooper Law Firm, LLC is a plaintiff's litigation firm located in New Orleans that specializes in mass tort. The firm primarily handles energy, environmental, medical device, and pharmaceutical toxic tort claims, and it currently represents thousands of injured claimants and property owners in various multi-district litigations (MDLs) and other consolidated actions throughout the country. Combined, attorneys at the firm have over a century of experience in high stakes litigation, and a reputation throughout the state and country for providing exceptional representation to plaintiffs harmed by large corporations.

Managing Partner Celeste Brustowicz has practiced as a licensed attorney in Louisiana for 34 years, and she is also licensed in California (2007) and Mississippi (2011). She obtained a B.A. in Political Science from Louisiana State University and a J.D. from the Paul M. Hebert Law School at LSU. She is an active member of the Louisiana State Bar, and for over a decade, she graded the torts portion of the Louisiana Bar examination. Throughout her career, Ms. Brustowicz has also served as counsel for both plaintiffs and defendants in many class actions and MDLs throughout the State of Louisiana and the country, and she has gained a reputation among her colleagues as a consensus builder. In her earlier years as a defense attorney, she represented states, counties, police agencies, and even judges in a variety of case types including class actions and other consolidated proceedings. Representative cases are cited below¹. Currently, Celeste also serves as a member of the Purdue Unsecured Creditor's Committee where she has spent the past two years advocating for the interests of children born dependent on opioids and their families in the Purdue bankruptcy proceedings. She is also directly involved in the management and representation of the firm's other class actions and MDLs discussed below.

Senior Partner Barry Cooper received his B.A. in Business Administration and Management from the University of New Orleans and his J.D. and MBA from Loyola University of New Orleans. He has spent the last two decades practicing in the areas of commercial litigation, aviation law, medical devices, class actions, multi-district litigation (MDL), estates & trusts, and private wealth management.

¹ *Garrison v. St. Charles Gen. Hosp.*, 2002-2268 (La. App. 4 Cir. 5/7/03): Defeated motion for class certification motion against publicly owned Louisiana Hospitals brought by individuals exposed to Hep C; *Cain v. City of New Orleans*, 281 F. Supp. 3d 624, 628 (E.D. La. 2017): Defended the City of New Orleans in civil rights class action, challenging Orleans Parish Criminal District Court's collection of post-judgment court debt; *Caliste v. Cantrell*, 329 F. Supp. 3d 296 (E.D. La. 2018). Defended a LA magistrate judge in a class action against, alleging violations of rights under the 14th Amendment Due Process Clause and Equal Protection Clause; *Chicago Property Interests, LLC v. Broussard*, 2015-0299 (La. App. 4 Cir. 10/21/15), 177 So. 3d 1074, writ denied, 2015-2117 (La. 1/25/16), 185 So. 3d 748: Defended Jefferson Parish and the Parish president against class action arising from property damage after hurricane Katrina; *Trujillo v. City of Ontario*, No. EDCV 04-1015VAPSLX, 2009 WL 2632723, at *1 (C.D. Cal. Aug. 24, 2009): Defended a municipality and officers in its employ in claims arising from the use of surveillance videos in locker rooms; and settled claims without payment on behalf of LA state police and hundreds of state troopers against claims of alleged civil rights violations following a riot in Baton Rouge, *Tennart et al v. Baton Rouge et al*, No. 3:17CV00179; *Smith et al v. City of Baton Rouge et al*, No. 3:17CV00436; *North Baton Rouge Matters et al v. City of Baton Rouge*, et al, No. 3:16CV00463; and *McKesson et al v. City of Baton Rouge et al*, No. 3:16CV00520.

Attorney Victor Cobb received his B.A in Political Science and his J.D. from the University of Mississippi. He also obtained an MBA from Millsaps College. He has spent the majority of his career representing plaintiffs who suffered damages due to the negligence of energy companies, and he plays a lead role in the management of several class actions related to radiation exposure, including: Bridgeton Class Action²; Coldwater Creek Class Action³; Metropolis Class Action⁴; and Piketon Class Action⁵. He also assists in the prosecution and management of the firm's hernia mesh cases, including in the Davol/Bard MDL (MDL 2846), Ethicon Physiomes mesh MDL (MDL 2782), and Atrium C-Qur MDL (MDL 2753).

Attorney Claris Smith received her B.A. in English Literature and Studio Art from Dartmouth College, her Masters in Health Science from the University of Texas at Tyler, and her J.D. from Tulane Law School. At Cooper Law Firm, she represents the firm's clients in several MDLs, including children born dependent on opioids in the National Opiate Litigation (MDL 2804), injured BP workers in the BP litigation (MDL 2179), and plaintiffs injured by defective hernia mesh implants in the Ethicon, Atrium and C-Qur MDLs mentioned above.

Attorneys Stuart Smith and Andy Jacoby are also Of Counsel at Cooper Law Firm, and they bring a wealth of experience in the areas of energy law and class actions, as evidenced by their resumes provided in **Exhibit 1 and 2**. Additionally, the firm has a team of dedicated staff who are experienced in working with large scale mass tort claims impacting large volumes of clients.

² John C. Kitchin, Jr., et al v. Bridgeton Landfill, LLC, et al, Case Nos.: 18SL-CC00613 (State Court before removal); 4:18-cv-00672 (Federal Court after removal); 19-8010 (8th Circuit after appeal); and 19-2072 (8th Circuit after appeal).

³ Tamia Banks v. Cotter Corporation, et al, Case Nos.: 18SL-CC00617 (State Court before removal); 4:18-cv-00624 JAR (Eastern District of Missouri District Court after 1st removal); 4:20-cv-01227 JAR (Eastern District of Missouri District Court after 2nd removal); 21-1165 (8th Circuit Court of Appeals – Notice of Appeal); and 21-1160 (8th Circuit Court of Appeals – Petition for Writ of Mandamus).

⁴ Roger Steward, et. al. v. Honeywell International, Inc., Case No. 3:18-cv-01124 (Southern District of Illinois District Court)

⁵ Ursula McGlone, et al v. Centrus Energy Corp., et al., Case No. 2:19-cv-02196-ALM-EPD (Southern District of Ohio District Court)

EXHIBIT 6

STUART H. SMITH
Special Counsel

Stuart H. Smith (born September 15, 1960) is a practicing plaintiff attorney licensed in Louisiana and has practiced law for nearly 25 years, litigating against oil companies and other energy-related corporations for damages associated with radioactive oilfield waste and pioneering the field of Technologically Enhanced Radioactive Material (TERM) oilfield waste litigation and achieving record verdicts for his clients. Mr. Smith devotes his casework to Mass Torts; Class Actions; Environmental Law; Toxic Torts; Litigation; Maritime Law and Personal Injury.

Smith also has extensive jury- trial experience in both federal and state courts in addition to handling multi-district litigation ("MDL") civil cases. A list of some of the recent MDL cases handled by Smith are as follows:

- (1.) Oil Spill by the Oil Rig "Deepwater Horizon", 10-MD-2179 (Hon. Carl J. Barbier) – Smith represented 4,000+ victims of the BP Oil Spill, including working throughout the Gulf Coast developing sophisticated science evidence related to the spill and impact on victims of the worst oil spill in U.S. History.
- (2.) Vioxx Products Liability Litigation, 05-MD-1657 (Hon. Eldon E. Fallon) – **Pharmaceutical company** Merck paid out nearly \$6 billion to settle 35,000 Vioxx lawsuits, federal charges, and criminal & civil claims. Smith successfully represented several hundred plaintiffs against Merck.
- (3.) Propulsid Product Liability Litigation, 00-MD-1355 (Hon. Eldon E. Fallon) - A group of consumers brought a product liability action against the **pharmaceutical manufacturer** of Propulsid (Cisapride) as well as certain pharmacies that sold the product. The plaintiffs alleged that the prescription drug carried the risk of serious cardiovascular side effects.

Smith successfully represented several hundred plaintiffs against Cisapride.

Bar & Court Admissions

- Louisiana
- U.S. District Court, Eastern District of Louisiana
- U.S. District Court, Middle District of Louisiana
- U.S. District Court, Western District of Louisiana
- United States Supreme Court.

Professional Activities

- Louisiana State Bar Association
- Louisiana Trial Lawyers Association, Member, Council of Directors
- American Trial Lawyers Association

Publications, Presentations and Recognitions

- Lawyers Weekly Top 10 Jury Verdicts of 2001: 2nd Highest, Grefer v Alpha Technical, \$1.06 billion verdict

- Recipient, American Jurisprudence Award, Criminal Procedure
- Author: "The Special Fund Under The Longshore and Harbor Workers Compensation Act," The Maritime Lawyer published by Tulane Law School, 1987
- Moot Court, 1986, Moot Court Teaching Assistant, 1986
- National Appellate Advocacy Team

Education

- Loyola University, J.D., 1986
- Louisiana State University, B.S., 1983

Civic Involvement

French Quarter Historic Preservation Attorney

Life Beyond the Bar

Stuart is an instrument rated pilot, avid yachtsman and advanced underwater diver.

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MAY IT PLEASE THE COURT:

On August 29, 2021, Hurricane Ida struck Southeast Louisiana. Clean up and restoration efforts continue. The present action was filed Saturday, September 19, 2021. The purpose of this proposed class action is to have the Court certify an issue class which will efficiently determine at one jury trial Entergy's liability for the complete failure of Entergy's transmission and distribution system failure which caused Petitioners, and those similarly situated, to unnecessarily go without electric power. Indeed, some Petitioners and members of the putative class still remain without their electrical lifeline.

All defendants are before the Court albeit not yet served; service was requested last evening with the filing of an amended petition. But all Petitioners are not yet before the court. The purpose of this motion is to facilitate protection the evidence and prevent its spoliation which we believe has already taken place, efficiently conduct discovery, certify the issue class¹ and the trial on liability, and then certify sub-classes for damage actions.

This is necessary as Entergy is presently stonewalling the Louisiana Public Service Commission and the City of New Orleans. Many media reports and statements from City Council

¹ It is believed that the class procedure is the perfect device to resolve the liability issue as the numerosity factor will be well established by hundreds of thousands of claimants.

members reveal that letters may have issued to Entergy to save all of the damaged equipment at issue but last week, a viewing of the property where the large tower collapsed revealed that the tower was no longer present and the ground was clean of all imprints and other evidence showing the tower's collapse all of which is of interest to our experts investigating this matter. See LaFonta declaration **Exhibit 1**.

Upon information and belief, undersigned counsel represents the Petitioners in the first filed lawsuit alleging the various transgressions of Entergy related to Hurricane Ida and the total collapse of Entergy's transmission and distribution systems. Thus, proposed Interim Class Counsel represent the lead plaintiffs in what ultimately could become the only valid case in terms of its *res judicata* effect on all other subsequently filed causes of action.

This ex parte² motion seeks appointment of Interim Counsel so that the immediate and long-term management needs of this matter so it can move forward efficiently, expeditiously, and economically.

2. Immediate Evidence Preservation

As stated, the tower which collapsed causing wires and other critical equipment to plunge into the Mississippi River is no longer on site. As demonstrated by Mr. LaFonta's declaration, it appears the tower was cut into smaller pieces and placed in at least three dumpsters. One dumpster was removed from the site following Mr. LaFonta's visit. There is an immediate need to appoint Interim Class Counsel so that they may take the steps necessary to preserve the evidence and protect the rights of Petitioners and the proposed putative class.³

3. Proposed Interim Class Counsel

a. Applicable Law

This is not a motion to certify anything, let alone a class. This motion seeks the appointment of interim class counsel in order that they might act on behalf of the putative class as outlined herein. This Court has the power to issue such an order.⁴ LSA-CCP art. 592 contains this authority

² La. CCP art. 963 makes it clear that this ex parte motion is entirely appropriate: If the order applied for by written motion is one to which mover is clearly entitled without supporting proof, the court may grant the order ex parte and without hearing the adverse party.

³ Undersigned counsel is presently preparing and will file as soon as this interim Order requested herein is signed a motion dealing with the spoliation issue.

⁴ This Court has fundamental power pursuant to CCP. Art. 191 which vests in this Court "inherently all of the power necessary for the exercise of its jurisdiction even though not granted expressly by law." That this Court has the authority to prevent spoliation of evidence and control the discovery process cannot be gainsaid. *Walker v. Manitowoc Co., Inc.*, 259 So. 3d 465, 20,491, 2016, 897 (La. App 3 Cir. 10/10/18) See Also LSA-C.C.P. art 1420 et seq.

for a Court with a proposed class action to issue orders to deal with important procedural issues, like the appointment of Interim Class Counsel:

E. In the conduct of actions to which Article 591 and this Article apply, the court may make any of the following appropriate orders:

- (1) Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument.
- (3) Imposing conditions on the representative parties or on intervenors.
- (5) Dealing with similar procedural matters, including but not limited to case management orders providing for consolidation, duties of counsel, the extent and the scheduling of and the delays for pre-certification and post-certification discovery, and other matters which affect the general order of proceedings; however, the court shall not order the class-wide trial of issues dependent for their resolution on proof individual to a member of the class, including but not limited to the causation of the member's injuries, the amount of the member's special or general damages, the individual knowledge or reliance of the member, or the applicability to the member of individual claims or defenses.
LSA- CCP art 592.

Though Louisiana's Class provisions do not specifically allow for the appointment of interim class counsel both the class actions articles and our Supreme Court have held that reliance on FRCP Rule 23 is appropriate:

La. Code Civ. P. arts. 591–597 were modeled after Federal Rule 23 as originally enacted. After amendment of Rule 23 in 1966, our courts have used the factors set forth in Rule 23(b) as guidelines to determine whether to allow a class action. *Stevens [v. Board of Trustees of Police Pension Fund of City of Shreveport]*, 309 So.2d [144] at 150–151 [(La.1975)]. Recently in *Ford v. Murphy Oil Pollard v. Alpha Technical*, 102 So.3d 71 (2011) 2010-0788 (La. App. 4 Cir. 8/12/11) U.S.A., Inc., 96–2913 (La.9/9/97); 703 So.2d 542, this court directed Louisiana courts to be guided by the standards for class certification set forth in Rule 23(b). Rule 23(b)(3) provides that the court must find that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. To determine whether common issues predominate, a crucial question is whether the case would be manageable as a class action. The trial judge is given wide discretion in determining whether to allow class actions using the factors listed in Rule 23(b) and the “fairness” factors enunciated in *Stevens*. See *Ford*, 703 So.2d at 547–548. *Banks v. New York Life Ins. Co.*, 98–0551, pp. 7–8 (La.7/2/99), 737 So.2d 1275, 1280.

FRCP Rule 23 allows for the appointment of interim counsel: “(3) Interim Counsel. The court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.” FRCP 23 (g) (3).

Courts requested to designate interim counsel rely on Rule 23(g)(1), although that provision governs appointment of class counsel once a class has been certified. See *In re Air Cargo Shipping Services Antitrust Litig.*, 240 F.R.D. 56, 57 (E.D.N.Y. 2006). Rule 23(g)(1)(A) requires that the Court consider:

- a. the work counsel has done in identifying or investigating potential claims in the action;
- b. counsel’s experience in handling class actions, other complex litigation, and claims of the type asserted in the action;
- c. counsel’s knowledge of the applicable law; and
- d. the resources counsel will commit to representing the class.⁵

b. Work to Date

Undersigned counsel and their respective firms have been on the job since the disaster occurred- on nearly around the clock basis. They have researched the failure, Entergy, and the law. They have retained experts in a variety of fields and have interviews set up for the retention of additional necessary experts. They have drafted and filed the Petition and the Amended Petition and are preparing with their experts a fulsome plan for the evaluation of damaged equipment (if it is still available for inspection). They have drafted and propounded initial discovery requests for Entergy and are preparing a discovery plan for economic acquisition of the information necessary to proceed.

c. Facts about Proposed Interim Counsel: experienced, Knowledge of the Law with resources committed to Representing the putative class

Undersigned counsel each demonstrates successful litigation careers on behalf of their clients, typically plaintiffs, but not always. Each has experience in mass tort and class actions. In all, the attorneys seeking this appointment have over 100 years litigating in Louisiana courts. A

⁵ Fed. R. Civ. P. 23(g)(1)(A); see also *In re Municipal Derivates Antitrust Litig.*, 252 F.R. D. 184, 186 (S.D.N.Y. 2008) (same); *In re Air Cargo Shipping Services Antitrust Litig.*, 240 F.R.D. at 57. Under Rule 23(a)(4), as discussed in the Advisory Committee Notes to Rule 23(g), the adequacy of the representation is a factual inquiry, and the Court is given broad discretion in making the determination.

Firm resume for Cooper Law Firm is also attached detailing its attorneys, staff, experience, and resources.

d. Knowledge of the Law

As shown by the attached resumes, counsel understand the law. A Westlaw search for the proposed Interim Class counsel would reveal hundreds of appellate decisions and thousands of district court dockets where cases were litigated.

4. Miscellaneous Relief

Undersigned counsel are working collaboratively. To that end, they request that this Court issue an Order that should any other party wish to join or intervene or take any other action respecting this matter that they first meet and confer with Juan LaFonta. It is believed that such an order will reduce the need for Court intervention and will assist in keeping the matter on track towards resolution.

5. Conclusion and Relief Requested

On the evidence shown and the applicable law, this ex parte motion for appointment of interim class counsel should be granted.

Respectfully Submitted:

/s/ Celeste Brustowicz

Stuart H. Smith (LA#17805)
Barry J. Cooper, Jr. (LA#27202)
Celeste Brustowicz (LA# 16835)
Andrew Jacoby (LA# 32512)
COOPER LAW FIRM, LLC
1525 Religious Street
New Orleans, Louisiana 70130
Phone: 504-399-0009
Fax: 504-309-6989
Email: ssmith@sch-llc.com
bcooper@clfmola.com
cbrustowicz@clfnola.com
ajacoby@clfnola.com

AND

Jack Harang (LA#15083)
HARANG LAW OFFICES
3500 North Hullen Street
Metairie, Louisiana 70002
Phone: (504) 810-4734
Email: jwharang@gmail.com

AND

Juan Lafonta (LA#27541)
JUAN LAFONTA AND ASSOCIATES
6305 Elysian Fields Avenue, Suite 207
New Orleans, LA 70122
Phone: (504) 288-4911
Email: jlafonta@lafontalaw.com

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

DOCKET NO. 2021-07365

SECTION: 5

DIVISION: B

ANTHONY J. STEWART, DIANE RALEY, TOMIKA JORDAN, SHEENA ALTINE,
TYELGA J. KEARNEY, PHYLLIS BANKS, RYAN COOPER, ROSLYN ROBERT,
CHRISHANTE RUFFIN, JOYCE WATKINS, JASON C. TULLOS, RANDOLPH H.
GONZALES, JR., 516 ST. PHILIP, LLC, MERCH DAT, LLC., CARNIVAL
COLLECTIBLES LLC, WILLIAM A MYERS, JR., WILLIAM A MYERS, III., AND
ALL OTHER SIMILARLY EFFECTED INDIVIDUALS AND ENTITIES

v.

ENTERGY CORP., ENTERGY NEW ORLEANS, LLC,
and ENTERGY LOUISIANA, LLC

ORDER

This *EX PARTE* matter came before the court on October 1, 2021, the law and evidence having been shown to be persuasive and necessary to an efficient, economical method of moving this litigation forward, the Court hereby grants the order as follows:

IT IS ORDERED THAT Interim Class counsel are appointed and include Stuart H. Smith, Barry J Cooper, Celeste Brustowicz, Andrew Jacoby, Jack Harang, and Juan Lafonta

IT IS FURTHER ORDERED that any party or potential party seeking to intervene in this matter as a plaintiff first meet and confer with attorney Juan Lafonta (504) 288-4911 or jlfonta@lafontalaw.com.

This 1st day of October 2021, New Orleans, Louisiana

(Sgd.) Rachael D. Johnson
Judge - Division "B"

RACHEL JOHNSON
CIVIL DISTRICT COURT DIVISION JUDGE

A TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LA.