

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION

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SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
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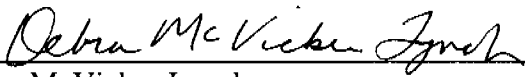
*AB*

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 STATE OF NEW YORK, STATE OF NEW )  
 JERSEY, STATE OF CONNECTICUT, )  
 HOOSIER ENVIRONMENTAL COUNCIL, )  
 and OHIO ENVIRONMENTAL COUNCIL, )  
 )  
 Plaintiff-Intervenors, )  
 )  
 vs. )  
 )  
 CINERGY CORP., PSI ENERGY, INC., )  
 and THE CINCINNATI GAS & ELECTRIC )  
 COMPANY, )  
 )  
 Defendants. )

CASE NO: 1:99-cv-1693-LJM-JMS

Response to Order to Show Cause

Debra McVicker Lynch submits her attached Declaration in response to this Court's Order to Show Cause dated December 18, 2008 ("Show Cause Order"). For the reasons set forth in that Declaration, she respectfully requests that the Court fully discharge without further action the Show Cause Order as directed to her.

  
Debra McVicker Lynch

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of January, 2009, I manually filed a copy of the foregoing with the District Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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The following counsel of record has been served via First Class U.S. Mail, postage prepaid on this 9th day of January, 2009:

James A. Murphy  
Mary E. Costigan  
Stefanie A. Brand  
RJ Hughes Justice Complex  
25 Market Street, P. O. Box 093  
Trenton, NJ 08625



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Declaration of Debra McVicker Lynch

1. I have received and reviewed this Court’s Order on Plaintiffs’ Motion for New Trial and its Order to Show Cause, each dated December 18, 2008 (collectively, “Court’s December 18 Orders”).

2. As of May 5, 2008, I was Of Counsel at Taft Stettinius & Hollister LLP (“Taft”), and was one of the Cinergy defendants’ counsel of record in this action. I withdrew my appearance on October 17, 2008, just before I left Taft.

3. I had no knowledge of the consulting agreement between Cinergy and Robert Batdorf described in the Court’s December 18 Orders (“Agreement”) at any time (a) before or during the liability trial of this matter, (b) while I was a counsel of record for the Cinergy defendants, or (c) before the filing of plaintiff’s and plaintiff-intervenors’ Motion for New Trial

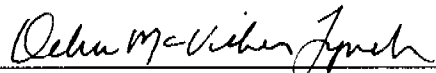
Due to Party Misconduct, or, in the Alternative, for Expedited Discovery and an Evidentiary Hearing (“Motion for New Trial”).

4. At some point after the filing of the Motion for New Trial on October 21, 2008, I became generally aware that the motion was based on an undisclosed matter. The Agreement was first made known to me, however, when I received and read the Court’s December 18 Orders.

5. My involvement as counsel for Cinergy was extremely limited in the two months preceding the liability trial and during the trial itself. I was not involved in compiling or providing discovery responses, witness preparation, or trial strategy. Most of my tasks during this period involved coordinating with the Court and co-counsel regarding logistical arrangements for the *Daubert* hearing, final pre-trial conference and related submissions, and trial. For the entire month of May 2008 (during which the liability trial was conducted), I billed two-tenths of one hour on this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 9, 2009.

  
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Debra McVicker Lynch