

CITING DIVINE AND HUMAN LAWS:
WOMEN OF AFRICAN DESCENT
AND THE NEW ORLEANS CABILDO,
1769-1800

A Thesis
Presented
to the Faculty of
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of the Requirements for the Degree
Master of Arts
in
History

by
© Jeanette Adame

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DEDICATION

To all the women who have fought, are fighting, and will fight for themselves and others.

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This thesis could not have been completed without the guidance and support of faculty, family, and friends.

First, I would like to extend my sincerest gratitude to Dr. Allison Madar, who has provided continual assistance and encouragement throughout the duration of this project. She has made me both a better historian and writer. I would also like to thank Dr. Robert Tinkler and Dr. Michael Magliari, who gave invaluable feedback and instruction on this thesis that undoubtedly improved the quality of my work. Additionally, I would like to thank the history department and the many professors who have believed in me and helped me hone my skills as a historian. I am extremely grateful for everyone's continual support, all of which allowed me to complete my thesis.

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ABBREVIATIONS

LHC	Louisiana Historical Center
<i>LHQ</i>	<i>Louisiana Historical Quarterly</i>
LSM	Louisiana State Museum
RG 2	Record Group 2
SJR	Spanish Judicial Records
WPA	Works Progress Administration

ABSTRACT

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This thesis explores how free and enslaved women of African descent utilized the New Orleans courts from 1769 to 1800, and how their actions affected the formation of the city's social order. While some scholars have engaged a few of these women's court cases in their works, I explore these cases as a collective body. In doing so, I argue that these women's activities and the reactions that they elicited from the city's elite population, all had a part in the development of New Orleans society. This thesis first provides contextual information regarding the Spanish institution of the New Orleans Cabildo courts, and then explores the major court cases that African and Afro-Creole women were involved in, including litigations in which enslaved women legally freed themselves, free women acquired or protected their property, and other civil and criminal cases. As these women gained power over their own lives and influence in New Orleans

society, their appearances in the courts increasingly concerned the elite men who served as the Cabildo. These elite men in power then responded by attempting to limit the socio-economic activities of enslaved and free Afro-Louisianan women in formal litigations and official legislations. Some of their efforts were more successful than others. Regardless, women of African ancestry continuously struggled against the Cabildo's oppression against them. As these women strove to attain power and influence over their own lives and social standing, the elites continued to try and keep them in positions of relative powerlessness. This resulted in a multi-faceted process of action and reaction that assisted the formation of the New Orleans social order, and it was the activities of both free and enslaved women of African descent that remained intrinsic to its creation.

CHAPTER I

INTRODUCTION

On June 25, 1773, Catalina walked into the New Orleans Cabildo and filed a petition to free herself and her daughter, Felicité, from slavery. The man who owned them protested her petition, but Spanish laws and customs allowed Catalina to legally free herself and her daughter without his consent. Catalina, then a thirty-six-year-old woman of African ancestry, and Felicité, then just five years old, were the first of many enslaved Afro-Louisianan women who legally freed themselves using the Spanish courts. Approximately two and a half months after Catalina began her case for freedom, the presiding judge approved her request and legally emancipated Catalina and Felicité.¹ The two then became part of the city's free African and Afro-Creole population and retained their free statuses until they died.

Throughout the Spanish period, African and Afro-Creole women, such as Catalina and Felicité, consistently exhibited their dedication to improving their own socio-economic standing, and those of their families, during legal proceedings. This in turn helped shape New Orleans society from 1769 to 1800, as these women struggled against Euro-Louisianan oppression while augmenting the free population of color. These women's appearances in the Cabildo courts, the reactions they elicited from the elite men who served in the Cabildo, and the responses of women of African descent against their oppression, all played a role in constructing New Orleans society. Before an examination of these aspects can begin, it is first important to understand how

¹ [*Catarina v. Estate of Juan Bautista Destrehan*], June 25, 1773, trans. Laura L. Porteous, Abstracts of the Spanish Judicial Records of Louisiana, *Louisiana Historical Quarterly* 9, no. 3 (1926): 556-59; [*Suit by Slave to purchase emancipation*], June 25, 1773, *Spanish Colonial Index Books* 3, Louisiana Historical Center Library Collection (Louisiana State Museum: 1994), 70; *Manumission of Catalina and Feleicité*, November 6, 1773, notary of Almonaster y Roxas v. 3, folios 287-90.

Spain came to acquire the Louisiana territory and the historiography of society and culture in Spanish New Orleans.

New Orleans and the Louisiana territory might have been part of the Spanish empire since the sixteenth century had it not been for the oversight of Spanish conquistador Hernando de Soto. De Soto entered the Mississippi River through the Gulf of Mexico during his 1541 to 1542 expedition but misidentified the river as a large bay and continued his journey without realizing its significance. He then led his men on a disastrous voyage that ultimately ended in his own death and those of many others. When de Soto failed to declare the Mississippi and surrounding territory for the Spanish, he left it available for France to take for themselves. In 1682, René-Robert Cavelier, Sieur de La Salle, a French-Canadian explorer, found the mouth of the Mississippi, with the assistance of indigenous Americans, and claimed the entire Mississippi Valley for France. In 1718, a Canadian-born Frenchman, Jean-Baptiste Le Moyne, Sieur de Bienville, officially established the city of New Orleans on the banks of the Mississippi River. Although de Soto missed the opportunity to establish the region for the Spanish crown during his expedition, Spain returned to the region in the mid-eighteenth century to assert their hegemony over Louisiana.²

From 1718 to 1763, French bureaucrats, governmental officials, and colonists became disenchanted with both Louisiana and New Orleans. They failed to find any valuable minerals or metals during their mining efforts and perceived the earth to be swampy and agriculturally unproductive. Many French immigrants viewed the extreme environmental conditions of the region, including the weather, flora and fauna, and steadfast indigenous Americans around New Orleans, to be too extreme for them to begin a new life. Consequently, many left the region after

² Lawrence N. Powell, *The Accidental City: Improvising New Orleans* (Cambridge: Harvard University Press, 2012), 8-16.

a short period of time. Additionally, France's engagement in the Seven Years' War (1756-1763), drained the French economy, which ultimately compelled them to look for a way out of the region.³

In the Treaty of Paris that ended the Seven Years' War, France formally divided Louisiana into two separate areas and gave all their landholdings east of the Mississippi to the British and everything west of the Mississippi to Spain. France had already agreed to give Louisiana to the Spanish in a series of secret meetings formalized by the 1762 Treaty of Fontainebleau, however, the Treaty of Paris modified that arrangement and officially split the territory between the British and Spanish. Britain welcomed the treaty, as its settlers had grown increasingly eager for western land. Spain had also noticed Anglo desires to expand west, and worried that this would eventually lead to British encroachment on Spain's landholdings in the North American west where they had valuable silver mines. Although Spain had also realized the environmental unattractiveness and economic unproductiveness of Louisiana, they seized the opportunity to gain part of the territory so that it could serve as a buffer between the British in the east and their silver mines.⁴

According to the stipulations of both treaties, Spain officially assumed control over Louisiana in 1763, yet it did not successfully implement formal authority over the region until 1769. Spain retained control of Louisiana until 1800, when it ceded it back to France in the Second Treaty of San Ildefonso. Although Spain did not officially control the region after 1800,

³ Ibid., 75-77.

⁴ Andrés Reséndez, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (New York: Mariner Books, 2016), 100-24.

the inhabitants remained unaware of the territorial exchange until 1803, when France sold it to the United States.⁵

Various authors and historians began publishing books and articles about colonial Louisiana as early as the nineteenth century, but the historiography of the society and culture of Spanish Louisiana and New Orleans truly began in the late-twentieth century. Many scholars of Louisiana's and New Orleans's colonial pasts have tended to focus on the region's French history, in part because New Orleans has retained much of its French culture into the twenty-first century.⁶ The first historians to examine Spanish society and culture in Louisiana did so to fill a then-existing void in the research, which in turn generated further studies that sought to understand how the Spanish period shaped societal and cultural relations in early Louisiana and New Orleans.

The relative lack of scholarly attention regarding Spanish Louisiana's history during most of the twentieth century mirrored the paucity of academic works written about many other colonial regions in North America. Up until the mid-1970s, colonial studies predominantly focused on what would become the northeastern United States. In the following decades, scholars began looking at other colonial locations in North America, which later gave birth to the subfield of Atlantic studies.⁷ Even among these new frameworks, many historians of early America ignored Louisiana and New Orleans. Those who did address the region's early history

⁵ Julien Vernet, "A Community of Resistance: The Organization of Protest in New Orleans against the U.S. Territorial Administration, 1803-1805," *French Colonial History* 11 (2010): 47-51.

⁶ Some of the more recent studies of society and culture in French Louisiana include Shannon Lee Dawdy, *Building the Devil's Empire: French Colonial New Orleans* (Chicago: University of Chicago Press, 2008); Sophie White, *Wild Frenchmen and Frenchified Indians: Material Culture and Race in Colonial Louisiana* (Philadelphia: University of Pennsylvania Press, 2013).

⁷ Jennifer M. Spear, *Race, Sex, and Social Order in Early New Orleans* (Baltimore: Johns Hopkins University Press, 2010), 3-5.

only provided brief overviews of Louisiana's colonial past that mainly focused on the French period and then quickly moved on to describing historical events after 1803.

In 1866, Charles Gayarré published the first comprehensive study of early Louisiana with his four-volume series *Louisiana History*. The first two volumes addressed the French period, the third investigated the Spanish era, and the fourth examined the United States' acquisition of the territory.⁸ Gayarré's works provided important information, however, it was mainly descriptive and did not include much analysis. After Gayarré, a second four-volume series surfaced in 1904 when Alcée Fortier published *A History of Louisiana*. Fortier's books spanned a wider period, making his examination too broad to include a thorough examination of Louisiana's social order under the Spanish.⁹ The first major text to explore societal relations during the Spanish period was Caroline M. Burson's 1940 book *The Stewardship of Don Esteban Miró, 1782-1792: A Study of Louisiana Based Largely on the Documents in New Orleans*. While the book's title suggests that it focused on Miró's life and works, Burson mainly studied societies and events in Louisiana from 1782 to 1791, which alerted some historians to potential avenues of research.¹⁰

Although the bulk of scholarly work on society and culture in Spanish Louisiana surfaced during the late 1900s, many historians researched these constructs in other Spanish colonies

⁸ Charles Gayarré, *History of Louisiana: Its Colonial History and Romance*, vol. 1 (New York: Harper & Brothers, 1851), <http://archive.org/details/louisianaitscol01gayagoog>; Charles Gayarré, *History of Louisiana :Its History as a French Colony*, vol. 2 (New York: John Wiley, 1852), <http://archive.org/details/louisianaitshist00gaya>; Charles Gayarré, *History of Louisiana: The Spanish Domination*, vol. 3 (New York: Redfield, 1854), <http://archive.org/details/historylouisian04gayagoog>; Charles Gayarré, *History of Louisiana: The American Domination*, 3rd ed., vol. 4 (New Orleans: Armand Hawkins, Publisher, 1885).

⁹ Alcée Fortier, *A History of Louisiana: Early Explorers and the Domination of the French, 1512-1768*, vol. 1 (New York: Manzi, Joyant & Co., 1904), <http://archive.org/details/historyoflouisia01fortuoft>; Alcée Fortier, *A History of Louisiana: The Spanish Domination and the Cession to the United States, 1769-1803*, vol. 2 (New York: Manzi, Joyant & Co., 1904), <http://archive.org/details/historyoflouisia02fortuoft>; Alcée Fortier, *A History of Louisiana: The American Domination, Part I, 1803-1861*, vol. 3 (New York: Manzi, Joyant & Co., 1904), <http://archive.org/details/historyoflouisia03fortuoft>; Alcée Fortier, *A History of Louisiana: The American Domination, Part II, 1861-1908*, vol. 4 (New York: Manzi, Joyant & Co., 1904).

¹⁰ Caroline Maude Burson, *The Stewardship of Don Esteban Miró: 1782-1792* (New Orleans: American Printing Company, 1940).

throughout the twentieth century. The Spanish empire's use of enslaved labor, both African and indigenous, led to studies regarding the effects of slavery on society, and of society on slavery. One of the more popular works that examined this was Frank Tannenbaum's 1946 book *Slave and Citizen*, which sparked controversy and heated debates among scholars across disciplines. His argument, later termed the "Tannenbaum thesis," asserted that a colonizing nation's laws, institutions, and traditions had the greatest influence over how slavery operated in the respective nation, which then indicated how race relations developed between colonizers and free people of color. Tannenbaum in turn argued that Spain's legal and religious ideologies viewed enslaved people as humans, whereas Anglo institutions saw the enslaved as property. Using these conclusions, Tannenbaum ranked Spain and Portugal as the least harsh society in terms of slavery and race relations, France and Holland as moderately harsh, and Britain as the most harsh.¹¹ Tannenbaum's thesis provoked intense disputes among historians of colonial and slavery studies, including those interested in societal relations and slavery in Spanish Louisiana and New Orleans. Some academics, such as Stanley M. Elkins, followed Tannenbaum's logic. Elkins's 1959 publication *Slavery: A Problem in American Institutional and Intellectual Life* argued that a colonizing nation's cultural values directly affected how settlers treated enslaved people and free people of color.¹² This later became the Tannenbaum-Elkins school, which historians continue to debate today.

Scholars of society and slavery who disagreed with the Tannenbaum-Elkins framework generally argued that this analysis followed ideal rather than actual circumstances. They instead contended that everyday situations and material factors were more illuminative of how

¹¹ Frank Tannenbaum, *Slave and Citizen* (Boston: Beacon Press, 1946).

¹² Stanley M. Elkins, *Slavery: A Problem in American Institutional and Intellectual Life*, 3rd ed. (Chicago: University of Chicago Press, 1976).

colonizing nations managed slavery and race relations. Some of the works that asserted this conclusion were David Brion Davis's *The Problem of Slavery in Western Culture* (1966), Carl N. Degler's *Neither Black nor White: Slavery and Race Relations in Brazil and the United States* (1971), Mary C. Karasch's *Slave Life in Rio de Janeiro, 1808-1850* (1972), and David W. Cohen and Jack P. Greene in their introduction to *Neither Slave nor Free: The Freedmen of African Descent in the Slave Societies of the New World* (1974).¹³ Cohen and Greene stated that "diversity is shown to be much more closely related to specific economic conditions [rather than laws, institutions, or traditions] – at times and in particular places opening up extensive opportunities for a free, non-white, middle group, while at other times effecting the closure of opportunities for non-whites and the displacement of the free colored."¹⁴ In other words, Cohen and Greene argued that the economic circumstances of some societies allowed free people of color to engage in certain aspects of social life that societies with less favorable economic situations did not permit. In societies with poor economic conditions, free people of color often found themselves marginalized and oppressed to the point where their statuses were only slightly better than those of the enslaved.

As the academic debate over slavery, race relations, and colonial societies continued, historians of these constructs in Spanish Louisiana engaged the discourse and incorporated these arguments into their writings. Almost all scholarly books and articles on the Spanish period in Louisiana and New Orleans at least mention the Tannenbaum thesis, but most diverge from his argument.

¹³ David Brion Davis, *The Problem of Slavery in Western Culture* (Ithaca: Cornell University Press, 1966); Carl N. Degler, *Neither Black nor White: Slavery and Race Relations in Brazil and the United States* (Madison: The University of Wisconsin Press, 1971); Mary C. Karasch, *Slave Life in Rio de Janeiro, 1808-1850* (Princeton: Princeton University Press, 1987); David William Cohen and Jack P. Greene, eds., *Neither Slave nor Free: The Freedmen of African Descent in the Slave Societies of the New World* (Baltimore: Johns Hopkins University Press, 1972).

¹⁴ Cohen and Greene, *Neither Slave nor Free*, 17.

Scholarship on Spanish Louisiana slightly increased in the 1950s and 1960s, but these studies still did not overtly focus on social relations in the colony. Academics also translated more written sources from Spanish New Orleans during these decades.¹⁵ These translations expanded academic interests in the colony, which led historians of the 1970s to produce more scholarly research on Louisiana's Spanish past.¹⁶ Many of these studies continued to bypass topics of society and culture, however, and instead examined political and military histories. John Preston Moore published one of the first books on these topics in 1976, titled *Revolt in Louisiana: The Spanish Occupation, 1766-1770*. Moore investigated the Franco-Louisianan resistance against Spanish hegemony in New Orleans when they initially tried to occupy the region, and how Spanish officials overthrew the rebels and asserted their authority in 1769.¹⁷ While his book did not explicitly address society in Louisiana, it revealed cultural differences between ethnically French and Spanish inhabitants. In 1983, Edward F. Haas compiled several articles that addressed the history of law in Louisiana into *Louisiana's Legal Heritage*. In this book, Jack D. L. Holmes's "Do it! Don't Do It!: Spanish Laws on Sex and Marriage," and Hans W. Baade's "The Law of Slavery in Spanish Louisiana, 1769-1803" specifically explored how the law influenced social relations in Louisiana and New Orleans during the Spanish period.¹⁸ While these studies less directly engaged Spanish society and culture, they helped lay the groundwork for other historical studies that did examine these aspects of early Louisiana.

¹⁵ Lawrence Kinnaid, ed., *Spain in the Mississippi Valley, 1765-94: Translations of Materials from the Spanish Archives in the Bancroft Library*, vol. II (Washington: United States Government Printing Office, 1949); C. C. Robin, *Voyage to Louisiana, 1803-1805*, trans. Stuart O Landry (New Orleans: Pelican Publishing Company, 1966).

¹⁶ Some early studies regarding Spanish Louisiana and people of African descent include Donald E. Everett, "Free Persons of Color in Colonial Louisiana," *Louisiana History: The Journal of the Louisiana Historical Association* 7, no. 1 (1966): 21–50; Laura Foner, "The Free People of Color in Louisiana and St. Domingue: A Comparative Portrait of Two Three-Caste Slave Societies," *Journal of Social History* 3, no. 4 (1970): 406–30.

¹⁷ John Preston Moore, *Revolt in Louisiana: The Spanish Occupation 1766-1770* (Baton Rouge: Louisiana State University Press, 1976).

¹⁸ Edward F. Haas, ed., *Louisiana's Legal Heritage* (Pensacola: Perdido Bay Press, 1983). The spelling of "Louisiana" is the author's own.

By the 1990s, historians more directly addressed society and culture in Spanish New Orleans and Louisiana. This led to more studies of people of African descent, as they made up a significant portion of the population as both enslaved and free people. One of the first studies to address social relations and people of color was Daniel H. Usner's 1992 book, *Indians, Settlers, and Slaves in a Frontier Exchange Economy: The Lower Mississippi Valley before 1783*. Usner's analysis illuminated how the exchange of properties and goods among indigenous Americans, enslaved peoples, and European settlers operated under both the French and Spanish, and how these interactions affected society in lower Louisiana and New Orleans.¹⁹

In the same year, Gwendolyn Midlo Hall published one of the most influential studies regarding Africans and Afro-Creoles in colonial Louisiana, titled *Africans in Colonial Louisiana: The Development of Afro-Creole Culture in the Eighteenth Century*. Similar to Usner, Hall covered both the French and Spanish periods, yet rather than examining how commerce operated in early social relations, Hall discussed how people of African descent formed distinct cultural identities from European settlers in colonial Pointe Coupee, Louisiana. Hall highlighted numerous areas for further research throughout her book, which inspired historians to complete similar investigations in other regions of Louisiana territory, including New Orleans.²⁰ Hall further augmented the study of Africans and Afro-Creoles in early Louisiana when she created the "Databases for the Study of Afro-Louisiana History and Genealogy, 1699-1860" in 2000. The database includes the names of 107,000 people of African descent who lived in Louisiana, as well as any surviving information about each person's life.²¹ Many historical studies,

¹⁹ Daniel H. Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy: The Lower Mississippi Valley before 1783* (Chapel Hill: University of North Carolina Press, 1992).

²⁰ Gwendolyn Midlo Hall, *Africans in Colonial Louisiana: The Development of Afro-Creole Culture in the Eighteenth Century* (Baton Rouge: Louisiana State University Press, 1995).

²¹ Many records include the enslaved person's legal owner, any familial relatives, and any surviving documents in the archives.

including this one, have found this database invaluable for research on African and Afro-Creole people in Louisiana.²²

Other historians of the 1990s also produced social and cultural histories of Spanish Louisiana and New Orleans. In 1991, Jerah Johnson published “New Orleans’s Congo Square: An Urban Setting for Early Afro-American Culture Formation,” which addressed the shaping of cultural identity among people of African descent during the French, Spanish, and U.S. periods in New Orleans.²³ Other articles that discussed social relations surrounding enslaved Africans and Afro-Creoles include Thomas N. Ingersoll’s 1995 work, “Slave Codes and Judicial Practice in New Orleans, 1718-1807,” and his 1996 publication, “The Slave Trade and the Ethnic Diversity of Louisiana’s Slave Community.”²⁴

Another notable 1990s scholar who analyzed society in New Orleans was Gilbert C. Din. In 1996, Din wrote “The Offices and Functions of the New Orleans Cabildo,” which served as a primarily political history that outlined how municipal governance operated in Spanish New Orleans.²⁵ In that same year, he co-authored *The New Orleans Cabildo: Colonial Louisiana’s First City Government, 1769-1803* with historian John E. Harkins. Din explained in both his article and book that previous historians had misinterpreted many of the functions of the Cabildo, which called for a more accurate examination of the governmental institution. This book included some elements of how the city regulated certain aspects of social life in New Orleans. Furthermore, *The New Orleans Cabildo* includes an entire chapter on how the Cabildo regulated

²² Gwendolyn Midlo Hall, “Afro-Louisiana History and Genealogy,” 2000, <https://www.ibiblio.org/laslave/fields.php>.

²³ Jerah Johnson, “New Orleans’s Congo Square: An Urban Setting for Early Afro-American Culture Formation,” *Louisiana History: The Journal of the Louisiana Historical Association* 32, no. 2 (1991): 117–57.

²⁴ Thomas N. Ingersoll, “Slave Codes and Judicial Practice in New Orleans, 1718-1807,” *Law and History Review* 13, no. 1 (1995): 23–62; Thomas N. Ingersoll, “The Slave Trade and the Ethnic Diversity of Louisiana’s Slave Community,” *Louisiana History: The Journal of the Louisiana Historical Association* 37, no. 2 (1996): 133–61.

²⁵ Gilbert C. Din, “The Offices and Functions of the New Orleans Cabildo,” *Louisiana History: The Journal of the Louisiana Historical Association* 37, no. 1 (1996): 5–30.

runaway enslaved people, but did not thoroughly explore the government's interactions with free people of color.²⁶ In 1999, Din delved deeper into the societal relationships between the elites in New Orleans and enslaved people in his book *Spaniards, Planters, and Slaves: The Spanish Regulation of Slavery in Louisiana, 1763-1803*, which largely demonstrated how the governors of Spanish New Orleans influenced laws and regulations for enslaved people. However, just as with the 1996 book, this text also focuses on events of enslaved people running away from their legal owners.²⁷

One of the most important historians to emerge during the 1990s was Kimberly S. Hanger, as she wrote extensively about people of African descent in early New Orleans. Her publications started in 1989 with "Household and Community Structure among the Free Population of Spanish New Orleans, 1778," followed by her 1993 article "Conflicting Loyalties: The French Revolution and Free People of Color in Spanish New Orleans." In 1994 she published "'Almost All Have Callings': Free Blacks at Work in Spanish New Orleans" and in 1996 she authored a fourth article titled "Patronage, Property and Persistence: The Emergence of a Free Black Elite in Spanish New Orleans." Hanger incorporated and expanded on many of her previous conclusions in her 1997 book, *Bounded Lives, Bounded Places: Free Black Society in Colonial New Orleans, 1769-1803*. She produced an additional work on people of African descent in Spanish New Orleans in her 1998 publication "'Desiring Total Tranquility' and Not Getting It: Conflict Involving Free Black Women in Spanish New Orleans." Throughout these works, Hanger contended that while group consciousness among the city's free black population was not coherent until after the United States' acquisition, it began to form during the Spanish

²⁶ Gilbert C. Din and John E. Harkins, *The New Orleans Cabildo: Colonial Louisiana's First City Government, 1769-1803* (Baton Rouge: Louisiana State University Press, 1996).

²⁷ Gilbert C. Din, *Spaniards, Planters, and Slaves: The Spanish Regulation of Slavery in Louisiana, 1763-1803* (College Station: Texas A&M University Press, 1999).

period. By using archival sources from New Orleans, Havana, Seville, and Madrid, she further demonstrated the various ways that both free and enslaved people of African descent lived and worked in the Spanish New Orleans social order.²⁸

The increased scholarly attention to society and culture in Spanish Louisiana generally resulted in consensus among most scholars, but some did not subscribe to the posited analyses. In 1999, Thomas N. Ingersoll produced a revisionist work that contradicted most other academics in the field. He asserted in *Mammon and Manon in Early New Orleans: The First Slave Society in the Deep South, 1718-1819* that New Orleans society resembled the social orders in Virginia and other cities in the British Americas more so than the municipalities in the Spanish Americas. Ingersoll contradicted many historians in the field throughout his book, and specifically targeted Hall, Usner, and Hanger.²⁹ Many scholars of Spanish Louisiana and New Orleans rejected Ingersoll's work, and argued that he failed to back up his strongest arguments with adequate historical documentation.

Historians continued to publish scholarly studies on early New Orleans society and culture in the twenty-first century.³⁰ Most of these works supported the dominant

²⁸ Kimberly S. Hanger, "Household and Community Structure among the Free Population of Spanish New Orleans, 1778," *Louisiana History: The Journal of the Louisiana Historical Association* 30, no. 1 (1989): 63–79; Kimberly Hanger, "Conflicting Loyalties: The French Revolution and Free People of Color in Spanish New Orleans," *Louisiana History: The Journal of the Louisiana Historical Association* 34, no. 1 (1993): 5–33; Kimberly S. Hanger, "'Almost All Have Callings': Free Blacks at Work in Spanish New Orleans," *Colonial Latin American Historical Review* 3, no. 2 (1994): 141–64; Kimberly S. Hanger, "Patronage, Property and Persistence: The Emergence of a Free Black Elite in Spanish New Orleans," *Slavery & Abolition* 17, no. 1 (1996): 44–64; Kimberly S. Hanger, *Bounded Lives, Bounded Places: Free Black Society in Colonial New Orleans, 1769-1803* (Durham: Duke University Press, 1997); Kimberly S. Hanger, "'Desiring Total Tranquility' and Not Getting It: Conflict Involving Free Black Women in Spanish New Orleans," *The Americas* 54, no. 4 (1998): 541–56.

²⁹ Thomas N. Ingersoll, *Mammon and Manon in Early New Orleans: The First Slave Society in the Deep South, 1718-1819* (Knoxville: University of Tennessee Press, 1999).

³⁰ Some significant studies on this topic include Julia C. Frederick, "A Blood Test before Marriage: 'Limpieza de Sangre' in Spanish Louisiana," *Louisiana History: The Journal of the Louisiana Historical Association* 43, no. 1 (2002): 75–85; Ralph Lee Woodward, "Spanish Commercial Policy in Louisiana, 1763-1803," *Louisiana History: The Journal of the Louisiana Historical Association* 44, no. 2 (2003): 133–64; Jean-Pierre Leglaunec, "Slave Migrations in Spanish and Early American Louisiana: New Sources and New Estimates," *Louisiana History: The Journal of the Louisiana Historical Association* 46, no. 2 (2005): 185–209; Cindy Ermus, "Reduced to Ashes: The

historiographical frameworks theorized by authors like Hall and Hanger. Jennifer M. Spear produced one of the most significant contributions to the historiography of Africans and Afro-Creoles in colonial New Orleans society with her 2009 publication *Race, Sex, and Social Order in Early New Orleans*, which spanned the entirety of New Orleans's French and Spanish colonial periods. Spear devoted over half of her text to the French period, and, furthermore, studied all people of color in early New Orleans and not just people of African descent. While this provided illuminating insights into the development of community relations throughout New Orleans's colonial period, Spear's scope meant that she did not present an in-depth analysis of the experiences of African and Afro-Creole women in society during the Spanish period.³¹

Emily Clark also produced scholarly literature on the relationship between race, sex, and society in the early 2000s. Clark co-authored "The Feminine Face of Afro-Catholicism in New Orleans, 1727-1825" with Virginia Meacham Gould in 2002. In this text, Clark and Gould explained why women of African descent converted to Catholicism, and how this shaped the cultural experiences of these women.³² Clark then expanded on some of the arguments posed in this article in her 2012 publication *Masterless Mistresses: The New Orleans Ursulines and the Development of a New World Society, 1727-1834*. In this book, Clark identified the origins of the Ursuline order of nuns in New Orleans and demonstrated the changes that this religious group underwent as a result of Spain's, and later the United States', acquisition of the Louisiana territory. While this book served as a microhistory of the Ursuline nuns, it also showcased the

Good Friday Fire of 1788 in Spanish Colonial New Orleans," *Louisiana History: The Journal of the Louisiana Historical Association* 54, no. 3 (2013): 292–331.

³¹ Spear, *Race, Sex, and Social Order in Early New Orleans*. Spear also engaged the discourse on the Tannenbaum thesis and Spanish New Orleans in her 2013 article, "'Using the faculties conceded to her by law': Slavery, Law, and Agency in Spanish New Orleans, 1769-1803," *Signposts: New Directions in Southern Legal History*, eds. Sally Hadden and Patricia Minter (Athens: University of Georgia Press, 2013), 65-88.

³² Emily Clark and Virginia Meacham Gould, "The Feminine Face of Afro-Catholicism in New Orleans, 1727-1852," *William and Mary Quarterly*, 3rd ser., 59, no. 2 (2002): 409–48.

multiple ways that this religious group shaped society by breaking conventional gender and racial norms.³³ Similar to Spear, however, Clark's broad scope meant that she did not provide a thorough examination of the experiences of Africans and Afro-Creoles during the Spanish period.

In the late 2000s and 2010s, many scholars examined New Orleans's colonial period in the context of the United States' acquisition of the Louisiana territory. Some notable scholars and works that specifically discussed race, sex, and the formations of class and society between the Spanish and U.S. periods included Sybil Kein's 2013 collection of articles, *Creole: The History and Legacy of Louisiana's Free People of Color*, Cécile Vidal's 2014 compilation of works in *Louisiana: Crossroads of the Atlantic World*, Kenneth R. Aslakson's 2014 study *Making Race in the Courtroom: The Legal Construction of Three Races in Early New Orleans*, Nathalie Dessens's 2007 *From Saint-Domingue to New Orleans: Migration and Influences*, and her 2015 book *Creole City: A Chronicle of Early American New Orleans*, and Rashauna Johnson's 2016 publication *Slavery's Metropolis: Unfree Labor in New Orleans during the Age of Revolutions*. Of these authors, Johnson's and Dessens's 2007 analyses discussed the Spanish period more so than the other works, but the sections that they did provide on Spanish Louisiana mainly described the influx of immigrants and enslaved people to New Orleans as a result of the 1791 Haitian Revolution. Additionally, many of the articles in Vidal's *Louisiana* evaluate the Spanish period, and do so through the Atlantic framework.³⁴

³³ Emily Clark, *Masterless Mistresses: The New Orleans Ursulines and the Development of a New World Society, 1727-1834* (Chapel Hill: University of North Carolina Press, 2012).

³⁴ Sybil Kein, ed., *Creole: The History and Legacy of Louisiana's Free People of Color* (Baton Rouge: University of Louisiana Press, 2013); Cécile Vidal, ed., *Louisiana: Crossroads of the Atlantic World* (Philadelphia: University of Pennsylvania Press, 2014); Kenneth R. Aslakson, *Making Race in the Courtroom: The Legal Construction of Three Races in Early New Orleans* (New York: New York University Press, 2014); Nathalie Dessens, *From Saint-Domingue to New Orleans: Migration and Influences* (Gainesville: University Press of Florida, 2007); Nathalie Dessens, *Creole City: A Chronicle of Early American New Orleans* (Gainesville: University Press of Florida, 2015);

Authors have also written popular histories and microhistories about New Orleans's colonial past. Ibrahima Seck published a microhistory in 2014, titled *Bouki Fait Gombo: A History of the Slave Community of Habitation Haydel (Whitney Plantation) Louisiana, 1750-1860*. In his introduction, Seck mentioned the influence that Hall's *Africans in Colonial Louisiana* had on his desire to research enslaved people at the Whitney Plantation outside New Orleans.³⁵ Additionally, popular histories written for non-academic audiences also increased in the 2010s, including Lawrence N. Powell's 2012 synthesis of New Orleans scholarly studies, titled *The Accidental City: Improvising New Orleans*.³⁶ Other academics used interdisciplinary approaches to produce popular histories. In 2008, Ned Sublette published *The World That Made New Orleans: From Spanish Silver to Congo Square*, which wove together historical studies with the city's rich music history.³⁷ In 2013, Rebecca Solnit and Rebecca Snedeker published a collection of maps with brief historical contexts in *Unfathomable City: A New Orleans Atlas*.³⁸ These books allow non-academics to learn about New Orleans's colonial past in an interesting and more popularly accessible manner.

Although the above texts provide illuminating insights into Spanish New Orleans society, none have fully investigated the court cases that women of African descent engaged in as a collective body. This study will concentrate on women of African descent in the New Orleans courts from 1769 to 1800, and will most directly build off the arguments posed by Hanger and Spear. By focusing on the lives of African and Afro-Creole women, their experiences in the legal

Rashauna Johnson, *Slavery's Metropolis: Unfree Labor in New Orleans during the Age of Revolutions* (New York: Cambridge University Press, 2016).

³⁵ Ibrahima Seck, *Bouki Fait Gombo: A History of the Slave Community of Habitation Haydel (Whitney Plantation) Louisiana, 1750-1860* (New Orleans: Uno Press, 2014).

³⁶ Powell, *The Accidental City*.

³⁷ Ned Sublette, *The World That Made New Orleans: From Spanish Silver to Congo Square* (Chicago: Lawrence Hill Books, 2008).

³⁸ Rebecca Solnit and Rebecca Snedeker, *Unfathomable City: A New Orleans Atlas* (Berkeley: University of California Press, 2013).

system, and the elite reactions to their activities, it becomes evident that women of African descent had considerably more influence in New Orleans society than previous scholars have concluded. Thus, this thesis provides a much-needed additional lens to examine early New Orleans societal formation during the Spanish period.

As with all other studies, this research is not without its weaknesses. Although it uses an abundance of original and translated sources from eighteenth-century New Orleans, it does not engage any sources that are housed exclusively in the archives of Cuba, Madrid, or Seville. Furthermore, this project uses archival records from New Orleans in both the original Spanish and translated English. Regarding translated sources, this study utilizes all available translations to ensure as accurate of a translation as possible. When translations were lacking, inconsistent, or absent altogether, I referred to the original documents. Additionally, the scope of this project is necessarily limited, but it is not meant to be an all-encompassing study of every aspect of Spanish New Orleans. Rather, it is an additional way to view the formation of the social order in the context of other studies, books, and articles on the subject. By using the primary and secondary evidence discussed above, I argue that the activities of women of African descent, their appearances in the courts, the elites' reactions to these legal cases, and the responses of women of color against the oppression they experienced, all assisted the creation of a three-caste social order in late-eighteenth-century New Orleans.

Several of the historians discussed above, and numerous others, have examined the formation of a three-caste society in early New Orleans, which emerged by the end of the eighteenth century and solidified after the United States' acquisition of Louisiana. Historians coined the term "three-caste society" to distinguish it from the "two-caste society" that existed in

most of North America during the eighteenth century.³⁹ These three castes divided society into distinct categories, with people of European descent at the top, free Africans and Afro-Creoles in the middle, and enslaved people at the bottom.⁴⁰ By comparison, two-caste societies only recognized people of European descent and the enslaved.⁴¹ Various historians, including Laura Foner, Gilbert C. Din, Virginia Meacham Gould, Kimberly S. Hanger, and Thomas N. Ingersoll have argued that Spanish governmental officials intentionally created the second caste, as they desired to use free people of African descent as a buffer between the smaller caste of Euro-Louisianans and the larger caste of the enslaved.⁴² Din later changed his analysis on what led to the three-caste society in his 1999 book *Spaniards, Planters, and Slaves: The Spanish Regulation of Slavery in Louisiana, 1763-1803*, and contended that there is no sufficient evidence to support that Spanish officials consciously created this middle caste.⁴³ Consequently, subsequent scholars have searched for alternate ways to explain how the three-caste society formed.

Jennifer M. Spear offered an alternative explanation to illustrate how the three-caste society came into being. Spear asserts a person's race, familial relations, legal status, financial holdings, profession, religion, culture, and other aspects of their lives, collectively constructed a person's class standing.⁴⁴ R. Douglas Cope has made a similar argument about the complex

³⁹ Paul F. Lachance, "The Formation of a Three-Caste Society: Evidence from Wills in Antebellum New Orleans," *Social Science History* 18, no. 2 (1994): 212; Foner, "The Free People of Color in Louisiana and St. Domingue"; Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage Books, 1974), 430-31.

⁴⁰ Lachance, "The Formation of a Three-Caste Society"; Foner, "The Free People of Color in Louisiana and St. Domingue."

⁴¹ Genovese, *Roll, Jordan, Roll*, 430-31.

⁴² Foner, "The Free People of Color in Louisiana and St. Domingue"; Gilbert C. Din, "Proposals and Plans for Colonization in Spanish Louisiana, 1787-1790," *Louisiana History: The Journal of the Louisiana Historical Association* 11, no. 3 (1970): 197-213; Virginia Meacham Gould, "In Full Enjoyment of Their Liberty: The Free Women of Color of the Gulf Ports of New Orleans, Mobile and Pensacola, 1769-1860" (PhD diss., Emory University, 1991), 80; Hanger, *Bounded Lives, Bounded Places*; Ingersoll, *Mammon and Manon in Early New Orleans*.

⁴³ Din, *Spaniards, Planters, and Slaves*, 223-24.

⁴⁴ Spear, *Race, Sex, and Social Order in Early New Orleans*, 2-14.

formation of social relations in colonial Mexico City in *The Limits of Racial Domination: Plebeian Society in Colonial New Mexico, 1660-1720*.⁴⁵

Regarding the way that the three-caste social order formed, this thesis will argue along similar lines as Spear and Cope but will also argue that external factors outside of African and Afro-Creole women's control affected where these women, and others, stood in New Orleans society. It was specifically the appearances of Afro-Louisianan women in the courts that allowed them to have influence over the various qualities that determined their class standing, which thereby helped create the social order. When women of color went to court as plaintiffs or defendants, they exhibited legal and economic astuteness in being able to utilize, navigate, and pay for their appearances in the courts. Those who won their cases not only improved their own lives, but also the lives of their families, which further augmented the socio-economic power of the free black community. African and Afro-Creole women's appearances in the courts made Cabildo officials increasingly uncomfortable with the influence that these women progressively gained over themselves and the New Orleans community. The Cabildo then enacted numerous laws and regulations that oppressed people of African descent, many of which specifically targeted Afro-Louisianan women. Women of African descent and elite men of European ancestry struggled for the authority to determine where free people of color could stand in the social order throughout the Spanish period. Despite the legislation that intended to limit them, African and Afro-Creole women continued to fight against this subjugation, sometimes in blatant ways, and other times in more covert forms. Women of color wanted to have the power to influence their own class designations, whereas the elites desired to keep them suppressed below the city's white population in positions of relative powerlessness. Thus, it was a multi-faceted

⁴⁵ R. Douglas Cope, *The Limits of Racial Domination: Plebeian Society in Colonial New Mexico, 1660-1720* (Madison: University of Wisconsin Press, 1994).

process of action and reaction that assisted the formation of the three-caste social order, and it was the activities of both free and enslaved women of African descent that remained intrinsic to its creation.

Because this thesis works to demonstrate how the three-caste society came to be, it is important to note that the constructs of class were far more complex than just three castes. The term “three-caste” implies that there were only three categorizations, which was not the case in Spanish New Orleans. Rather, within each caste, people were seen as having a “higher” or “lower” social standing, based on their financial holdings and professional occupations. In the first caste, men of European descent who came from prominent European families, or who owned large amounts of property, had a higher class standing as compared to men who did not. These men were considered the “elites” of New Orleans. Below the elites were the city’s Euro-Louisianan male merchants, who supported the wealthiest people of European descent through legal and illicit trade.⁴⁶ Men who were not considered as financially wealthy, from prominent families, or who did not practice professional trading, fell into the lowest ranking of the first caste. Single women of European descent also occupied the bottom of the first caste.⁴⁷ Within the second caste of free Africans and Afro-Creoles, people were primarily stratified based on economic standing. Unlike the first caste, the city did not recognize or respect the familial backgrounds of Afro-Louisianans, because Euro-Louisianans did not view their African ancestries as important. Similarly, profession mattered less, as it was more important for people in the second caste to make substantial monetary profits than to do so in a specific profession.

⁴⁶ Woodward, “Spanish Commercial Policy in Louisiana, 1763-1803,” 136-38. The white population in New Orleans was predominately French during the 1700s. Some historians estimate that approximately 80 percent of the entire Louisiana population had primarily French heritage by the end of the eighteenth century. This study will refer to the elite population as either “Euro-Louisianans” or “of European descent” to be inclusive of Spanish and French ethnicities.

⁴⁷ Din and Harkins, *The New Orleans Cabildo*, 21-23.

Free people of African descent who owned property in the form of personal residences, businesses, or land, or those who had inherited large amounts of financial wealth, were viewed as having higher social standing than Afro-Louisianans who did not have significant economic assets. The only caste that evidently did not have economic stratifications was the third caste of the enslaved. Thus, the three castes were only a rough outline of class designations. As free people of color became more socially and economically influential, they began to blur these boundaries that the elites wanted to maintain. Many free people of African descent tried throughout their lives to be accepted by the elites in New Orleans, and a very few succeeded. Even when they did, however, the wealthiest Euro-Louisianans most likely viewed these people as higher-ranking in the social order, but they never saw them as being part of the Euro-Louisianan caste, even if they had the same economic holdings or professional standings.

In terms of who belonged in certain places in the three-caste society and who did not, some people were excluded from the system altogether. Both the three- and two-caste societies did not recognize people indigenous to North America because European settlers saw them as existing outside the three castes. This does not mean that people of Native American ancestry did not live and work in New Orleans or other societies in North America. Rather, as scholars Ruth Wallis Herndon and Ella Wilcox Sekatau have identified, communities in which indigenous people lived in systematically erased them through the process of “documentary genocide,” which sometimes refused to acknowledge their racial heritages and labeled them as “black” instead of Native, and at other times omitted them from the records entirely.⁴⁸

Spear identified a similar process of “documentary genocide” for indigenous American peoples in New Orleans. Although it is difficult to discern when this did or did not occur,

⁴⁸ Ruth Wallis Herndon and Ella Wilcox Sekatau, “The Right to a Name: The Narragansett People and Rhode Island Officials in the Revolutionary Era,” *Ethnohistory* 44, no. 3 (1997): 437.

Spanish documents sometimes labeled Native Americans as “blacks,” but also omitted them from some records entirely. It is also possible that New Orleans elites barred them from accessing the Cabildo altogether. According to Spear, Spanish officials marginalized indigenous Americans because they viewed them as not belonging to the social order. Before the Spanish took control of New Orleans, the initial French settlers who arrived in area wanted to form alliances with Native Americans through marriages.⁴⁹ They thus saw enslaving indigenous peoples as counterproductive to their political and economic goals. By contrast, they did not view Afro-Louisianans as presenting the same political advantages as Natives, and only saw them as enslaved labor. By the late eighteenth century, however, Euro-Louisianan perceptions changed regarding who benefitted people of European descent and who did not. New Orleans elites no longer relied on indigenous Americans for alliances and pushed them out of the recorded social order. Afro-Louisianans, and especially Afro-Louisiana women, by contrast, came to be seen as an indispensable part of New Orleans’s economy, which free women were able to exploit and utilize as a means of improving their own socio-economic standing.⁵⁰

Because of the complex nature of how Spanish New Orleans treated people of different racial heritages, the language used in this thesis needs to be clarified. In an attempt to avoid repetition, any mention of “free women/free men” or “enslaved women/enslaved men” refers to people who were racially African. Any references to women or men of European descent will be explicitly stated as such. Additionally, the term “free people of color” is used to identify the second “caste,” meaning “free people of African descent.” This project also uses the terms

⁴⁹ This was a common practice in the colonial French Americas. For more academic studies on this practice, see Brett Rushforth, “‘A Little Flesh We Offer You’: The Origins of Indian Slavery in New France,” *William and Mary Quarterly*, 3rd ser., 60, no. 4 (October 2003): 777-808; Kathleen DuVal, “Indian Intermarriage and Métissage in Colonial Louisiana,” *William and Mary Quarterly*, 3rd ser., 65, no. 2 (April 2008): 267-304; Anne F. Hyde, *Empires, Nations, and Families: A History of the North American West, 1800-1860* (Lincoln: University of Nebraska Press, 2011).

⁵⁰ Spear, *Race, Sex, and Social Order in Early New Orleans*, 155-57.

“African” and “Afro-Creole” to refer to women and men of African ancestry, as some were born in Africa and came to New Orleans through the trans-Atlantic slave trade and others were born in New Orleans or another part of the Americas. The term “Afro-Creole” will refer to the latter. The term “Creole” has acquired numerous meanings throughout history and has often included specific races while excluding others. Some historians have used it to refer only to people of European descent who were born in the Americas, and others have used it to indicate only people of color.⁵¹ Gwendolyn Midlo Hall offered a modern interpretation of the word that will also be used for the purposes of this study. Hall defines “Creole” as “a person of non-American ancestry, whether African or European, who was born in the Americas.”⁵² When referring to a person, this text will mention the person’s racial heritage first, as exemplified by the term “Afro-Creole,” which means a person of African descent who was born in North America.

The first chapter of this thesis establishes the background of the New Orleans Cabildo. It examines the implementation of the Cabildo, who served in it, and how those people obtained their offices. It then discusses the various laws and regulations that specifically affected women of African descent. Chapter two explores how enslaved African and Afro-Creole women used the Spanish customary right of *coartación*, or self-purchase, to legally free themselves when their owners objected to their desires for liberation. The third chapter considers court cases other than suits of *coartación* that took place between women of African descent and Euro-Louisianans, the oppressive elite responses that these cases provoked, and how Afro-Louisianan women reacted to the Cabildo’s subjugation of themselves and other Africans and Afro-Creoles. The fourth chapter will then explore legal proceedings between African and Afro-Creole women and other

⁵¹ Kein, *Creole*, xi-xxiv.

⁵² Hall, *Africans in Colonial Louisiana*, 157.

people of African descent, and how the Cabildo reacted to court cases that maintained caste boundaries.

This thesis hopes to shed light on some of the lesser explored components of what assisted the formation of the New Orleans social order during the Spanish period. The actions of enslaved and free African and Afro-Creole women in the courts allowed them to have socio-economic power, which then enabled them to have some influence their own social standing and subsequently have a role in shaping the city's society. Although their activities often brought government-sanctioned oppression, these women continued to fight for their abilities to control their own positions within the embryonic three-caste social order. In the pursuit of gaining a comprehensive understanding of how Spanish New Orleans society formed and functioned, it is necessary to examine the activities of African and Afro-Creole women in the Cabildo courts, and the struggles for power that they engaged in with the city's elites.

CHAPTER II

THE NEW ORLEANS CABILDO

In 1769, the Spanish empire implemented the New Orleans Cabildo to serve as the primary form of secular governance in the province of Louisiana. According to Spanish imperial law, all colonial municipalities theoretically needed to establish a cabildo to oversee administrative, legislative, and judicial responsibilities in their respective territories. Cabildos operated differently throughout Spanish America based on the needs of the corresponding region. Although cabildos had the authority to govern entire territories, most mainly oversaw issues in the cities where they were located. During the Spanish period, the New Orleans Cabildo became an institution headed by elite men of both French and Spanish ethnic heritage, and as such, it primarily looked out for the interests of Euro-Louisianans. As free African and Afro-Creole women increasingly utilized the Cabildo courts to improve their social standings, these men implemented laws and regulations designed to keep free and enslaved women of African descent subordinated in the city's social order.

The Formation of the New Orleans Cabildo

By the sixteenth century, most colonial municipalities in the Spanish empires in Central and South America implemented cabildos after Hernán Cortés solidified the process that settlers used to establish them. After conquistadors forcibly colonized land and peoples in the Americas, Spanish *vecinos*, or residents, immigrated to the region to assume administrative power. *Vecinos* regulated land, commerce, legal practices, and also elected men to serve in the cabildo.¹ Armed *encomenderos* supported the cabildo through military authority, while cabildo officials

¹ Mario Góngora, *Studies in the Colonial History of Spanish America*, trans. Richard Southern, Cambridge Latin American Studies 20 (Cambridge: Cambridge University Press, 1975), 5-7.

legitimized the power of *vecinos* and *encomenderos* legislatively. Only some Spanish colonies did not implement cabildos for various reasons, including weak leadership or poor infrastructure.² By the eighteenth century, most municipalities in the Spanish colonies of North America did not have a cabildo, as the military often usurped political power in these territories.³ Only New Orleans and San Antonio formed cabildos to oversee their respective provinces, yet San Antonio's cabildo had limited functions because of the largely illiterate population residing there.⁴

In New Orleans, Spanish military leaders formed a cabildo to solidify Spanish authority in Louisiana territory when they gained control in the 1760s. One year before the end of the Seven Years' War, France ceded all of Louisiana territory to Spain in the 1762 Treaty of Fontainebleau. Three months later, France vacated that agreement and replaced it with the Treaty of Paris, which gave Spain all of Louisiana territory located west of the Mississippi.⁵ In 1764, France announced the territorial exchange to the residents in New Orleans. Many of the French elites in the city met this news with apprehension as they feared the economic, political, and social changes that Spanish authority might bring. They responded by sending a delegate to France to advocate for France's reacquisition of the region, however, the delegate ultimately failed to convince the French king to regain the territory.⁶

On March 5, 1766, Antonio de Ulloa arrived in New Orleans to assert Spanish hegemony in Louisiana territory. Ulloa's presence increased anxieties among the colony's ethnically French population when he failed to complete the formal processions of territorial exchange expected by

² Góngora, *Studies in the Colonial History of Spanish America*, 17-20.

³ Din, "The Offices and Functions of the New Orleans Cabildo," 28.

⁴ David J. Weber, *The Spanish Frontier in North America* (New Haven: Yale University Press, 1992), 324-25.

⁵ Arthur S. Aiton, "The Diplomacy of the Louisiana Cession," *The American Historical Review* 36, no. 4 (1931): 701-20; F. Todd Smith, "A Native Response to the Transfer of Louisiana: The Red River Caddos and Spain, 1762-1803," *Louisiana History: The Journal of the Louisiana Historical Association* 37, no. 2 (1996): 163-85.

⁶ Moore, *Revolt in Louisiana*, 39-40.

New Orleans residents, and then isolated himself from the French elite. The French inhabitants continued to resist Ulloa's authority when he announced his plans to suppress local smuggling operations that had stimulated the colony's economy during the previous decades. French frustrations with Ulloa mainly came from their perception of him as economically, politically, and socially inept, rather than from their loyalty to the French crown.⁷ As a result, on October 29, 1768, the inhabitants of New Orleans gathered before the French Superior Council to revolt against Spanish rule. The leaders assembled New Orleans residents and invoked enlightenment ideals that framed the Spanish empire as oppressive. The uprising ultimately resolved to expel Ulloa from the city by force and gave him three days to vacate New Orleans. On November 1, 1768, Ulloa departed for Havana, Cuba.⁸ For the next ten months, Louisiana experienced *de facto* independence as Ulloa quickly notified his superiors of the events that had unfolded in New Orleans.⁹ Upon hearing about the revolt, King Charles III quickly dispatched General Alexander O'Reilly to regain control over Louisiana, who arrived in the city in 1769.¹⁰

When O'Reilly arrived in New Orleans he swiftly retook the city with his fleet. He put down the rebellion, tried and executed its leaders, and abolished the French Superior Council. After the rebels' trials ended in October 1769, O'Reilly appointed Félix del Rey and Manuel José Urrutia to compile and summarize Spanish laws for the colony. O'Reilly published these laws, later referred to as Code O'Reilly, in French and Spanish on November 25, 1769, which the Louisiana territory abided by until the United States' acquisition of the region in 1803.¹¹ In the

⁷ John Preston Moore, "Antonio de Ulloa: A Profile of the First Spanish Governor of Louisiana," *Louisiana History: The Journal of the Louisiana Historical Association* 8, no. 3 (1967): 189–218.

⁸ Dawdy, *Building the Devil's Empire*, 219–21; Moore, *Revolt in Louisiana: The Spanish Occupation 1766–1770*.

⁹ Don Antonio de Ulloa, "Ulloa's Account of the 1768 Revolt," trans. R. E. Chandler, *Louisiana History: The Journal of the Louisiana Historical Association* 27, no. 4 (1986): 407–37.

¹⁰ Samuel Biagetti, "Enlightenment and Revolution: The Case of Louisiana, 1768," *Early American Studies: An Interdisciplinary Journal* 12, no. 1 (December 20, 2013): 68–69.

¹¹ Kinnaird, ed., *Spain in the Mississippi Valley*, 108–25; Din, "The Offices and Functions of the New Orleans Cabildo," 6.

eighteenth century, Spanish authorities based colonial law on the *Recopilación de las Indias* that provided instructions for colonial governance in Spanish America. This document mandated the implementation of the Cabildo, which included the offices of the president, the *alcaldes ordinarios*, the *regidores*, and various other non-voting positions.

The governor of Louisiana served as president of the Cabildo and had official duties within the governmental organization. The governor had ultimate power in the New Orleans Cabildo and his authority could not be superseded by any of the institution's other members. The two *alcaldes ordinarios*, the *síndico procurador general*, and the *mayordomo de propios* all served one-year terms that Cabildo officials annually elected on January 1, while the six *regidores* had perpetual offices, and could choose to either sell their positions, or serve in the Cabildo until they died (see Table 1). The Cabildo conducted weekly meetings, passed laws and regulations for public improvement, oversaw court proceedings, and held yearly elections. Code O'Reilly laid out the requirements and duties for the offices of the Cabildo, and also recognized the special needs of Louisiana governance because of the multiple ethnic heritages of the inhabitants of New Orleans.¹² Although the Cabildo had authority over the entire region of Spanish Louisiana, the institution's control mainly extended to the city of New Orleans and the immediately surrounding areas.

General O'Reilly appointed the first six perpetual offices, those of the *regidores*, in 1769. Wealthy Euro-Louisianans either inherited permanent offices from family members, used their social connections to get elected to annual offices, or purchased positions from perpetual officers. Near the end of the Spanish period, some perpetual offices became hereditary. All the members of the Cabildo were European males during the Spanish period, and because of the

¹² Kinnaird, *Spain in the Mississippi Valley*, 108-25.

ethnic makeup of New Orleans, many Cabildo members were elite French slave owners. They consequently passed laws and ordinances that favored the city's rich planters and merchants and subordinated peoples that they viewed as undesirable, including free and enslaved African and Afro-Creole women.¹³

Table 1. Structure of the Cabildo, According to Rank

Voting Members of the Cabildo	
Territorial Governor	President, <i>ex officio</i> of the Cabildo
<i>Alcaldes Ordinarios</i>	
<i>Alcalde de Primer Voto</i>	Annually Elected Judges
<i>Alcalde de Segundo Voto</i>	Senior Voting Members
<i>Regidores perpetuos</i> (by order of rank)	
<i>Alférez Real</i> – Royal Standard Bearer	Voting Members
<i>Alcalde Mayor Provincial</i> – Chief Provincial Magistrate	
<i>Alguacil Mayor</i> – City Magistrate and Warden of the Royal Jail	
<i>Depositario General</i> – Custodian of Properties and Funds	
<i>Receptor de Penas de Cámara</i> – Custodian of Properties and Funds	
<i>Regidores perpetuos sencillos</i> – Voting Councilman	
Non-Voting Members of the Cabildo	
<i>Síndico Procurador General</i>	Annually Elected – executive office
<i>Mayordomo de propios</i>	Annually Elected – executive office
<i>Escribando</i>	Permanent clerk of the council; also court recorder & registrar of mortgages
Lesser Employees	Porters, public crier, public printer, <i>serenos</i> , appraisers, interpreters, inspector of weights and measures, jail employees, keeper of fire pumps, etc.

Source: Table from Gilbert C. Din and John E. Harkins, *The New Orleans Cabildo: Colonial Louisiana's First City Government 1769-1803* (Baton Rouge: Louisiana State University Press, 1996), 57.

¹³ Gilbert C. Din and John E. Harkins, *The New Orleans Cabildo: Colonial Louisiana's First City Government, 1769-1803* (Baton Rouge: Louisiana State University Press, 1996), 71.

General Duties of the Cabildo

All voting members of the Cabildo had the same legislative duties. These included annual elections and weekly meetings, typically held on Fridays. The governor usually presided over the January 1 elections, but if he was absent from the city the *alcalde ordinario de primer voto* assumed his position. Cabildo elections formally occurred on the first day of each year, but the voting members usually made their decisions prior to the official day. Governors had the power to overturn election decisions, but there is no evidence to suggest that any governors ever exercised this right. Only in 1788 and 1792 did governors intervene to cast a tie-breaker vote during the January 1 election.¹⁴

Prospective candidates for elected positions could be disqualified if they had positions in the treasury, owed the treasury money, were under twenty-six years old, or had recently converted to Catholicism. During the elections, *regidores* could not vote for their own fathers, sons, brothers, fathers-in-laws, sons-in-laws, step-sons, or step-brothers to take office. However, the other voting members of the Cabildo could vote for the family member of another official. If an elected official, such as an *alcalde ordinario*, contended for re-election, he had to receive unanimous approval from the Cabildo. If he did not, he had to wait two years to run for the position again.¹⁵ The Cabildo's election process thus allowed the elite men in New Orleans to consolidate power, assert the supremacy of the first caste, and subordinate the second and third castes in court cases and official laws and resolutions.

¹⁴ Kinnaird, *Spain in the Mississippi Valley*, 110-12.

¹⁵ *Ibid.* Once the governor approved the elections, the clerk of the Cabildo notified the elected officials, who then appeared before the assembly and took their oaths. The clerk then recorded all election decisions in the "Resolutions" book.

The governor also presided over weekly assemblies where voting members of the Cabildo discussed issues related to the public welfare of New Orleans. These meetings could only be held at the Cabildo building, or, in very exceptional circumstances that required an immediate decision, at the governor's personal residence. If a Cabildo member attempted to hold a meeting anywhere else, he could be immediately removed from his position. This regulation helped prevent potential sedition or insurrection within the Cabildo. At weekly meetings, the *síndico procurador general* proposed measures that he believed could improve the general welfare of New Orleans. The voting members of the Cabildo passed or rejected resolutions and then waited for the governor's approval. All voting members had the chance to cast their votes, and if an official missed a meeting that involved a vote, he had the opportunity to veto any decisions made in his absence. After the Cabildo passed a resolution, the governor then sent the resolutions to the Spanish king for final approval, after which they became law in the colony. The Cabildo cancelled weekly meetings throughout the year, which sometimes happened because voting officials could not attend the meeting or because of bad weather.¹⁶

Individual Duties of Cabildo Officials

Governors acquired their position through one of three avenues. In some instances, conquistadors personally appointed the governor. In others, the king selected them. Finally, some received their appointment through the terms of their *capitulación*.¹⁷ When O'Reilly established the Cabildo he also appointed Luis de Unzaga y Amezaga as governor. The position had perpetual status and the succession of governors rested in the Spanish Empire. Most governors in

¹⁶ Kinnaird, *Spain in the Mississippi Valley*, 109; *Actas del Cabildo*, ed. The Works Progress Administration, typescript in Spanish on microfilm, 10 vols., 1769-1803 (New Orleans Public Library, 1939).

¹⁷ Góngora, *Studies in the Colonial History of Spanish America*, 87.

New Orleans vacated the office when they received an offer for a better position in another Spanish colony, in the Spanish military, or in Spain itself. Others left their positions because of failing health.¹⁸ After a resignation, the imperial administration appointed another governor to assume the office through one of the three ways listed above. Governors had various duties in Louisiana, which included their position as the Cabildo's president. All governors spent time away from New Orleans during their tenures for various reasons. During these absences, other Cabildo officers temporarily fulfilled the governor's duties in the Cabildo, however, the Cabildo could not finalize any resolutions or other changes without the governor's approval.

The second highest positions in the Cabildo were the *alcaldes ordinarios* – the *alcalde ordinario de primer voto* and *alcalde ordinario de segundo voto*. This was the office of the annually elected judges who voted after the governor during weekly meetings and annual elections.¹⁹ When performing their judicial duties, these positions had equal standing. Code O'Reilly required that the people who held this position have substantial knowledge of the city, its inhabitants, and understand both French and Spanish. While the *alcaldes*'s primary responsibility rested in their legislative and judicial capacities, they also served as nightly patrolmen, regularly inspected jailhouses, and could pardon impoverished criminals who were arrested for crimes of little importance. If one of the *alcaldes* died, or otherwise could not fulfill his duties, the *alférez real* replaced him until the next election year, or until the elected *alcalde* could reassume his position. If both *alcaldes* died, or otherwise could not complete the remainder of their terms, then the *alférez real* took the first seat and the senior *regidor* took the second.²⁰

¹⁸ Din and Harkins, *The New Orleans Cabildo*, 86.

¹⁹ "Primer voto" translates to "first vote" while "Segundo voto" translates to "second vote." Indicating that the *alcalde ordinario de primer voto* submitted his vote before the *alcalde ordinario de segundo voto* during weekly and annual meetings.

²⁰ Kinnaird, *Spain in the Mississippi Valley*, 110-16.

The alcaldes spent most of their time presiding over civil and criminal court cases. Criminal cases included concerns over libel, contempt of court, perjury, assault, battery, treason, murder, and runaway slaves. Civil cases were over issues of debt, probate succession, disputed property, and emancipations.²¹ The alcaldes did not receive yearly salaries for their positions and instead collected fees from the litigants whose cases they heard.²² Alcaldes presided before trials of vital importance in the Cabildo building at ten o'clock in the mornings, and those of lesser importance at their own personal residences at seven o'clock in the evenings. Governors also oversaw their own court, and all three officials shared concurrent judicial jurisdictions in the city. Historians are still unclear as to why the governor heard some cases and the alcaldes ordinarios presided over others. Since all three officials oversaw a wide variety of hearings, it seems likely that officials received cases based on availability. Code O'Reilly stipulated that neither the governor, "nor any other" had the ability to deprive the alcalde of his authority and decision-making ability during a judicial case. The only power the governor had over the alcaldes ordinarios was to summon them to ensure speedy trials.²³

While the alcaldes ordinarios maintained their authority in the judicial process, residents had the power to challenge their impartialities or abilities during court proceedings. When a litigant objected against the judge who sat on their case, the Cabildo called on the other alcalde to sit with him on the trial as well. If both alcaldes ordinarios oversaw the same case and disagreed over the decision, they would then present the case to the governor for final resolution. If one of the alcaldes changed his decision during this process, the matter could be settled without the governor's decision. In cases where the plaintiff or defendant challenged both the

²¹ Din, "The Offices and Functions of the New Orleans Cabildo," 25.

²² Din and Harkins, *The New Orleans Cabildo*, 71.

²³ Kinnaird, *Spain in the Mississippi Valley*, 114-15; Din and Harkins, *The New Orleans Cabildo*, 105-07.

alcaldes' abilities, the Cabildo called on a regidor to also sit on the hearing. According to Code O'Reilly, alcaldes ordinarios could be excused from a trial entirely if they were related to the plaintiff or defendant in any way, even just as a friend.²⁴ Some female litigants of African descent exercised the right to challenge a judge's decision, yet it rarely resulted in a more favorable outcome for them as seen in numerous legal proceedings.

The Spanish empire established the non-elected offices of lawyers to check the alcaldes's power in cabildos throughout the Americas. To obtain the official title of "lawyer" in a Spanish colony, a lawyer needed to provide evidence of his legal expertise and obtain royal approval. O'Reilly appointed the first two lawyers in New Orleans. Due to the low rates of literacy in the city, these people were often the only residents who had any formal legal knowledge. Even the alcaldes ordinarios, who came from the city's civilian population, often had less understanding of Spanish law than the lawyers. Therefore, in any case involving fifty pesos or more, the law required the sitting alcalde ordinario to consult a lawyer. Alcaldes often agreed with the advising lawyer, which placed the burden of responsibility of justice on the lawyer himself. However, if an alcalde ignored the lawyers' advice, the burden of legal responsibility fell to the judge instead. As a result of the role that many lawyers played in the judicial system, some lawyers in New Orleans went on to become alcaldes ordinarios themselves.²⁵

In addition to their consulting positions, lawyers also worked as legal counsels for plaintiffs and defendants. Some litigants secured them as attorneys on their own, and alcaldes intermittently appointed attorneys in criminal cases when individuals could not defend themselves or secure legal counsel.²⁶ Some African and Afro-Creole women, both free and

²⁴ Kinnaird, *Spain in the Mississippi Valley*, 115.

²⁵ Din and Harkins, *The New Orleans Cabildo*, 114-17.

²⁶ Ibid.

enslaved, hired lawyers to assist them with legal proceedings, but not all did. This demonstrated that while most women of African descent had the legal acumen to execute their own defenses or prosecutions, some women either needed the assistance of a lawyer, or chose to hire one to help them in cases against Euro-Louisianan men of elite social standing.

The *alcaldes* had supreme authority with the governor in the judicial branch of the *Cabildo*, however, they shared legislative duties with the *regidores*. *Regidores* primarily served as councilmen who voted at both the annual and weekly elections. They maintained their offices for longer than the *alcaldes*, which gave them the ability to effect more legislative change over time with various laws and regulations. Furthermore, most *regidores* bestowed their positions to family members, but some sold their offices to other elite men of European heritages, who were typically planters, merchants, or other persons of high social standing.²⁷ Similar to the annual elections, this allowed the elites to consolidate power and create a unified governmental body who sought to oppress free and enslaved African and Afro-Creole women.

O'Reilly appointed the first six *regidores* on December 1, 1769. He intentionally selected five French planters to serve as the first *regidores*, with the sixth being a French printer in New Orleans. This was a typical western practice during the eighteenth century, as elite Europeans generally believed that men who owned large amounts of property would serve the best interests of other men of high social status in the region. Since O'Reilly appointed these men, they did not have to pay for their positions as all subsequent *regidores* did.²⁸

The first five offices of the *regidores* that had obligations in addition to their legislative capacities (in descending order of hierarchy) were the *alférez real*, the *alcalde mayor provincial*, the *alguacil mayor*, the *depositario general*, and the *receptor de penas de cámara*. This order also

²⁷ *Ibid.*, 60-61.

²⁸ Din, "The Offices and Functions of the New Orleans *Cabildo*," 7-8.

determined when they voted during Cabildo meetings. The alférez real had principally administrative responsibilities, and the following four officials supported the alcaldes by performing supplementary judicial duties for the judges. Finally, the sixth regidore, the regidore perpetuo sencillo, worked in a solely legislative capacity at the annual and weekly meetings.²⁹

The alférez real was the highest ranking and most prestigious of the regidores. He had numerous ceremonial roles, which included kissing royal communications prior to Cabildo reception, accepting new governors into the city, holding the royal banner during state sanctioned occasions, and other symbolic gestures. The alférez real also assumed the duties of the governor and the two alcaldes if they were not present or able to perform their responsibilities. If the alférez real was absent for any of the above-mentioned duties, the next ranking regidore took his place.³⁰

Code O'Reilly contained clear instructions for the duty of the second office, the alcalde mayor provincial. This person had jurisdiction over any crimes committed in open fields and rural regions through the authority of the tribunal of Santa Hermandad. The Code described potential crimes as, "thefts, robberies, carrying away of property by force, rape of decent women, as also treason, or attacks accompanied by wounds or followed by death, setting fire to or burning down of houses or crops, and other crimes of this nature."³¹ The alcalde mayor had supreme jurisdiction over crimes that happened outside of city limits, which especially affected enslaved runaways and areas occupied by indigenous peoples. In addition, the court of Santa Hermandad could not be appealed, making the alcalde mayor's decision final. However, if an

²⁹ The New Orleans Cabildo only had one resident serving in this capacity until 1797, when six new regidores purchased additional seats. The new positions also had no additional duties and only voted at the annual and weekly meetings. The Cabildo based the order that these new positions voted in on each official's age. For more information see Din and Harkins, *The New Orleans Cabildo*, 57-65, 112.

³⁰ *Ibid.*, 66.

³¹ Kinnaird, *Spain in the Mississippi Valley*, 117.

alcalde ordinario had previously heard grievances regarding the person apprehended by the alcalde mayor, the jurisdiction fell to the Cabildo judge. Any individual who held the office of alcalde mayor was deemed ineligible to hold the office of the alcalde ordinario in the future because of the judicial duties attached to his position.³²

The third, fourth, and fifth regidores primarily dealt with the city's finances. The third office, the alguacil mayor, carried out the sentences and charges made by the alcaldes ordinarios. The alguacil mayor recovered money in issues of debts owed to the city, took possession of goods, seized moveable and immovable property, and fixed the tariff in municipal commerce. He also served as the superintendent of the prison by appointing officers to regulate and collect fees from imprisoned people. Furthermore, the alguacil mayor patrolled the city during the day and night to prevent disturbances or crimes. Because of his role as judicial support, the alguacil mayor could not be elected as alcalde ordinario in future terms. The fourth regidore, the depositario general, supported the alguacil mayor as he had the responsibility of keeping the properties and monies seized by the alguacil mayor. For the same reasons as the other regidores with judicial duties, this individual could not be elected as an alcalde ordinario. The fifth regidore, the receptor de penas de cámara, received fines that the civil courts imposed.³³

All six regidores also served as annual and monthly commissioners. Two annual commissioners, appointed during the January 1 election, oversaw any contracts made directly with the government. They also audited the Charity hospital in the city, the parish hospital, and the city treasury. The position of the monthly commissioner was not elected, but instead rotated

³² Ibid., 117-119.

³³ Kinnaird, *Spain in the Mississippi Valley*, 119-22; Din and Harkins, *The New Orleans Cabildo*, 111. Curiously, the office of the receptor in Spanish New Orleans ended in 1789 when the person who held the office unexpectedly died. The record does not indicate that another individual filled this capacity for the remainder of the Spanish period, and further does not show that another position assumed this office's duties.

based on rank and seniority. The annual and monthly commissioners enforced city ordinances and regulations, collected rent from people who occupied market stalls, and auctioned city contracts.³⁴

Other, non-voting officials also influenced the courts in New Orleans. These included the *síndico procurador general*, the *mayordomo de propios*, and the *escribando*. The *síndico procurador general* proposed solutions for the city's well-being at weekly *Cabildo* meetings and served as the city's policeman.³⁵ The *mayordomo de propios*, or city treasurer, administered nearly all city finances. He received and distributed New Orleans funds and recorded transactions for *Cabildo* records. The *escribando* was one of the most important non-voting positions in the *Cabildo*, as he transcribed all legal proceedings and trials.³⁶

Notaries served as an extension of the New Orleans *Cabildo* and assisted with court cases as well as private transactions. In fact, the titles of the *escribando* and the public notaries were interchangeable. One of the first ordinances passed by Governor Unzaga stipulated that all transactions needed to take place before a notary to limit corruption, as notaries verified exchanges, including sales of moveable and immovable property, debts, mortgages, emancipations of enslaved persons, marriages, and wills.³⁷

The courts in New Orleans also had bailiffs, translators, and appraisers. The bailiffs generally ensured that court proceedings developed peacefully and accompanied the *alcaldes*

³⁴ Din, "The Offices and Functions of the New Orleans *Cabildo*," 9.

³⁵ Din and Harkins, *The New Orleans Cabildo*, 111-113. The *síndico* specifically ensured that the courts did not unduly punish people, and also acted as a prosecutor on behalf of New Orleans by carrying out city contracts, collecting any debts owed to the city, or by evicting individuals living on city property. Many *alcaldes ordinarios* previously served as the *síndico procurador general* before being elected to office.

³⁶ Din, "The Offices and Functions of the New Orleans *Cabildo*," 10; Din and Harkins, *The New Orleans Cabildo*, 112-113. He also held a small court for claims only, served writs, kept inventories of estates, notarized sales of enslaved persons or immovable property, recorded mortgages and sales, and heard depositions for witnesses in cases conducted by the *alcaldes ordinarios*.

³⁷ Din, *Spaniards, Planters, and Slaves*, 50.

ordinarios on their nightly patrols of the city. Translators provided their services at weekly meetings and court sessions. The Spanish empire mandated that all official business occur in Spanish; however, a large portion of the New Orleans population and Cabildo members did not speak it. Translators ensured that all parties present at the weekly meetings and court cases understood the official proceedings. They also wrote handbills for the city in both French and Spanish to inform literate inhabitants of city ordinances. Appraisers evaluated property relevant to court cases, such as enslaved people and houses. The office of the assessor helped to make sure that all plaintiffs and defendants who used the Cabildo paid the total costs of their proceedings and convictions.³⁸

The New Orleans Cabildo reigned as the primary form of justice in the city. However, residents of Louisiana had the opportunity to appeal any decisions made by the New Orleans courts to the higher courts in Havana. Few people in New Orleans pursued this avenue of justice. Only in very exceptional cases, where a person had the financial ability to travel to Havana or send the court's decision to Havana and felt significantly wronged by the courts in New Orleans, did this occur. The female litigants of African descent who did appeal their decisions decided to do so because they felt wronged by the judges who presided over their cases. The Catholic church and the military also had their own courts, but they limited their scope to issues that occurred directly within the church and military, respectively. Most New Orleans residents acceded to Cabildo decisions because the Spanish legal system strongly resembled the judicial practices in place during the French period. The major difference between the two systems was the Spanish institution's treatment of people of color, which created recognizable discomfort among elite people of European descent in New Orleans.³⁹

³⁸ Din and Harkins, *The New Orleans Cabildo*, 113-114.

³⁹ *Ibid.*, 118-126.

Cabildo Laws and Africans and Afro-Creoles

General O'Reilly's implementation of Spanish laws brought with it the customary right of *coartación*, or self-purchase, to Louisiana territory and New Orleans. During the eighteenth century, *coartación* spread throughout Spanish America as a customary right, which various colonial sites, such as Louisiana, adopted. This was one of the most important shifts that occurred as a result of the change from French to Spanish hegemony, as *coartación* allowed enslaved Africans, Afro-Creoles, and Native Americans to petition the courts for their freedom throughout the Spanish period. Yet, most of the men in power from 1769 to 1800 disagreed with the regulation and fought against its judicial application. When their attempts to eliminate *coartación* failed, the elite men who headed the Cabildo tried to implement regulations that sought to keep people of African ancestry marginalized in the New Orleans social order.

Enslaved people could obtain free status in Spanish New Orleans in one of three ways. The first was "graciosa" manumission, in which legal owners freed the enslaved person and did not require the enslaved to pay for his or her freedom. The second happened when a slave owner died and left specific instructions in their will for an enslaved person to be emancipated. This sometimes included stipulations for the enslaved person's freedom, including payments or conditions, and other times was a *graciosa* manumission. The third was the process of *coartación*, or self-purchase, during which an enslaved person desired to liberate themselves. The legal owner would then either agree or disagree with their request, which began one of two processes. The first occurred when the legal owner consented to the request. First, the slave owner and the enslaved person negotiated a price for the liberation. Once they set a price the enslaved person became a "coartado" until he or she paid the cost of the emancipation to his or her legal owner.

Once the enslaved person paid the amount, both the legal owner and the enslaved person appeared before a notary to finalize the agreement. The second process began when the legal owner refused to liberate the enslaved person. Both the enslaved person and the slave owner appeared before the Cabildo courts to determine if the enslaved person would be freed. If the courts ruled in favor of the enslaved, the enslaved person paid the price of their freedom as determined by the courts and then became legally free under Spanish law.⁴⁰ Elite slaveholders and Cabildo officials grew concerned with the implications of *coartación*, however, they could not immediately disregard the customary right because of the moral and legal underpinnings of the regulation.

Coartación was founded on the Spanish Catholic belief that all souls remained equal before God. The religious tenets in Catholicism stated that a slave owner had no moral superiority over his or her slave, and additionally stated that the slave may even be spiritually superior to his or her master. *Las Siete Partidas*, a thirteenth-century Spanish legal code, declared that all laws regarding slavery needed to lead to eventual freedom and based this argument on the belief in the equality of all souls.⁴¹ This ultimately resulted in the customary practice of *coartación* in eighteenth-century Spanish America.⁴² Since the Spanish legitimized *coartación* using both Catholic tenets and the thirteenth-century doctrine of *Las Siete Partidas*, the colonies viewed it as both a divine and human law. Historians have debated the real influence that the Catholic Church had over these customs and the societies in which they operated.⁴³ Catholicism and the legal documents that came from these beliefs did not mean that slavery was

⁴⁰ Frank Proctor, "Coartación," ed. Colin A. Palmer, *Encyclopedia of African-American Culture and History* (Detroit: Macmillan, 2006).

⁴¹ Tannenbaum, *Slave and Citizen*, 48.

⁴² Din, *Spaniards, Planters, and Slaves*, 43.

⁴³ Degler, *Neither Black nor White*, 19-21.

“better” in Spanish America, or that Spaniards viewed people of color as social equals. Slavery dehumanized and inflicted unfathomable abuse on people of color throughout the Americas, including in New Orleans. Furthermore, the ability to emancipate oneself did not make the institution of slavery more tolerable in Spanish America, as some historians have argued. Instead, the laws derived from Catholicism created the circumstances in which enslaved people could elevate their own social standings by accessing the custom of *coartación*. This provided enslaved Africans, Afro-Creoles, and Native Americans with the opportunity to assert control over their own lives and become free, which was largely unavailable to enslaved people in other parts of North America. From 1769 to 1800, approximately 1,000 enslaved men and women negotiated the terms of their freedoms with their legal owners, and about 130 used the legal court systems to try and legally free themselves from resistant legal owners. Approximately 100 cases of *coartación* successfully liberated an enslaved person. The enslaved people of African descent who attained free status through *coartación*, or by other means, increased the free population of color, which constituted approximately one-fifth of the New Orleans populace by the end of the eighteenth century.⁴⁴

As previously stated, the way that an enslaved person began the process of *coartación* depended on his or her legal owner. A slave owner’s reasons for allowing a slave to free him or herself varied. Some believed it was better to allow enslaved people to free themselves legally rather than having them run away. Other slaveholders agreed to free an enslaved person because he or she needed the money that the enslaved person would pay for his or her freedom. Additionally, some did so for moral reasons.⁴⁵ Many slave owners, however, did not accede to

⁴⁴ Hanger, *Bounded Lives, Bounded Places*, 17-54.

⁴⁵ Alejandro De la Fuente, “Slaves and the Creation of Legal Rights in Cuba: *Coartación* and *Papel*,” *Hispanic American Historical Review* 87, no. 4 (November 2007): 659–68.

their enslaved person's desires to emancipate themselves. Yet, the customary right of *coartación* allowed the enslaved to seek free status regardless, which then led to struggles for power between slaveholders and the enslaved over the right to determine the petitioner's legal status.

Both the *alcaldes ordinarios* and governors oversaw cases of *coartación*. During these trials, both the enslaved person and his or her legal owner presented evidence to defend their respective positions. In most cases, the enslaved persons hired an attorney using the income earned during his or her free time from selling goods at Sunday markets, renting out services during spare time, and borrowing money from creditors.⁴⁶ Enslaved litigants who could not afford an attorney sometimes had a lawyer appointed for him or her by the court, and others appeared in trials without one. The judges in cases of *coartación* usually, but not always, ruled in favor of the enslaved person and granted his or her freedom. Two appraisers, one appointed by the enslaved person and the other by his or her legal owner, assessed the enslaved person's value and assigned him or her a price for freedom to be paid to the owner. If the appraisers disagreed, a third appraiser appointed by the court settled the discrepancy. Some newly freed people paid the full amount for their emancipations at one time and became free immediately by using finances acquired through loans or personal incomes and avoided extending their enslavements. By the end of the Spanish period, approximately 100 enslaved women and men received their freedom through the courts against resistant owners.⁴⁷ While this did not constitute the main way that enslaved people freed themselves by, those who did liberate themselves using the courts challenged the power dynamics between slaveowner and the enslaved. Doing so undermined the authority that the elites usually enjoyed and created a complex society that enabled enslaved

⁴⁶ According to Spanish law, enslaved people could have small gardens for personal use, or rent themselves out to people besides their legal owners. New Orleans elites and slaveholders generally allowed them to engage in these activities because of the relative economic impoverishment endemic in New Orleans during the eighteenth century.

⁴⁷ Aslakson, *Making Race in the Courtroom*, 59.

people to fight against the oppression imposed on them by Euro-Louisianans. The rate of these cases increased in the 1780s, when enslaved people became more aware of the customary practice of *coartación*, and decreased during the 1790s, when the Cabildo became less tolerant of this customary practice because of the socio-economic influence of this population in New Orleans society.

If an enslaved person could prove abuse or neglect at the hands of his or her legal owner, he or she could obtain his or her freedom without having to pay an emancipation fee. However, many could not conclusively provide evidence to support their claims of abuse. In addition to the cost of emancipation, enslaved people also paid the cost of the court proceedings since they initiated the hearing. The expenses involved in *coartación* cases proved extremely costly and most paid using the money that he or she earned during free time, or by obtaining a loan from a creditor. In addition, freed family members sometimes paid for their relatives' emancipations.⁴⁸

Enslaved people residing in New Orleans had relatively easier access to the courts as compared to those living far away from the city. Many people of color learned about *coartación* from the city's free black population through word of mouth.⁴⁹ Most enslaved people did not receive an education in New Orleans and relied on social relations with other Africans and Afro-Creoles to learn about legal statutes such as *coartación*. However, a day school provided by the Ursuline nuns enabled some enslaved women of color to receive at least minimal educations, if their owners allowed them to attend the school.⁵⁰ The Ursulines educated women in New Orleans and allowed both free and enslaved female students of African and indigenous descent to

⁴⁸ Spear, *Race, Sex, and Social Order in Early New Orleans*, 108-28.

⁴⁹ Din, *Spaniards, Planters, and Slaves*, 65.

⁵⁰ During the French period, the Ursulines in New Orleans maintained a convent, boarding school, day school, and charity hospital in the city. When the Spanish took over, they released the Ursulines from their hospital maintenance obligation, which allowed them to focus on their educational efforts.

attend the day school. Unfortunately, no records from the school exist, but letters left behind by the Ursulines support the conclusion that girls and young women of color attended the sessions that ran from approximately one o'clock to two-thirty in the afternoon.⁵¹ Those who attended the school may have learned how to read during these sessions, and subsequently used their literacy to learn about Spanish legal customs, laws, and regulations.

In addition to their access to education, an enslaved person's sex further affected how they experienced the process of emancipation in New Orleans. Male slaveholders often engaged in forced sexual relations with enslaved women of African descent who they owned. Some of these men used sex to humiliate and subordinate their enslaved women, while others became sympathetic and decided to emancipate them. Male slaveholders were even more willing to emancipate the children born from both consensual and forced sexual relationships. By comparison, few women of European descent were slaveholders, and there is little evidence that those who did own enslaved men engaged in consensual or forced sex with these men. Overall, the city's elite population viewed interracial relationships as disdainful, yet white men of all socio-economic standings took up various kinds of relationships with both free and enslaved African and Afro-Creole women as evidenced by baptismal records and the substantial mixed-race population in eighteenth-century New Orleans. Since the colony was so economically impoverished, few European women immigrated to Louisiana. As a result, white men engaged in both consensual and/or coerced relationships with free and enslaved African and Afro-Creole women. While rape and sexual assault certainly resulted in the substantial mixed-race population

⁵¹ Sister Jane Frances Heaney, *A Century of Pioneering: A History of the Ursuline Nuns in New Orleans, 1727-1827* (Chelsea, Michigan: The Ursuline Sisters of New Orleans, Louisiana, 1993), 60, 156.

in New Orleans, some women did willingly enter these relationships. For some enslaved women, these associations provided a means of freedom, which meant social mobility for them as well.⁵²

The European population grew increasingly uncomfortable with the emerging free black population that resulted from coartación and intimate relationships in New Orleans. Free people of color presented a socio-economic threat to much of the city's white population, which caused the ethnically French and Spanish Cabildo members to pass various laws and regulations that sought to limit the ways in which people of African descent could become socially or economically influential.

The Cabildo passed laws and regulations that sought to limit the social and economic activities of people of African descent upon the implementation of Spanish hegemony in New Orleans. In 1769, General O'Reilly passed the first regulation concerning people of color with the "Regulation Decree for Inn-Keepers, Tavern-Keepers, Billiard Parlor Keepers, and the Master Lemonade Seller," which aimed at controlling liquor consumption among the enslaved in the colony. O'Reilly's regulation stated that vendors could be fined for selling alcohol to "Indians, Squaws, Mulattoes, Mulattresses, Negroes & Negresses, who do not have a ticket from their Master."⁵³ But the open exchange of small goods and liquor continued within these "prohibited" demographics throughout at least the first half of the Spanish period.⁵⁴ The continued illicit trade of liquor against Cabildo regulations led to power imbalances in the city, as Africans and Afro-Creoles resisted the oppressive legislation enacted by the city's elites. This constituted one struggle for power between the elite men and power and people of color that continued throughout the Spanish period.

⁵² Clark and Gould, "The Feminine Face of Afro-Catholicism in New Orleans, 1727-1852," 434-35.

⁵³ Alexander O'Reilly, "O'Reilly's Regulations on Booze, Boarding Houses, and Billiards," ed. Jack D. L. Holmes *Louisiana History: The Journal of the Louisiana Historical Association* 6, no. 3 (1965): 293-300.

⁵⁴ Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy*, 7-9.

Louisiana's first governor, Governor Unzaga, also implemented laws concerning people of African descent that specifically sought to regulate the slave trade in the colony. He strictly enforced that all sales of property, including real estate, immovable property, and slaves, take place before a notary. This, he claimed, was partly to protect the colony against fraud or corruption, and partly to keep accurate records of the slave exchanges occurring in New Orleans. Many residents of the city did observe this regulation, leaving historians with records of how slave trading developed, and the means by which many free people of African descent engaged in commerce. Those who disregarded Unzaga's law began contributing to the illicit slave trade that fluctuated throughout the Spanish period.⁵⁵

During the first decade of Spanish control, many deliberations over elite desires to control Afro-Louisianans occurred during weekly meetings, yet Unzaga did not submit any legislative changes regarding the city's free or enslaved African and Afro-Creole populations. When Unzaga fell ill and retired from his post as governor, the city's elite white population quickly turned to his successor, Governor Bernando de Gálvez, to produce more regulations regarding the free and enslaved black population. Planters first petitioned him to reopen the slave trade because *coartación* depleted the enslaved population in the city. With the Spanish crown's approval, Gálvez officially allowed slave importations from the French Guinea region in Africa starting on November 21, 1777.⁵⁶

After the initial years of the Spanish period, the elite slaveholders who headed the *Cabildo* began to realize the repercussions of the Spanish customary right of *coartación*. They ultimately resolved to rewrite the province's laws regarding enslaved people, the process by which one could be legally emancipated, and the activities in which free Africans and Afro-

⁵⁵ Din, *Spaniards, Planters, and Slaves*, 50.

⁵⁶ *Ibid.*, 69-73.

Creoles could legally participate. In 1778, the Cabildo appointed Alférez Real Francisco María de Reggio and Depositario General Joseph Ducros to draft a code of conduct for free and enslaved Africans and Afro-Creoles in the colony. These regulations, titled *Code Noir ou Loi Municipale*, limited the rights of enslaved individuals, restricted the practice of coartación, and relegated free persons of color to an inferior status to whites. Although the Cabildo's desire to restrict coartación conflicted with Catholic ideology regarding the equality of all souls before God, it did not contradict *Las Siete Partidas*, which only stated that institutions of slavery needed to be pointed toward freedom. Since other means by which enslaved people could free themselves still existed aside from coartación, Louisiana would have still technically maintained *Las Siete Partidas*. The *Code Noir ou Loi Municipale* bore striking resemblance to the repressive 1724 *Code Noir*, enacted by the French. In 1778, the voting Cabildo members approved the Spanish *Code Noir*, and sent it to Gálvez for approval. Although Gálvez typically sided with the slave-owning population in the region, he refused to send the Code to the Spanish king for approval because of a private feud he was having with the other Cabildo members.⁵⁷ Therefore, the *Code Noir ou Loi Municipale* never had legal standing in the colony despite the white population's overwhelming support for the resolution. The attempt, and ultimate failure, to enact the *Code Noir* exhibited the desire among elite slaveholders to curb the personal agency that enslaved people had because of coartación, but the occurrence also demonstrated the limited power that the elites in the Cabildo had. While many ethnically French elites in Spanish New Orleans could join the Cabildo and have a say over the daily occurrences of the city, any official laws or regulations that they passed had to be approved by governor.

⁵⁷ Din and Harkins, *The New Orleans Cabildo*, 160-61.

The 1780s brought more direct conflicts between the white and black populations in New Orleans. In 1783 and 1784, runaway slave communities, also referred to as “maroon societies,” became more prominent in the areas immediately surrounding New Orleans. A fugitive slave known as San Malo led one of the largest runaway groups during these years. Enslaved people residing on neighboring plantations provided San Malo’s band with food, guns, and ammunition that they stole from their owners. After San Malo and his group killed three American planters in 1784, residents of all socio-economic backgrounds panicked in New Orleans. The governor at this time, Esteban Rodríguez Miró, dispatched both white men and free men of color to capture San Malo and the other fugitives. When Governor Miró temporarily left the colony, one of the groups apprehended San Malo and 102 people in his group. The Cabildo punished the leaders of the group by execution and dealt out severe punishment to the other members of the band. The alarm created by the San Malo affair caused more Europeans to call on the Cabildo to enact stricter regulations for enslaved people in the colony. While the Cabildo had frequently discussed the issue of runaway slaves before the San Malo affair, this event increased these conversations and created more public support for runaway provisions. While fugitive slaves never presented as a large of a threat as they did in 1784, the event made a lasting impression on the colony’s Euro-Louisianan population.⁵⁸

Aside from the issues brought forward as a result of the San Malo affair, Governor Miró enacted relatively few legislative changes regarding free and enslaved Africans and Afro-Creoles. The regulations he did enforce had both negative and positive effects on the socio-economic standing of the city’s people of color. One positive measure occurred on June 1, 1786, when Miró officially barred slave owners from forcing the enslaved to work on Sundays. While

⁵⁸ Gilbert C. Din, “‘Cimarrones’ and the San Malo Band in Spanish Louisiana,” *Louisiana History: The Journal of the Louisiana Historical Association* 21, no. 3 (1980): 257–62.

many slave owners had already afforded this Catholic day of rest to their slaves, Miró legislatively enforced the practice on all slave owners. Furthermore, while enslaved people could not be forced to work on Sunday, they still had the ability to work for themselves if they chose to do so.⁵⁹ This regulation allowed enslaved people to use this day for their own activities, which gave many enslaved people the opportunity to accumulate the required funds to free themselves in cases of *coartación*.

Miró passed less favorable laws for free people of African descent. One restriction specifically attempted to limit African and Afro-Creole women's style of dress. Throughout the eighteenth century, the apparel that women wore during the Spanish period signified status. Therefore, women of European descent, free women of color, and enslaved women all had different styles of dress that indicated their caste designation. Free and enslaved Africans and Afro-Creoles occasionally dressed in styles that indicated higher socio-economic standings than their own in an attempt to attract high-class suitors, and thus improve their own social position. Miró restricted how free and enslaved African and Afro-Creole women could dress so that white men would not misunderstand their socio-economic status. This measure sought to regulate the rate of interracial relationships in the city, which would then limit the mixed-race population and the amount of manumissions that occurred as a result of sympathetic white men who wanted to free the enslaved women that they had coerced sex with.⁶⁰ However, Miró struggled to enforce this regulation, and women largely continued to dress in varying styles. This constituted one of the many ways in which women of African descent struggled against the elites for the ability to have influence over their own places in the city's social order.

⁵⁹ Din, *Spaniards, Planters, and Slaves*, 124-125.

⁶⁰ *Ibid.*

During Miró's tenure, the Spanish crown also tried to regulate the treatment of enslaved people in New Orleans. The 1789 *Real Cédula de su Majestad sobre la educacion, trato y ocupaciones de los esclavos* required slave owners to provide more religious rights to enslaved people, separate sexes within enslaved populations, and to stop enslaved people from working on Sundays, including to work for themselves. Planters protested these regulations, citing the dangers these rights might bring to the social order, as well as the extra costs that slave owners would have to pay to uphold these regulations. While the Real Cédula remained formally implemented in imperial law, colonial and imperial authorities did not enforce it as Spain quickly became preoccupied with the French Revolution.⁶¹

The 1790s brought a host of external turmoil that affected politics and society in New Orleans and larger Louisiana territory. Governor Francisco Luis Héctor, Barón de Carondelet had almost no awareness of the issues in New Orleans before he assumed his office. In 1791 alone, Carondelet faced the French and Haitian revolutions and dealt with increasingly violent threats levied against slave owners by enslaved Africans and Afro-Creoles.

Throughout the 1790s, Cabildo elites continued to enact various laws and regulations regarding enslaved people. In 1791, the Spanish crown relaxed slave trade regulations and allowed slave traders with permits to import slaves from Africa, Santa Fe, Buenos Aires, Caracas, Santo Domingo, Cuba, and Puerto Rico.⁶² Fearful of the instability in the Caribbean, New Orleans slave traders started to differentiate between where the slaves came from and labeled enslaved people who came directly from Africa as "bozales." When the revolt broke out in Saint-Domingue in 1791, the Cabildo feared that enslaved people imported from the

⁶¹ Ibid., 126.

⁶² Charles IV, "Royal Decree by the King of Spain Concerning the Slave Trade," 1791, Pierre Clement de Laussat Papers, The Historic New Orleans Collection: Williams Research Center.

Caribbean might attempt a similar uprising in New Orleans. The members requested that Governor Carondelet prohibit the entry of the enslaved from French colonies and British Jamaica for this reason. Carondelet agreed and petitioned the Crown to complete this request, which was approved on January 1, 1793. This decree stipulated that only *bozales* could be imported into Louisiana.⁶³ However, slave traders from the United States also bought and sold slaves in New Orleans throughout the end of the eighteenth century.

The desire among Louisianan slaveholders for enslaved people from Africa stemmed partially from the belief among slave owners that people from Africa would be more docile and submissive than enslaved people from the Caribbean or the United States.⁶⁴ During the 1790s, enslaved people increasingly threatened their owners with armed force. One such incident was the 1795 Pointe Coupée conspiracy, in which a group of enslaved men and women colluded, but ultimately failed, to kill their owners. Although the event occurred away from New Orleans, it still created panic among the city's slave-owning population. Historians diverge on the significance of the uprising, but it undisputedly created fear in the city. Europeans of all socio-economic levels called again on the Cabildo to make significant reforms to control the enslaved African and Afro-Creole population, however, they disagreed on potential solutions.⁶⁵

Class differences divided Euro-Louisianans over the laws and regulations they wanted to enact regarding enslaved people. The wealthy planters in New Orleans called for stricter regulations against runaway slaves, more police patrols, and, most significantly, a tax on slave owners to fund the various solutions they called for. Yet slave owners of lower class standing

⁶³ Din, *Spaniards, Planters, and Slaves*, 151-52.

⁶⁴ Most slaveholders felt this was true because enslaved people from Africa would most likely not know Spanish or French and would also be less familiar with the landscape in the Americas, making it more difficult for them to forge relations with free people in the province or to escape.

⁶⁵ Din, *Spaniards, Planters, and Slaves*, 153-76.

refused to pay the tax required to maintain these regulations. While the colony observed more economic growth under the Spanish, many still struggled financially, and people who owned a small number of slaves felt that the reforms only benefitted large plantation owners who had many slaves, as large enslaved populations more regularly ran away from their owners than enslaved people who did not live in large communities of other enslaved people. The proposed tax would fund not only policemen hired to capture runaways, but also to compensate owners who permanently lost slaves who had escaped. In the 1770s, the Crown ultimately ruled that the Cabildo could not implement a compulsory slave fund but could collect voluntary taxes. When the issue surfaced again in the 1790s after the Pointe Coupée conspiracy, the Cabildo voted again to make the contributions to the slave fund mandatory. Without the entire slave-owning community's support, some Cabildo members voted against the reform and the runaway slave tax remained voluntary.⁶⁶

Governor Carondelet also attempted to restrict the leisure activities and dress of free and enslaved Africans and Afro-Creoles in the colony, especially those of women. This was a response to women's attendance at the "tri-colored" balls, where whites, blacks, and mixed-race people gathered for the weekly dance and entertainment.⁶⁷ Carondelet first tried to limit who could attend the balls. He also attempted to control how women dressed for reasons similar to Miró's limitations in 1786. The Cabildo also sought to shut down the dance halls where the balls occurred to stop the growth of the mixed race and free black populations. The institution ultimately failed in trying to regulate this social event and the balls continued in the city. The Cabildo's inability to regulate the ways that African and Afro-Creole women dressed and partook in leisure activities attested to the regular struggle that these women pursued against the

⁶⁶ Ibid., 193.

⁶⁷ Ibid., 173-74.

oppressive Euro-Louisianan elites in the city. As elite officers increasingly tried to control these women's abilities to remain socially and economically mobile in New Orleans, these women fought against the regulations that attempted to limit their activities.

By the end of the Spanish period, colonial administrators more explicitly oppressed women of African ancestry in laws and regulations and less regularly targeted men of African descent. While Euro-Louisianans viewed the socio-economic success of both genders as threatening to class structure, they also understood the economic wealth that male work brought to the city. By comparison, Afro-Creole women did not engage in male professions, which meant that elites did not view them as having the same economically supporting roles as men. Instead, the white population's perception of these women as the sexual objects of white male desire, and of the children they produced during these relationships, presented more significant threats to social order in the elite's opinions.

It was the actions of African and Afro-Creole women that led to many of the legislations discussed above. The elite Euro-Louisianan men who headed the New Orleans Cabildo and the laws and regulations they implemented had a direct impact on social conditions in the city. As these men tried to bolster the first caste of Euro-Louisianans, they subordinated the second caste of free people of color with both court decisions and official laws and regulations. The customary right of *coartación*, and the agency that both enslaved and free Afro-Louisianans increasingly exercised during the Spanish period threatened the elites' desired social order. As the free African and Afro-Creole population grew, Cabildo members intentionally tried to limit their socio-economic mobility. The Cabildo reacted to Afro-Louisianan women's appearances in court with oppressive legislation, which caused these women to fight against the subjugation they increasingly experienced throughout the Spanish period. Imperial Spain remained largely

unconcerned with the social conditions of the city, and generally allowed the residents in New Orleans to shape social order in the city through official regulations. Thus, women of African descent often experienced oppression from the Cabildo during civil and criminal litigations, yet these women fought against discriminatory measures enacted against them. These struggles for power helped contribute to the complex social order that manifested in New Orleans by the end of the eighteenth century.

CHAPTER III

COARTACIÓN IN THE CABILDO

From 1769 to 1800, the New Orleans Cabildo courts interacted with free and enslaved women of African descent for various reasons, but Afro-Louisianan women's suits of emancipation quickly developed into some of the most significant of these relations. While both men and women used the courts to liberate themselves, female suits of emancipation in particular helped shape the city's social order. These women demonstrated personal agency, economic shrewdness, and an overall determination to improve their own socio-economic standings during trial proceedings, causing the city's elites to grow increasingly concerned with the impact that these cases had on New Orleans society. These men responded to enslaved women's activities in the Cabildo with increasing attempts to maintain the stratified social order that they desired by restricting female avenues to freedom and limiting the social mobility of African and Afro-Creole women.

The agency that enslaved women demonstrated in the courts helped facilitate the formation of the three-caste society in New Orleans by the end of the eighteenth century. This social order roughly stratified people of European descent at the top, free people of color in the middle, and enslaved people at the bottom.¹ From 1769 to 1800, the Cabildo courts oversaw eighty-three cases of emancipation regarding enslaved women and sixty-nine of those suits resulted in liberation.² While these women's cases did not constitute a majority of the enslaved

¹ Spear, *Race, Sex, and Social Order in Early New Orleans*, 101, 178-214; Lachance, "The Formation of a Three-Caste Society," 211-42; Foner, "The Free People of Color in Louisiana and St. Domingue," 406-30.

² "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the SJR of Louisiana," trans., Laura L. Porteous, *The Louisiana Historical Quarterly* 6-18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The Works Progress Administration, New Orleans State Museum Library, LHC, vols. 108-149. Kimberly Hanger concluded a similar

female population, they nevertheless appeared consistently in Cabildo courts and collectively contributed to the growth and power of the free black population in New Orleans. When Spain asserted formal control over Louisiana, New Orleans had a population of approximately ninety-seven free people of African descent. By 1788, that number grew to 820. By the end of the eighteenth century, 1,566 people made up the free black population, which constituted nearly one-fifth of New Orleans's total populace.³

As the second caste developed, so did its economic power and subsequent influence over social relations. Naturally, men contributed to this growth as well, however, women more directly sustained this population in three main capacities. First, they gave birth to children fathered by men of African and/or European descent. While a child born into slavery was not automatically free when his or her mother freed herself, many mothers petitioned for both their own liberation and those of their child or children. These children and the children born to free Afro-Louisianan mothers all contributed to the free African and Afro-Creole population and often went on to have children of their own who further augmented the second caste. Second, the labor that recently freed women of African descent performed bolstered the economic influence of the free black community. Free African and Afro-Creole women constituted the primary grocers, retailers, and shopkeepers in the city, which the city's Euro-Louisianan population increasingly came to rely on.⁴ Finally, African and Afro-Creole women appeared regularly in suits of emancipation in an attempt to liberate themselves, but they also petitioned the courts consistently for the liberation of their enslaved children, and other consanguine, affinal, or fictive

figure in *Bounded Lives, Bounded Places*. She concluded that 92 tribunal cases of emancipation occurred from 1769-1803. My study spans from 1769-1800, which explains the difference in numerical findings.

³ Hanger, *Bounded Lives, Bounded Places*, 22; Foner, "The Free People of Color in Louisiana and St. Domingue," 406–12. Foner states that the free black population grew from 165 people in 1769 to 1,175 people by 1785 for the entire Louisiana region.

⁴ This topic is more thoroughly explored in chapter 4.

family members of African descent.⁵ For these reasons, suits of female emancipation increasingly garnered attention and contempt from the city's elite population of European ancestry.⁶

From the perspective of the elite men who served in the Cabildo, one of the most concerning aspects of suits of female emancipation was their intermittent exposure of illicit interracial relationships. According to Spanish law, any sexual relationship between a man of European ancestry and a woman of color was illegal. However, these relationships occurred throughout the Spanish period and seem to have been at least partially visible in New Orleans public life.⁷ Both the law and elite men sought to eliminate any public awareness of sexual relationships between male slaveholders and enslaved women. When women enslaved as concubines appeared in suits of emancipation, they revealed the unpredictability of the power dynamics between slaveholders and the enslaved. Cabildo officials also viewed any children born from, and later freed, as a result of these relationships as a challenge to the social order because they often augmented the city's free population of color and challenged the power dynamics between slave owners and the enslaved.⁸

White elites did not view men of African descent as posing the same challenges to the social order that women of African descent did. This was due in part to the fact that men less frequently initiated suits of emancipation. Enslaved men initiated only forty-four petitions for emancipation during the entire Spanish period, and nearly half of these suits occurred during the

⁵ "Spanish Judicial Records," LHC, <http://www.lacolonialdocs.org/search>; Porteous, "Abstracts of the Spanish Judicial Records of Louisiana," *LHQ: Spanish Colonial Index Books*, LHC Library Collection, New Orleans. Approximately half of the total amount of successful emancipations of men of African descent in the courts were petitioned by free African and Afro-Creole women.

⁶ Hans W. Baade, "The Law of Slavery in Spanish Luisiana, 1769-1803," in *Louisiana's Legal Heritage* (Pensacola: Perdido Bay Press, 1983), 47. The spelling "Luisiana" is the author's own.

⁷ Jack D. L. Holmes, "Do It! Don't Do It! Spanish Laws on Sex and Marriage," in *Louisiana's Legal Heritage* (Pensacola: Perdido Bay Press, 1983), 23-27.

⁸ Holmes, "Do It! Don't Do It!," 27.

1790s. Therefore, elite white men did not encounter instances of male suits of emancipation as soon as, or as regularly as they did female suits. In addition to the smaller number of cases, enslaved men evidently did not engage in interracial relationships at the same rate that enslaved women. Finally, the Cabildo intentionally used free men of African descent to maintain the social order they desired. The Cabildo hired and instructed small groups of free African and Afro-Creole men to capture and return runaway slaves to the city. Cabildo officials also enlisted these men in compulsory militias to protect the colony from internal and external threats. The authoritative role that the Cabildo gave to certain free men of color maintained the social hierarchy between enslaved and free Africans and Afro-Creoles in New Orleans. As a result, elite men were more tolerant of male liberation because the freed men helped regulate enslaved people.⁹ Therefore, men of African descent did not encounter the same hindrances in the Cabildo courts that women of African descent did by the end of the eighteenth century.

⁹ Hanger, *Bounded Lives, Bounded Places*, 109-35.

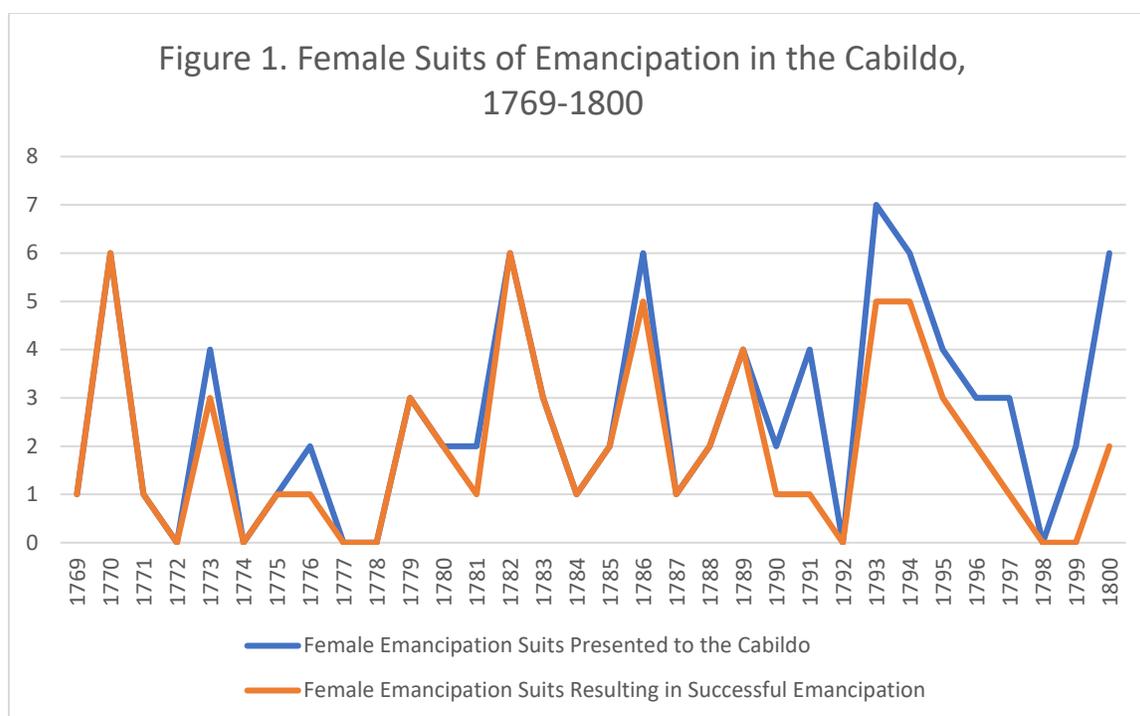


Figure 1: Female Suits of Emancipation in the New Orleans Cabildo, 1769-1800. Sources: “Spanish Judicial Records,” RG 2, LHC’s Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; “Abstracts of the SJR of Louisiana,” trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 108–149.

The volume, length, and intensity of female suits of emancipation fluctuated throughout the Spanish period (see Figure 1). During the first few years of Spanish authority, the courts predominantly managed suits of succession that liberated enslaved women in written wills. For the rest of the 1770s, and throughout the 1780s and 1790s, the courts mainly heard suits of emancipation that enslaved women, or their consanguine, affinal, or fictive kin, brought against resistant legal owners. During the 1790s, Cabildo members gradually limited enslaved women’s socio-economic mobility by making female suits of emancipation more meticulous, more lengthy, and more costly.¹⁰ By the mid-1790s, the number of successful female emancipation suits noticeably declined.

¹⁰ Spear, *Race, Sex, and Social Order in Early New Orleans*, 120-22.

The initial suits for freedom that entered Cabildo courts mainly involved cases where legal owners willingly liberated the enslaved females they owned. Some of these slaveholders instituted court proceedings to prove legal ownership of the enslaved women so that they could free them by notary. Other cases involved enslaved women gaining their freedoms in suits of succession after their legal owners died. In some instances, the deceased owner's will freed an enslaved woman who belonged to his or her estate. The remaining trials of succession that resulted in emancipation involved the heirs of an estate liberating an enslaved person. An instance of this occurred on July 12, 1770, when the children of Mariana Hervieux inherited Hervieux's estate. After the heirs assumed Hervieux's property, they freed her forty-five-year-old slave, Angelica, and cited her faithful service as their reasoning for doing so.¹¹ As the initial years of the Spanish period came to an end, enslaved women began obtaining their freedoms through alternate avenues, especially as more women became familiar with the customary practice of *coartación*.

Once enslaved people became more aware of the new laws implemented by the Spanish, and specifically of the customary right of *coartación*, they began to exercise it in the courts. During the mid- to late-1770s, enslaved women, or their consanguine, affinal, or fictive kin brought many cases of emancipation before the Cabildo. One of the first such female suits for freedom occurred on June 25, 1773, when an enslaved woman named Catalina appeared before presiding judge and governor Luis de Unzaga y Amezaga's court requesting emancipation for herself and her five-year-old daughter, Felicité. Catalina's legal owner, Jean Bautista Destrehan, had died in March 1771, leaving Catalina and her daughter enslaved in his estate. Étienne Boré

¹¹ [*Emancipation: Mmes. Grandpré Villemont, etc. free a negress, Angelica*], July 12, 1770, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 6, no. 3 (1926): 515; [*The heirs of Donna Mariana Hervieux emancipated Anglica for faithful service*], July 12, 1770, *Spanish Colonial Index Books* 1, LHC Library Collection, (LSM: 1994), 49.

assumed legal control over the estate after Destrehan's death and appeared in the trial records as the defendant in Catalina's suit. Catalina asserted her right to freedom on the grounds that she had become perpetually ill as a result of her service to Destrehan, and that the monetary funds that she would give in exchange for her freedom could be used by the Destrehan estate to buy a more able-bodied slave. She then produced a letter written by Gabriel Fazende, a white male involved in the estate, which stated that he agreed with her petition for freedom. On September 30, 1773, Boré submitted a formal note to the Cabildo that declined Catalina's request and stated that he would not grant her emancipation under any circumstances. He believed that she purposely made herself ill to decrease her value so she could attain her freedom more easily. Boré further cited that the succession of Don Juan Bautista Destrehan did not allow him to dissolve any of the estate's property.

Catalina responded in Unzaga's court on October 2 and restated the divine and human law inherent in coartación to bolster her claim for freedom. Two days later, Unzaga ruled that Boré had three days to appraise Catalina and Felicité. Boré contested his decision and argued that Catalina lied about her service and ailments. However, Unzaga ultimately ruled against Boré and asked him to appoint an appraiser to evaluate the two enslaved females. Catalina protested the original appraisal of 450 pesos and asked Unzaga to appoint a court sanctioned appraiser, which he approved. The appraiser valued them at 320 pesos total and on November 6, 1773, Boré granted Catalina and Felicité their letters of manumission in return for 320 pesos.¹²

Catalina may have acquired the funds to pay Boré through multiple different avenues. Spanish regulations allowed enslaved people to rent themselves out to people other than their

¹² [*Catarina v. Estate of Juan Bautista Destrehan*], June 25, 1773, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana, *LHQ* 9, no. 3 (1926): 556-59; [*Suit by Slave to purchase emancipation*], June 25, 1773, *Spanish Colonial Index Books* 3, LHC Library Collection (LSM: 1994), 70; *Manumission of Catalina and Felicité*, November 6, 1773, notary of Almonaster y Roxas v. 3, folios 287-290.

slaveholders with the legal owner's permission, sell the foodstuffs they grew or the goods they made, and prohibited slave holders from forcing enslaved people to work on Sundays. Few slaveholders protested to their enslaved peoples engaging in self-sustaining activities because it often meant that they did not have to pay for food or clothes for the enslaved. Many enslaved women grew, made, and sold food and goods and rented their labor during their free time, which allowed them to accumulate the money they needed to become free through *coartación*. When a woman did not have enough funds from her personal labor, she also had the ability to take out a loan through one of the city's creditors.¹³ Unfortunately, the court records did not document how Catalina acquired the 320 pesos sum, but she used at least one, and possibly even all, of these means to pay for her freedom.

Catalina's trial exemplifies many aspects of a typical successful female suit of emancipation during the Spanish period. First, it demonstrated an instance where an enslaved person had a clear understanding of the Spanish custom of *coartación*. Catalina not only asserted her right to petition the court, but also her right to a fair trial and appraisal. Second, by winning her daughter's freedom, Catalina demonstrated that familial kin could successfully obtain the liberation of a family member using *coartación*. Both females freed during this suit added to the budding free black population. Third, Catalina experienced resistance by a white male elite, Étienne Boré. While Boré did not formally own Catalina, and only managed the estate she belonged to, this trial set an important precedent for the power dynamics between elite white men and enslaved women in New Orleans. Both slaveholders and the elite men in power worked to keep enslaved women in bondage as these women increasingly fought for their liberation.¹⁴

¹³ Johnson, "New Orleans's Congo Square," 122-32; Hanger, *Bounded Lives, Bounded Places*, 34-45.

¹⁴ Spear, *Race, Sex, and Social Order in Early New Orleans*, 59, 100-01; Din and Harkins, *The New Orleans Cabildo*, 69. Étienne Boré, sometimes referred to as Estevan or Esteban Boré, was the first person in New Orleans to

The elites depended on non-slaveholding men of European descent to maintain enslaved populations, which meant that during trials of emancipation, enslaved women often fought against not only the men or women who owned them, but also other people of European descent who wanted to preserve their enslaved statuses. Catalina's suit required her to not only prove the veracity of her own claims, but also to disprove those of a Euro-Louisianan man of prominent standing. It is difficult to determine why many women, such as Catalina, were successful in their suits of emancipations, while others were not. Catalina's determination to free herself and knowledge of Spanish law certainly helped her in her pursuits. Yet, women who did not achieve freedom through suits of *coartación* also exhibited these qualities during their trials. Often it was the taxingly long and complicated cases enacted by the Cabildo that resulted in a woman's inability to be freed during suits of emancipation. Catalina's suit marked the first of many courtroom battles in which women of African descent took action in order to improve their social status. This sparked an approximately thirty-year history in which the city's elites battled with the enslaved and free women of African descent for the authority to decide what parts of the New Orleans social order that these women could occupy and which they could not.

Unlike Catalina, not all enslaved women succeeded in the Cabildo courts. One of the most significant of these failed suits of emancipation occurred on February 28, 1776. The suit, brought by an enslaved woman named Maria Juana, constituted one of the first actions by an Afro-Louisianan woman that led to the Cabildo's most blatant attempt to limit the rights of enslaved and free Africans and Afro-Creoles.

When Maria Juana, an enslaved woman belonging to Juan Suriray La Rue, initiated proceedings for her liberation, she informed the court that Suriray originally purchased her when

successfully crystalize sugar from an immature sugar cane which became a major cash crop in New Orleans. He also served the Cabildo as an Alcalde Ordinario de Segundo Voto in 1784.

he was a bachelor. Maria Juana stated that her legal owner had recently married a woman of European descent, and that he abused her horribly after his marriage. This, she argued, qualified her for manumission without having to pay compensation, however, she was still willing to pay 450 pesos for her freedom. After presiding judge Unzaga ruled her eligible for emancipation, Suriray appeared before the court to challenge the decision. He argued that her claims of cruelty were unsubstantiated and further accused her of attempting to run away with the English ship captain Edward Jenkins.¹⁵ Suriray then filed a suit against Jenkins for harboring a fugitive slave. Upon hearing Suriray's testimony, Unzaga suspended his ruling until the court decided on Suriray's case against Jenkins.¹⁶

During the *Suriray v. Jenkins* trial, Suriray asked the Cabildo to imprison Maria Juana because she was previously a fugitive and presented a flight risk. The Cabildo agreed to jail her, but she escaped the following Saturday evening, only to be apprehended later during trial proceedings. Suriray accused Jenkins and Mariana Deslattes, a free black woman traveling with Jenkins, of conspiring to hide Maria Juana as a fugitive and asked the Cabildo to imprison them both. Jenkins then fled to his ship docked on the Mississippi to evade arrest, while Deslattes went to jail. On March 27, 1776, Deslattes bargained with the Cabildo and gained her freedom in exchange for her testimony in the trial. After this, she appeared in the records as a witness rather than as a co-defendant with Jenkins.

On April 1, 1776, Jenkins hired Francisco Broutin as his attorney and provided his testimony. Jenkins recalled his first meeting with Maria Juana and stated that after she had told

¹⁵ According to Cabildo records, Jenkins was a retired Captain of the British Infantry, in the 112th Regiment, and resident of New Orleans.

¹⁶ [*Maria Juana, a negress, Juan Suriray's slave, petitions that her master draw up her letter of emancipation at the price of her valuation*], February 22, 1776, Abstracts of the SJR of Louisiana, published in the *LHQ* 11 no. 2 (1928): 338-340; [*Suit for emancipation from slavery on grounds of cruelty*], February 22, 1776, *Spanish Colonial Index Books* 5, LHC Library Collection (LSM: 1994), 14.

him of the abuse she sustained by her owner, he offered to buy her from Suriray for 450 pesos. Suriray then informed Jenkins that he would sell her for no less than 600 pesos, which Jenkins declined to pay. Jenkins claimed that he did not communicate with Maria Juana after this and that she approached the governor's court on her own volition.

Suriray responded by producing witnesses who claimed that Jenkins conspired to harbor a fugitive. This led Jenkins to expose the true nature of Suriray's relationship with Maria Juana in court. Jenkins produced numerous witnesses who supported the claims that Suriray had enslaved Maria Juana as a concubine before he married his wife and continued to severely mistreat Maria Juana after the marriage. After testimonies ended, both Suriray's and Jenkins's attorneys asked Unzaga to make a ruling on the case. He denied their requests on the basis that his lawyer had left New Orleans, rendering him unable to make an informed decision on the proceedings. Unzaga ultimately resolved to send the case to the higher courts in Havana for a verdict.

Approximately one year later, on May 23, 1777, Governor Bernardo de Gálvez, who had since assumed Unzaga's position as governor during the trial's intermediary period, received the decision from Havana. The higher courts ruled that Edward Jenkins had proved his case, while Juan Suriray had not. The document stipulated that Suriray pay all the costs of the court proceedings and draw up a letter of emancipation for Maria Juana for the price of 450 pesos. It also stated that if Maria Juana could not pay the cost of her freedom, that she be sold to another slaveowner to prevent any further abuse at Suriray's hands. Governor Gálvez acceded to all the rulings except that of Maria Juana's emancipation. He stated that the regular customs of Havana did not apply to the Louisiana colony, and therefore he did not have to enforce Maria Juana's emancipation. Maria Juana protested Gálvez's decision by citing the divine and human laws that

permitted her freedom, but Gálvez ignored her request and declared that she must remain enslaved under Suriray.¹⁷ There is no evidence to suggest that Suriray ever liberated, or sold, Maria Juana, suggesting that she stayed enslaved to him for the rest of her life.

The exposure of Maria Juana's forced sexual relationship with Suriray, her subsequent pursuit of freedom, and her actions in the Cabildo courts, alerted Cabildo members to the potential threat that women exercising their right to *coartación* could pose to New Orleans social order. Her suit exposed how enslaved people could undermine their owners by using the judicial system, and how other free women of color could enhance their cases with eyewitness testimonies, both of which unsettled the power dynamics between slaveholders, the free African and Afro-Creole populations, and the enslaved. Governor Gálvez quickly addressed these issues in the Cabildo.¹⁸ His reaction to this trial resulted in one of the most explicit attempts by the Cabildo to restrict the rights of enslaved and free people of African descent in New Orleans.

In response to this case, Gálvez resolved that the Cabildo needed to create a new body of laws and regulations for New Orleans that did not include the customary practice of *coartación* to keep people of African ancestry subordinated in society.¹⁹ Other suits involving free women of African descent, that will be explored later, also influenced Gálvez's decision, but the *Suriray v. Jenkins* trial especially concerned the governor, which ultimately resulted in the drafting of the Code Noir ou Loi Municipale.²⁰ The code, composed by Alférez Real Francisco Mariá de Reggio and Depositario General Joseph Ducros, attempted to implement new regulations that would have restricted enslaved people from holding property, contracting or receiving inheritances,

¹⁷ [Juan Suriray de la Rúa v. Eduardo Jenkeins of the Ship Louisiana], February 28, 1776, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana, *LHQ*, 11 no. 2 (1928): 340-352; [Civil and Criminal Suit against Englishman for alienation of slave], February 28, 1776, *Spanish Colonial Index Books 5*, LHC Library Collection (LSM: 1994), 64.

¹⁸ Din and Harkins, *The New Orleans Cabildo*, 161; Baade, "The Law of Slavery in Spanish Luisiana, 1769-1803," 64.

¹⁹ Din, *Spaniards, Planters, and Slave*, 77-79.

²⁰ For the other cases that influenced the drafting of the code noir, see chapter 4.

appearing as witnesses in court trials, and, most significantly, from standing in civil litigations. The code also invalidated self-purchase and restricted notaries from drawing up letters of manumission. Furthermore, it specifically restricted free and enslaved women of African descent from wearing clothing styles that white women typically wore.²¹ The Cabildo distributed a draft of the code to elite planters in New Orleans for approval. After the Cabildo adjusted various components of the Code based on the feedback it obtained from the planters, the governmental institution invited all wealthy men of European descent in the city to a final meeting on March 1, 1779. They collectively approved all provisions that restricted the rights of people of African descent in New Orleans. To the surprise of many in the city's elite population, the governor then refused to send the code to the Spanish king for final approval. Despite enthusiastic support from European planters, as well as Gálvez's own role in instigating the drafting of the code, the governor declined to send the body of regulations because of a private feud that he was then engaged in with the other voting members of the Cabildo. As a result, the code never became law in New Orleans and the customary right of *coartación* remained.²² This constituted one of the first efforts of Cabildo officials to ensure that women of African descent could not have influence over their own place in the city's social order, and it was specifically the actions of Maria Juana, and other free Afro-Louisianan women, that generated their anxieties. A successful enactment of the code would have theoretically restored the power dynamics between

²¹ Baade, "The Law of Slavery in Spanish Luisiana, 1769-1803," 65.

²² Din and Harkins, *The New Orleans Cabildo*, 60-61; *Actas y Deliberaciones del Cabildo*, Book I vol. 1, Meeting Minutes, page 243, February 13, 1778, Book I vol. 1, Meeting Minutes, page 255, October 16, 1778, Book I vol. 1, Meeting Minutes, page 266, February 1779, Book I vol. 1, Meeting Minutes, page 267, February 26, 1779, Reel #91-11 [Spanish Transcriptions and English Translations], Records of the City Councils, Louisiana Archives/City Archives & Special Collections, New Orleans Public Library; Din, *Spaniards, Planters, and Slaves*, 77-79; Baade, "The Law of Slavery in Spanish Luisiana, 1769-1803," 66-67. Historians are now aware that Gálvez never sent *Code Noir ou loi Municipale* to Spain. Earlier scholarship, such as Ingersoll's 1995 article, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," stated that he was unclear as to if the Code was put into law or not. He noted the need for speculation in his conclusions. Baade also stated his uncertainty, but ultimately argued that it was never actual law in the colony.

slaveholders and the enslaved that female suits of emancipation destabilized, which would have consequently limited the growth of the free black community.²³ Although their implementation of this law failed, they continued to try and oppress women throughout the Spanish period using alternate avenues.

Although the Code never became law, it nevertheless appears to have hindered female appearances in the Cabildo courts.²⁴ In the years during and immediately following the Code's drafting, few women petitioned the courts for emancipation (see Figure 1). It is unclear if this was a coincidence, or if the Cabildo's circulation of the Code among slaveholders led some people to believe that it was official law in the colony. Despite the initial decrease in suits of emancipation, the decline proved temporary as the highest number of successful suits for liberation occurred during the second half of the 1780s. It is possible that the initial publicization, and subsequent failure to officially sanction Code Noir ou Loi Municipale, alerted more enslaved people to their legal rights. From 1780 to 1789, the Cabildo received twenty-nine petitions for female emancipation, 93 percent of which resulted in trials that led to the enslaved woman's liberation. Of these suits, women acting on their own volition initiated 52 percent of these cases. The familial kin of African and Afro-Creole women, whether consanguine, affinal, or fictive, brought another 31 percent of these cases to the Cabildo. Suits of succession that freed an enslaved woman made up the remaining 10 percent of the successful trials during this period.²⁵

²³ Spear, *Race, Sex, and Social Order in Early New Orleans*, 102-109; Ingersoll, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," 47-51; Baade, "The Law of Slavery in Spanish Louisiana, 1769-1803," 65-66.

²⁴ According to the existing court documents, both enslaved and free women of African descent did not petition the Cabildo courts as regularly as they had in the 1770s or the mid- to late-1780s.

²⁵ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 14-18 (1923); *Spanish Colonial Document Index Books* vols. 7-25 (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 123-142.

Even during the 1780s, enslaved women met obstacles during their pursuits for freedom. Many women who fought for their liberation during the 1780s operated under the fear that their owners would seek violent retribution against them during trial proceedings. One suit that exemplified this concern began on September 4, 1782, when a forty-three-year-old woman named Maria Theresa petitioned the court of Judge Jacinto Panis for her freedom. During her initial meeting, she appointed an appraiser for her own evaluation, asked the court to notify her legal owner – Madame Desruiiseau – to name the appraiser that would work on Desruiiseau’s behalf, and asked Panis to prevent Desruiiseau from punishing her, beating her, or imprisoning her during the court proceedings. The trial records do not reveal if Maria Theresa’s fear was substantiated, or if Maria Theresa filed the petition as a precaution after hearing of other slaveholders punishing their slaves during suits of emancipation. It was most likely a combination of both factors. Regardless, the trial records do demonstrate that Desruiiseau frequently beat Maria Theresa and even forcibly confined her to her bed during the proceedings, despite Panis’s approval of Maria Theresa’s initial petition.²⁶ Desruiiseau’s actions illustrate one of the ways in which slaveholders reacted to the actions of their enslaved people petitioning for their liberation. Desruiiseau was likely embarrassed by Maria Theresa’s public display of defiance against her authority and sought to physically harm and restrict her in the hopes that she would abandon her pursuit. Yet Maria Theresa persisted against her owner’s subjugation and ultimately freed herself using the courts.

Maria Theresa’s trial also showcased how some Cabildo decisions sought to protect slaveholder property. One week after Maria Theresa’s initial petition, Panis ruled that

²⁶ [*Maria Theresa, a slave of Madame Reuso, petitions to be granted her freedom*], September 4, 1782, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana, *LHQ* 19, no. 2 (1936): 512-515; [*Suit by negress for purchase of emancipation from slavery*], September 4, 1782, *Spanish Colonial Document Index Books* 9, LHC Library Collection (LSM: 1994), 93.

Desrussieau had waited too long to appoint an appraiser and proclaimed that Desrussieau had to emancipate Maria Theresa based on the value that Maria Theresa's appraiser had already evaluated. Desrussieau quickly appeared before the court and protested Maria Theresa's emancipation. Panis decided a second time that Desrussieau waited too long to appear in court, yet the trial records show that Panis changed his decision almost immediately and allowed Desrussieau to name an appraiser. Panis also permitted Desrussieau to appeal for an additional payment from Maria Theresa on Desrussieau's unsubstantiated claim that Maria Theresa had been a fugitive for the previous sixteen months. In total, Maria Theresa paid 749 pesos and five reales to Desrussieau by the end of the trial. If Panis had maintained his original ruling, she would have only been required to pay 500 pesos for her freedom.²⁷

Panis's initial decision in favor of Maria Theresa, followed by a contradicting verdict in support of Desrussieau, was a direct result of the conflicting commitments of most Cabildo members. On the one hand, as agents of the court, judges had to uphold imperial policy and law, but on the other hand, most members desired to create a social order that benefitted them at the expense of subordinating African and Afro-Creole women. The results of these conflicts manifested differently in the various trials that occurred in the 1780s, sometimes to the disadvantage of enslaved petitioners like Maria Theresa. While some Cabildo officials only tried to suppress women's socio-economic abilities through governmental legislation, others sought to do so using the court cases themselves. Once the 1790s began, and women of African descent became more socially and economically formidable, the elite men in power more cohesively

²⁷ [*Maria Theresa, a slave of Madame Reuso, petitions to be granted her freedom*], September 4, 1782, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana, *LHQ* 19, no. 2 (1936): 512-515; [*Suit by negress for purchase of emancipation from slavery*], September 4, 1782, *Spanish Colonial Document Index Books* 9, LHC Library Collection (LSM: 1994), 93; *Emancipation of Maria Theresa*, November 7, 1782, notary of Rafael Perdomo v. 13, folios 409-410.

concentrated their efforts at stopping the social mobility of these women. Yet, the failure to eradicate the customary right of *coratación* meant enslaved women could always utilize this avenue to freedom with enough legal knowledge and financial resources, despite the Cabildo's oppression.

Regardless of how much determination an enslaved woman had to liberate herself, she needed either her own economic assets, or the ability to take out a loan from a creditor, to logistically emancipate herself from a resistant owner. The surviving court documents reveal that women who directly petitioned the Cabildo for their own freedom during the 1780s on average paid 550 pesos for their emancipation. Women obtained these funds by selling their self-produced foodstuffs and goods, renting themselves out as paid labor, and even by obtaining loans from creditors.²⁸ Although there are no written records that clearly determine how long it took women to acquire these funds, free women of color earned approximately eleven pesos per month. Enslaved women most likely earned less than free women, making the accumulation of these funds extremely difficult.

While some women paid the full amount for their liberation, not all enslaved women had to personally acquire the funds for their manumission. Throughout the Spanish period, many women had free relatives in New Orleans who petitioned the Cabildo courts on their behalf.²⁹ As these networks grew, suits of emancipation filed by free African and Afro-Creole family members steadily increased through the 1790s. The women, men, and children freed as a result of these trials augmented the size and economic power of the free black community. Thus, it was not only the actions of Afro-Louisianan women to free themselves, but also those of their loved ones that remained important in improving the second caste of free people of color. As these

²⁸ Johnson, "New Orleans's Congo Square," 122-32; Hanger, *Bounded Lives, Bounded Places*, 34-45.

²⁹ Din, *Spaniards, Planters, and Slaves*, 243; Hanger, *Bounded Lives, Bounded Places*, 47.

women helped others emancipate themselves through the courts, they created mutually reliant communities among Africans and Afro-Creoles that proved important in creating cultural cohesion among free Afro-Louisianans, and in solidifying the three-caste society in New Orleans.

A free man of African descent named Francisco Dorville, and his enslaved sister Tonton, demonstrated the power of African and Afro-Creole familial networks during the 1780s. On December 9, 1786, Dorville instituted proceedings to liberate Tonton. During the trial, Joseph Valliere, Tonton's legal owner, vehemently resisted her manumission. He argued that Tonton had invaluable medical knowledge and that he needed her to maintain his health. Dorville responded by citing the divine and human laws inherent in coartación, which resulted in the court granting Tonton's emancipation in return for 1,000 pesos.³⁰ It is likely that the appraisers estimated Tonton as highly as they did because they also viewed her medical expertise as valuable. Just as many other enslaved women, Tonton would have had the ability to rent her services out to people other than her legal owner during her enslavement, which may have enabled her to pay for her own freedom at the time of her manumission. After Tonton freed herself, she then initiated a suit on January 17, 1789, to free her sister, Feliciana, from her legal owner, Beltran Gravier.³¹ The trial resulted in Feliciana's emancipation for 800 pesos on January

³⁰ [*Proceedings Instituted by Francisco Dorville, for the purpose of obtaining the freedom of his relative the negress slave named "Tonton" owned by Joseph Vallier*], December 9, 1786, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC vol. 132, (Doc # 1449, Box 47, File #59); [*Practicados por Francisco Dorville sobre que se estime suparienta nombrada Tonton esclava de Don Josef Vallier para que obtenga su Libertad*], December 9, 1786, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/document/15129>; [*Suit by officer to purchase the emancipation of his relative*], December 9, 1786, *Spanish Colonial Index Books 15*, LHC Library Collection (LSM: 1994), 130; *Manumission of Tonton*, December 26, 1786, notary of Rafael Perdomo, vol. 7, folios 667.

³¹ As most enslaved people did not have a last name, some speculation is necessarily involved in this conclusion. Some names of enslaved females appear too frequently to differentiate between women, the name Tonton was relatively unique. The combination of trial records, notarial records, and genealogy records support this conclusion.

30, 1789.³² Dorville's financial assets, combined with Tonton's medical expertise, likely allowed them to pay for the costs of the emancipations and court proceedings. Dorville and Tonton's legal acumen and financial wealth enabled them to free multiple family members, which exhibited the benefits of strong family relations. Once Tonton became legally free, she could turn her medical expertise into a financially fruitful profession, which not only helped sick people in New Orleans but also permitted her to accumulate enough funds so she could afford to emancipate her sister. This elevated Tonton and Feliciana into the second caste, but also enabled them to be seen as having a higher social standing within that caste because of the considerable financial wealth they exhibited during trial proceedings.

As the free black population grew, so did their socio-economic influence because of women like Tonton and Feliciana. While men and women of African descent both sustained these networks, women especially maintained them through their actions in the courts. Some men did approach the court on behalf of a relative, like Dorville, yet free women did so more regularly. Out of the thirty cases of female emancipation petitioned by family members during the entire Spanish period, female relatives submitted 60 percent of the petitions.³³ On average, suits of emancipation made by a third party paid 700 pesos for the enslaved person's freedom.

³² [*Proceedings Instituted by Tonton (free negress) for the purpose of obtaining the freedom of her sister Feliciana, a slave of Beltran Gravier*], January 17, 1789, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC, vol. 139, (Doc # 1976, Box 53, File #154); [*Suit for the appraisal of slave for purpose of purchasing her freedom*], January 17, 1789, *Spanish Colonial Index Books 20*, LHC Library Collection (LSM: 1994), 20; *Manumission of Feliciana*, January 30, 1789, notary of Rafael Perdomo, vol. 13, folio 37; "Feliciana in the Louisiana, Freed Slave Records, 1719-1820," Afro-Louisiana History and Genealogy, 2000. <https://www.ibiblio.org/laslave/fields.php/>.

³³ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 108–149.

In response to Afro-Louisianan women's appearances in the courts, elite planters in New Orleans less commonly left wills that emancipated enslaved women during the 1780s and 1790s than they had during the 1770s. Those who did tended to free the enslaved women they interacted with on a regular basis and did not liberate all of the enslaved people they owned. This occurred in the 1784 succession suit of Jacques Lorrains. Lorrains's will freed two enslaved women, Margarita and Maria Adelaida, but kept ten other people in the estate in bondage. As with succession suits in the 1770s, Margarita and Maria Adelaida had to petition the court directly to receive their letters of emancipation.³⁴ If they did not petition the court, they would have most likely remained enslaved because it is probable no one else would have notified the Cabildo of their emancipation. Thus, even in cases of succession, enslaved women had to be especially aware of their legal rights under Spanish law in the 1780s and 1790s when the men who headed the Cabildo more directly sought to limit their socio-economic mobility.

While the majority of failed emancipation suits occurred in the 1790s, two women, Maria Saly and Cecilia, failed to emancipate themselves in the 1780s. Maria Saly's petition on January 23, 1781, cited abuse and theft at the hands of her owner, Matheo Parin. Parin refuted Maria Saly's allegations and called two witnesses to support his claims. Presiding Judge Panis ultimately ruled in favor of Parin. The court, not wanting to reveal situations of abuse that undermined the slaveholder-enslaved power dynamics, additionally sentenced Maria Saly to perpetual silence without providing a justification for doing so, meaning that she could never

³⁴ [Succession of Juan Santiago Llorens (alias) Tarascon. Inventory, Appraisal and Partition of the estate among the legal heirs], June 30, 1784, trans. WPA *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, Louisiana Historical Collection, vol. 127 (Doc # 959, Box 42, File #138); [Succession], June 30, 1794, *Spanish Colonial Index Books* 11, LHC Library Collection (LSM: 1994), 55; *Manumission of Margarita*, July 10, 1794, notary of Rafael Perdomo vol. 3, folio, 275; *Manumission of Margarita*, July 15, 1784, notary of Rafael Perdomo vol. 3, folio, 276.

petition the court for her freedom again.³⁵ Cecilia also lost her case in August 1786 when the court refused to uphold the will that formally emancipated her. Governor and presiding judge Esteban Rodríguez Miró ruled in favor of the estate and refused to grant Cecilia her freedom on the grounds that the succession of the deceased was insolvent.³⁶ These cases constituted two of the most blatant instances in which the courts tried to oppress enslaved women to protect slaveholders' status, and to ensure that the enslaved woman could not have influence over her own place in the social order. Although suits such as these were rare in the 1780s, it is likely that elite men used these decisions as a model for the more oppressive rulings they increasingly handed out in the 1790s. The legal actions of women like Maria Saly and Cecilia, unfortunately, kept them subordinated in the social order as they lost the struggle for power against the elite men involved in their trials.

Interestingly, the Cabildo had an opportunity to limit the activities of enslaved women that allowed them to free themselves but decided against it to protect the financial wealth of the first caste of Euro-Louisianans. In 1789, the Spanish crown issued to all its colonies the *Real Cédula de su Majestad sobre la eduaión, trato y ocupaciones de los esclavos*, which instructed slaveowners on how to manage enslaved people. The first article forbade enslaved people from working on Sundays and prohibited them from owning their own clothes, growing their own food, and visiting plantations and dances, making them entirely dependent on their legal owners.³⁷ If New Orleans planters abided by this law, enslaved women would have been

³⁵ [Maria Luisa Saly vs. Matheo Parin Called Canon, Her Owner], January 23, 1781, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana, *LHQ* 15, no. 3 (1932): 546-48; [Suit for emancipation from slavery], January 23, 1781, *Spanish Colonial Index Book* 8, LHC Library Collection (LSM: 1994), 21.

³⁶ [Proceedings Instituted by Zecilia, a mulatress belonging to Don Andre Dumont, for the Purpose of Obtaining Her Freedom], August 2, 1786, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC, vol. 132, (Doc # 1352, Box #46, File #2826).

³⁷ Johnson, "New Orleans's Congo Square," 133; Ingersoll, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," 55-6.

restricted from the means of production that allowed them to earn enough money to emancipate themselves. However, the majority of slaveholders could not, or did not want to, pay to clothe and feed the enslaved people they owned.³⁸ Thus, the city's elite population resolved to ignore this body of laws to preserve slaveholder finances. Euro-Louisianan men of lower social standing understood that having to pay more for their enslaved populations would drain what little finances they had and would distance them from the elites. In addition, by dismissing these regulations, the elites demonstrated that they had more influence on everyday life in New Orleans society than imperial administrators.³⁹ The Cabildo members continued to allow the activities that collectively contributed to enslaved people's abilities to free themselves and instead responded to enslaved women's appearances in the courts by making the process of liberation much more taxing to discourage female attempts at court-sanctioned liberation.

The 1789 *Real Cédula* ultimately proved unnecessary. In the 1790s, enslaved women found themselves increasingly limited during court proceedings. The Cabildo officials who oversaw these cases sought to prohibit enslaved women from joining the free population of color as it drastically expanded as a result of the influx of immigrants during this decade. Refugees of European and African descent from Saint-Domingue increasingly immigrated to the city during the final years of the eighteenth century.⁴⁰ Out of the thirty-seven cases regarding the emancipation of enslaved women of African descent from 1790 to 1800, only 57 percent were successful. Most unsuccessful cases occurred in the latter half of this decade.⁴¹

³⁸ Din, *Spaniards, Planters, and Slaves*, 124-28.

³⁹ Ingersoll, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," 56-58.

⁴⁰ Dessens, *From Saint-Domingue to New Orleans*, 23.

⁴¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; *Spanish Colonial Index Books*, vols. 25-31, (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 143-149; Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157. Emancipation suits from the 1790s had numerous cases with incomplete trial

The Pointe Coupée conspiracy in 1795 constituted one event that influenced freedom trials. The incident transpired after a large population of enslaved people at the Pointe Coupée coast conspired to kill their legal owner and lead an uprising of enslaved people. The enslaved failed in their efforts, but the conspiracy garnered attention and concern from Euro-Louisianans of all social statuses throughout the colony. As such, it alerted the elites in New Orleans to the increasingly assertive demand for freedom among the enslaved population.⁴² Governor Carondelet responded by issuing a new set of regulations for enslaved people in Louisiana. These regulations basically established a system of police syndicates, where slaveholders theoretically checked the power of other slaveholders in order to prevent any circumstances that might cause an enslaved person to run away or to petition the court for his or her freedom. While the resolution also included protective measures for enslaved people, the Cabildo courts rarely enforced them.⁴³ This was a typical response to attempted slave rebellions throughout the Atlantic World. Elites did not respond to instances such as these with a greater understanding of enslaved people, but rather with oppressive regulations that extended the brutal nature of their enslavements.

While suits of emancipation declined for both men and women after 1795, the attempts to limit the growth of the free black society manifested most prominently in the reduced number of female suits of emancipation, as the elites still needed free male labor to police the city's enslaved population.⁴⁴ Governor Carondelet himself expressed his preference for militiamen of African descent because, "they are the ones used in pursuing runaway Negroes (slaves) and

records, and the outcome of the suit is unknown. In these cases, notarial records provided evidence to determine the outcome of the emancipation suit.

⁴² Hall, *Africans in Colonial Louisiana*, 370-72.

⁴³ Ingersoll, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," 56-58.

⁴⁴ Hanger, *Bounded Lives, Bounded Places*, 110-15.

destroying their hideouts,” built “in places too impenetrable for regular troops.”⁴⁵ The Cabildo believed it needed African and Afro-Creole men, not women, to physically and symbolically protect the city’s social order during the 1790s in response to the Haitian Revolution and the Pointe Coupée conspiracy.

Those suits that were successful in the 1790s further diverged from those in the 1770s and 1780s as they were lengthier and costlier. The elite men in power usually extended trials in an attempt to drain enslaved women of their finances so that even if they received a decision from the judge for emancipation, they would be unable to pay the costs of court proceedings and the letter of manumission. This constituted one of the ways in which the elites oppressed enslaved women during court proceedings, as the impoverishment would have placed them back in bondage as a *coartado* under their legal owner until, or if, they accumulated the necessary funds to free themselves. A suit of emancipation, brought by an enslaved woman named Angelica, exemplified this trend. Angelica’s four-month trial ended in her emancipation for 1,100 pesos, with an additional 333 pesos due in court costs, plus taxes.⁴⁶ While the court records suggest that Angelica was able to pay the costs of her freedom and the trial proceedings, other cases demonstrate situations where a woman was not able to pay the costs and consequently remained enslaved.⁴⁷ Cases that occurred in the 1780s usually took just one month to decide,

⁴⁵ Roland McConnell, *Negro Troops of Antebellum Louisiana: A History of the Battalion of Free Men of Color* (Baton Rouge: Louisiana State University Press, 1968), 22-24.

⁴⁶ [*Promovido, por Angelica negra esclava de Maria Bienvenu sobre que dele estime para obtener su libertad*], October 13, 1794, RG 2, LHC’s Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/document/17256>; [*Angelica, negra esclava, of Dona Maria Bienvenu, instituted proceedings to obtain her freedom from her owner*], October 13, 1794, *Spanish Colonial Index Books* 30, LHC Library Collection (LSM: 1994), 42.

⁴⁷ “Spanish Judicial Records,” RG 2, LHC’s Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; *Spanish Colonial Index Books*, vols. 25-31, (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 143–149; Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

while suits in the 1790s typically lasted two months or more. Seven of these trials lasted one year or more, with the longest suit of emancipation spanning four years.⁴⁸ In addition, most women, such as Angelica, paid slightly higher prices for their freedom on average than women freed during the 1780s. Therefore, the length of the trial, combined with the total costs of manumission, made suits of emancipation more expensive overall in the 1790s.

Cabildo officials not only made trial proceedings longer and therefore costlier during the 1790s, but also demonstrated an increased aversion to any cases of *coartación* that illuminated instances of interracial relationships during this decade because they could now see the ways that they augmented the second caste, both numerically, and socio-economically. Rather than disproving the enslaved woman's claims of sexual abuse, the Cabildo courts dismissed these cases altogether. On July 27, 1791, Roseta petitioned the Cabildo to free her niece, Margarita. Roseta stated that Margarita was the victim of abuse by her owner's wife, Marie Louise Allaric Bonneville because Bonneville suspected Margarita of concubinage with her husband. The case was quickly dismissed after one and a half days, and there is no evidence that Margarita was ever freed.⁴⁹ While the Cabildo quickly dismissed other suits, this was one of the speediest releases that the court sanctioned. Elites sought to oppress the women involved in these cases, as they had undermined slaveholder authority with their actions. In addition, the elite men in power especially sought to keep women enslaved as slave owners wanted to retain their enslaved populations even more than they had before due to the sugar boom that took place after the Haitian Revolution.⁵⁰ They especially wanted to keep enslaved women because they could

⁴⁸ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; *Spanish Colonial Index Books*, vols. 25-31, (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 143-149.

⁴⁹ [Suit brought by Roseta, free mulatto, against Joseph Bonneville to compel the sale of Margarita, niece of Roseta] July 27, 1791, *Spanish Colonial Index Books* 27, LHC Library Collection (LSM: 1994), 14.

⁵⁰ Kein, *Creole*, 15-6.

sexually abuse and forcibly impregnate these women and thereby grow their own enslaved populations naturally. In addition to the importance of maintaining power dynamics between slaveholders and the enslaved, the Cabildo sought to protect the male slaveholders who abused the enslaved women they owned to protect their reputations in the public sphere. This reinforced the caste stratifications and kept women of color oppressed in the city's social order by making them the victims of rape and sexual assault. It is likely that enslaved women who experienced sexual abuse at the hands of their owners were privy to these court proceedings and decided against taking out a trial for their freedom as they knew it would not result in their liberation. Taking out a suit would have not only proved fruitless for them but would have likely attracted the wrath of their legal owners and subsequently experienced further abuse. The result meant that many enslaved women lost their struggles for power against their legal owners, which threw them into a cycle of oppression and abuse that they had no way of escaping aside from physically running away from their legal owners.

Many historians have rightly traced an increase in notary sanctioned emancipations that willing owners permitted into the 1790s, but these analyses examine emancipation suits in the courts and emancipations from willing owners in the notary records as being the same. Most of the men who did emancipate enslaved people through a notary were slaveowners of lower social standing who freed enslaved women for various reasons. Some cited love and affection as their reasoning for freeing enslaved women and children in the notary records.⁵¹ Other owners willingly liberated enslaved women because it benefitted them economically, as early New

⁵¹ Spear, *Race, Sex, and Social Order in Early New Orleans*, 100-28; Hanger, *Bounded Lives, Bounded Places*, 17-54; Clark and Gould, "The Feminine Face of Afro-Catholicism in New Orleans, 1727-1852," 434. These men often granted these women emancipation *graciosa*, meaning that they did not required the enslaved persons or people they freed to pay for their manumission.

Orleans was relatively poor until the final years of the Spanish period in Louisiana.⁵² The notarial records reveal that many enslaved women, or their familial kin, approached owners to ask for freedom in return for payment.⁵³ Some legal owners chose to emancipate restless enslaved people who could pay for their freedom because it was a better alternative to the enslaved person running away, or possibly even planning to murder them like the enslaved people of the Pointe Coupee conspiracy intended. Consequently, slaveholders agreed to free enslaved people who had financial assets because they could use the money to purchase an enslaved person recently brought from Africa.⁵⁴ In slave owner perceptions, these enslaved people were easier to control because they usually did not know French or Spanish, had no familial or other ties to the Afro-Louisianan community, and further did not know the Louisiana environment as enslaved people born in New Orleans did, which made it harder for them to run away.⁵⁵ Finally, some slaveholders may have liberated enslaved people who succumbed to disease. In 1794 a small pox epidemic, followed by a two-year-long yellow fever outbreak, wiped out large numbers of the enslaved labor force.⁵⁶ Slaveholders who could not afford to, or did not want to, pay for the care of afflicted enslaved people may have used willing manumission through a notary as a means to rid themselves of the economic burden.⁵⁷ Thus, some slaveholders compromised in freeing enslaved people to protect their own finances. In doing so,

⁵² Woodward, "Spanish Commercial Policy in Louisiana, 1763-1803," 133-64.

⁵³ Baade, "The Law of Slavery in Spanish Louisiana, 1769-1803," 68-70.

⁵⁴ One example of this was Francisco Hollier's emancipation of an enslaved woman and purchase of another enslaved woman the same day. *Manumission of Rosa*, October 30, 1792, notary of Francisco Broutin v. 15, folio 330; *Sale of slave to Santiago Hollier*, October 30, 1792, notary of Francisco Broutin, v. 15, folio 331. Scholarly literature that identifies this trend may also be found in

⁵⁵ Hanger, *Bounded Lives, Bounded Places*, 31; Woodward, "Spanish Commercial Policy in Louisiana, 1763-1803," 147-59. Trade significantly increased by 1775; John G. Clark, "New Orleans: Its First Century of Economic Development," *Louisiana History: The Journal of the Louisiana Historical Association* 10, no. 1 (1969): 44-46; Ingersoll, "The Slave Trade and the Ethnic Diversity of Louisiana's Slave Community," 149-150; Din, *Spaniards, Planters, and Slaves*, 73; Leglaunec, "Slave Migrations in Spanish and Early American Louisiana," 197.

⁵⁶ Powell, *The Accidental City*, 207.

⁵⁷ Leglaunec, "Slave Migrations in Spanish and Early American Louisiana," 196.

they did not seek to assist the socio-economic improvement of these women, but rather did so to protect their own social standings. This was one of the ways in which women of African descent won the struggle of power for the authority to determine their own place in the social order against the Euro-Louisianans who sought to oppress them. The elites in turn continued to try and keep the free populations of color subordinated with laws and regulations so that they could not blur the boundaries of the three-castes that elites desired.

During the Spanish period in New Orleans, the interactions between enslaved women of African descent and the New Orleans Cabildo courts fostered an environment in which the elite male population became increasingly concerned with the threat that enslaved women posed to the social order. These women challenged the neat social divisions that were based on race, as they exercised agency and practiced their legal knowledge in the courts. In addition, they had significant roles in the growth of the free black population, as they gave birth to children of African descent fathered by both European and/or African men, and frequently utilized familial networks and personal skills to elevate themselves, and their kin, within the free black population. The men in power in New Orleans subsequently tried to limit their socio-economic mobility. Yet, enslaved women of color often fought against this oppression and continued to access the Cabildo courts to free themselves. By comparison, the elite white male population was generally more willing to accept the emancipation of African and Afro-Creole men as they used these men to defend the social order that relied on the subordination of enslaved people of African descent. Not all enslaved women in New Orleans accessed the courts or freed themselves during the Spanish period. Some women did not do so because they could not afford to do so. Others feared retribution from their legal owners. Unfortunately, even some women who did achieve emancipation in the Cabildo courts ended up in economic situations that were

not far off from slavery after liberation. Other freed women used their new status to bolster their socio-economic standing in New Orleans. As a result of their activities and responses to the subjugation carried against them by the Cabildo, a substantial body of free African and Afro-Creole women went on to own considerable amounts of economic wealth, including property and, sometimes even enslaved people.

CHAPTER IV

CASES BETWEEN WOMEN OF AFRICAN DESCENT AND EURO-LOUISIANANS

From 1769 to 1800, free and enslaved African and Afro-Creole women appeared before the Cabildo courts for reasons other than suits of emancipation. Cases between women of African ancestry and people of European descent had their own influence on societal relations in Spanish New Orleans. Yet, they were similar to suits of *coartación* as Cabildo officials reacted to these litigations with legislation and court decisions that sought to limit the socio-economic mobility of Afro-Louisianan women. Some of the measures that elites took in their attempts to subjugate women of color proved more successful than others. However, women of African descent continued to challenge the authority of the elites, which resulted in struggles for power between the men who served in the Cabildo and the women of African descent who used the court systems to try and improve their social standing. Consequently, the actions of African and Afro-Creole women in the courts, the reactions they elicited from Cabildo officials, and these women's resistance against the Cabildo's oppression, all had a role in constructing the complex social order that manifested in New Orleans by the end of the eighteenth century.

While all African and Afro-Creole women who appeared in the courts had a part in influencing societal relations between the elite men in power and Afro-Louisianans, the actual experiences of free and enslaved women in the courts differed. Both free and enslaved women participated in trials as either plaintiffs or defendants, and furthermore could expect court decisions that upheld the various customs and precedents that the Cabildo set during the initial years of the Spanish period. Yet, their involvement in trial proceedings differed because enslaved

women had significantly fewer legal rights than free women. As a result, the Cabildo primarily responded to free women's complaints with legislative reforms, and mainly reacted to enslaved women's cases with oppressive trial decisions that reinforced their enslaved status.

By the late 1770s, Cabildo officials became increasingly concerned with the social ramifications of suits between women of African ancestry and people of European descent, mainly because they revealed instances of interracial associations.¹ Bureaucrats found these relationships, whether intimate or professional, as problematic because they challenged the elites' belief that women of color should remain subordinated below Euro-Louisianans and therefore not engage in sexual or business associations with the city's white population. While both types of relations concerned the city's elites, they became especially agitated with sexual relationships because they blurred caste boundaries and often resulted in mixed-race children. While these children were rarely, if ever, viewed as being "white," they still complicated society as the children of both Euro-Louisianan men from the first caste and Afro-Louisianan women from the second. This led the elites to try to inhibit the activities of women of African descent that could lead to interracial relationships, which women of African descent combated throughout the Spanish period.

By comparison, the elites did not react to African and Afro-Creole men's cases against Euro-Louisianans as they did to women's because men evidently did not engage in sexual interracial relationships at the same rate as women. Additionally, the Cabildo generally permitted business associations between free Afro-Louisianan men and Euro-Louisianans because African

¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

and Afro-Creole men's professions as tailors, shipbuilders, blacksmiths, overseers, managers, plantation owners, militia men, and, most notably, as policemen for the enslaved, supported and even elevated the financial assets of the elite men and merchants in the first caste. Some men of African descent chose their professions for genuine interest, others out of necessity, and some, such as the policemen for the enslaved, were obligated to perform these duties.² Furthermore, since eighteenth-century New Orleans maintained gendered divisions of labor, free African and Afro-Creole men rarely achieved the same economic success as the Euro-Louisianan men who worked in their same professions. By comparison, free women of African descent had few other Euro-Louisianan women to compete with in their respective occupations.³ This allowed them to become the primary food suppliers, laundresses, retailers, and other types of professions that were reserved exclusively for women in the city. As a result, free Afro-Louisianan women accumulated significant financial holdings and subsequently became economically influential. Thus, Cabildo officials passed more legislative reforms that specifically targeted free women's activities because they viewed their interracial associations with Euro-Louisianans as unbeneficial for the elite men of the first caste and destabilizing to elite men's desired social order. To the elite's dismay, free women fought against the oppressive laws, regulations, and court decisions that sought to limit their socio-economic abilities and continued to engage in interracial associations to improve their own lives and those of other people of African descent. As these types of relations continued against the Cabildo's will, they ultimately assisted the formation of a social order where free women of African descent wielded considerable economic and social influence in the city.

² Hanger, *Bounded Lives, Bounded Places*, 97-8; Spear, *Race, Sex, and Social Order in Early New Orleans*, 142.

³ Hanger, *Bounded Lives, Bounded Places*, 22.

The Euro-Louisianans who did engage in relationships with Afro-Louisianan women against the Cabildo's desires were usually not of elite social standing. Since these men had fewer financial assets or resources, they often relied on free women of African descent for their intimate and professional needs. Due to the relative impoverishment of early New Orleans, people of all racial heritages and genders worked alongside and relied on one another to survive.⁴ This, combined with the lack of Euro-Louisianan women in New Orleans, allowed women of color to become the primary business women in the city and subsequently become economically powerful. The financial success and social status that free African and Afro-Creole women acquired helped create a substantial and formidable free population of color that persisted into the nineteenth century.

The suits between free women of African ancestry and people of European descent concerned issues of debts, inheritances, property, and accusations of theft and assault. The bulk of these cases involved financial disputes over debts and inheritances owed to the complainant. In almost all cases of monetary conflicts, the person of European descent was male.⁵ In total, the Cabildo oversaw seventy-eight cases that concerned issues of unpaid debts, salaries, or inheritances. In the 1770s, men of European descent mainly filed suits against free women of African ancestry. From 1780 to 1789, free women appeared in sixteen cases as defendants and in thirteen suits as plaintiffs. By the 1790s, free women appeared in sixteen cases as defendants again, but they now brought forward twenty-one suits as plaintiffs.⁶ All of these court cases and

⁴ Burson, *The Stewardship of Don Esteban Miró*, 253.

⁵ Only two suits involved a woman of European descent and a free African or Afro-Creole woman. There is no clear indication as to why this occurred outside of the fact that there were not that many Euro-Louisianan women residing in New Orleans during the Spanish period. No legal regulations prohibited court proceedings between white women and African and Afro-Creole women.

⁶ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection,

trial proceedings resulted in struggles for power between free women of African descent and Euro-Louisianan elites.

Meanwhile, enslaved women less commonly appeared in the Cabildo courts as plaintiffs or defendants, but rather as the enslaved property of Euro-Louisianan slaveholders. Trial records listed enslaved women as assets in suits where a slaveholder needed to establish ownership of the enslaved, suits seeking to nullify the sale of an enslaved woman, and cases of inheritance that transferred an enslaved woman to a new owner.⁷ Some enslaved women did petition the courts in more active roles, but the men who headed the Cabildo mainly reacted to the agency of these women by reinforcing their enslaved status. Officials also enacted various laws and regulations throughout the Spanish period to maintain the subordination of the enslaved, and to preserve their power over these women. Therefore, free women of African descent had more opportunities to challenge the supremacy of the Cabildo, and subsequently had more influence over their places in the New Orleans social order.

Although free African and Afro-Creole women did not constitute a majority of the complainants until the 1790s, the elite men in power viewed them as a threat to the social order as early as the late 1770s. During this decade, Cabildo officials enacted various laws and regulations that tried to limit these women's socio-economic mobility in the hopes that it would render them unable to appear in courts or pay the costs of trial proceedings.⁸ However, the

1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

⁷ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

⁸ *Actas y Deliberaciones del Cabildo*, Vols. 1-4, December 1769-November, 1800, Reel #91-11 - #91-17 [Spanish Transcripts and English Translations].

Cabildo would ultimately set precedent in certain cases that would inadvertently inhibit future Cabildo judges from exercising racial biases against Afro-Louisianan women during court cases.

The precedent-setting trial that impeded Cabildo officials from limiting the socio-economic growth of women of African descent during court cases began in 1774, yet the Cabildo had already set the groundwork for this decision four years prior. In 1770, Governor Luis de Unzaga y Amezaga took the first step in setting this custom when he clarified an article in Code O'Reilly, which required that all financial transactions occur before a notary.⁹ As a result, Cabildo officials almost always honored notary-sanctioned contracts, even if they favored a woman of African descent. Plaintiffs utilized the courts to enforce payments or property exchanges from reluctant defendants. Once the courts affirmed the stipulations of the contracts or documents in evidence, they notified the defendant of the amount that he or she owed and how long he or she had to pay the plaintiff. If the defendant did not comply in the allotted time, the courts had the ability to seize property, goods, and/or imprison the defendant for defaulting on the agreement.¹⁰ Some cases of financial disputes did require the Cabildo's investigation and deliberation as these suits either lacked documentation or included contracts that the plaintiff or defendant contested. The Cabildo courts usually used suits with inconsistent or non-existent documentation as opportunities to protect the financial property of Euro-Louisianan men, as they

⁹ Jack D. L. Holmes, *A Guide to Spanish Louisiana: 1762-1806* (New Orleans: Jack D. L. Holmes, 1790), 6; Hans W. Baade, "The Formalities of Private Real Estate Transactions in Spanish North America: A Report on Some Recent Discoveries," *Louisiana Law Review* 38, no. 3 (1978): 686-688; Din, *Spaniards, Planters, and Slaves*, 50.

¹⁰ Cases where the Cabildo did so include (but are not limited to), [*Maria Magdalena Contar la viuda de Simon, contra Juan Luis Moné, mulato libre, sobre cobranza*], October 5, 1785, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 9, 2018, <http://www.lacolonialdocs.org/document/14953> in which the court seized the Moné home in lieu of payment; [*Diligencias Executivas promovidas por Don Roberto Pomes, contra Ana Chavel parda libre, sobre el cobro de cantidad de pesos*], May 25, 1784, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 9, 2018, <http://www.lacolonialdocs.org/document/14842> in which the courts seized Cheval's slave until she paid the amount due to Pomes; and [*Executuas seguidas por Rosa Choutau contra Don Gabriel Tixeran sobre cobro de pesos*], July 17, 1790, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 9, 2018, <http://www.lacolonialdocs.org/document/16840> in which the court seized Tixeran's slaves and imprisoned him.

were unable to do so in cases that did include formal contracts in support of the claims of free women because of the precedent they set in 1774.¹¹

The case that set the documentary precedent began on May 25, 1774, when Angelica, a free Afro-Creole woman, petitioned the courts for her part of the estate of Juan Perret. Unfortunately, the trial records do not state how Angelica was related to Perret, but it is possible that she was either his servant, an enslaved person that he previously owned and emancipated, or even his lover or his daughter based on the items that his will bestowed upon her. Angelica stated that Juan Perret's will granted her all the clothes, furniture, and dishes contained in his home at the time of his death. The court sent Angelica's petition to the primary heirs of the estate, Alphonse and Faussier Perret, who agreed to comply with the instructions in the will. At this point in the trial proceedings, Louis Ranson, the husband of another heir of the estate, contested Angelica's petition. He cited article 52 of Code O'Reilly, which stipulated that people of European descent could not give any donations or inventories to free people of African ancestry by reason of death, or any other motive. Despite Ranson's citation of an official regulation, the court ruled in Angelica's favor.¹²

The Cabildo thus decided to uphold written, legal documents left by the city's inhabitants and overruled the regulation established by Code O'Reilly. The officials involved in this case most likely made this decision to honor Perret's will, rather than to protect Angelica's property rights. Many Cabildo members and elites in the colony remained apprehensive toward Spanish

¹¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, Louisiana Historical Center, vols. 108–149.

¹² [Angelica, a free negress, petitions for the clothes, linen and furniture left her by will of the late Juan Perret], May 25, 1774, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 10, no. 3 (1927): 445; [Suit by free negress to collect share of inheritance], May 25, 1774, *Spanish Colonial Index Books* 4, LHC Library Collection, (LSM: 1994), 48.

hegemony, especially during the early 1770s. As such, they decided to uphold the written documents left by Franco-Louisianans rather than to defend a regulation made by a Spanish general. The courts continued this custom throughout the Spanish period, as evidenced by the many cases of financial exchanges from people of European ancestry to people of African descent.¹³ This constituted one of the struggles for power between the elites and free Afro-Louisianan women in which Cabildo officials tried to protect the rights, contracts, and properties of the men in the first caste but in doing so inadvertently helped free women of African descent gain financial assets. It was a compromise that many of the elites likely regretted in the following decades.

Even though Angelica's petition occurred early during the Spanish period, her case, along with other financial suits that involved free African and Afro-Creole women in the early to mid-1770s, caused Cabildo officials to become concerned with the socio-economic potential of free women. It further led Cabildo officials to worry about instances of interracial relationships, as the items that Perret left Angelica suggest that she lived with him and may have been his lover or even his illegitimate daughter. Cabildo members increasingly saw how kinship ties, whether consanguine, affinal, or formative, between men of European heritage and women of African descent enhanced some free Afro-Louisianan women's wealth.¹⁴ Yet institutional officials did not uphold the precedent they established during Angelica's trial. Instead, they increasingly used legislation to try to limit interracial associations that could potentially result in free women's acquisition of Euro-Louisianan property.

¹³ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; *Spanish Colonial Index Books*, vols. 25-31, (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 143-149; Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

¹⁴ Hanger, "Patronage, Property and Persistence," 54.

Other cases in the 1770s magnified elite concerns over interracial relationships and the power that free women of color demonstrated during trial proceedings. One of the most significant of these cases began on January 20, 1777, when Magdalena Canella, a free woman of mixed racial heritage, filed a petition against Louis Chevalier Bearepos. Canella's petition stated that in 1770, Bearepos gave her an enslaved African woman named Adelaida. After six years, Bearepos went to Canella's house and took Adelaida without Canella's consent. Canella asked the court to force Bearepos to return Adelaida and provided the court with her proof of ownership. After hearing numerous witnesses, the court ruled in Canella's favor. The next day, Bearepos contested the ruling and presented the act of sale that he received when he purchased Adelaida. Bearepos also confessed that he had given Adelaida to Canella for temporary use, but now asked the court to allow Adelaida to remain in his possession. He then argued that Canella lied during her testimony and he protested the veracity of her witnesses on the grounds that they were all free people of color.

Canella then hired Francisco Broutin as her attorney, who interviewed Bearepos. First, Broutin asked Bearepos if he had been in a sexual relationship with Canella from 1767 to 1775. Bearepos evaded the question by stating that he had already confessed "any sin" and did not think about it anymore.¹⁵ Broutin then asked him if he had fathered two children, named Felicidad and Roseta, with Canella. Bearepos claimed that he could not remember. Broutin's remaining four questions addressed his gifting of property, both landed and enslaved, to Canella. Again, Bearepos stated he had no memory of any of it.

¹⁵ [*Magdalena Canella contra Don Luis Bearepos*], January 20, 1777, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14362>. Interrogation on Folio 22.

On February 19, 1777, the trial transferred from the court of Cecilio Odoardo to that of Nicolas Forstall. Upon receiving the case, Forstall asked Canella to return Adelaida to Beurepos for the remainder of the trial proceedings. When she did not comply, Forstall imprisoned her until the end of the suit. Canella accused him of acting unjustly and called for his recusal from the proceedings. He did not step down, but, in accordance with Spanish law, called Alférez Real Francisco Mariá de Reggio to preside over the case along with him. Canella then requested to appeal her case to the higher courts in Havana but Forstall refused. The judges then made a joint decision in favor of Beurepos.¹⁶ After Canella made numerous appeals, all of which the court denied, she and Broutin circumvented the New Orleans judiciary and appealed to the higher tribunal in Havana. The Havana courts ruled in Canella's favor, which liberated her from jail and confirmed her right to Adelaida. As the case continued into 1778, the trial transferred to the court of Alcalde Ordinario de Segundo Voto, Guy (Guido) Dufossat.¹⁷ Canella presented the decision to Judge Dufossat on March 24, 1778, who acceded to the Havana decision.¹⁸

This suit showed how the Cabildo handled cases that included inconsistent documentation and romantic interracial relationships. Regarding the documentation, judges Forstall and de Reggio used the conflicting papers that Canella and Beurepos presented as an opening to rule in Beurepos's favor. Subsequent Cabildo judges would also seize similar opportunities to maintain the social and economic supremacy of the first caste throughout the

¹⁶ It should be noted that Reggio was one of the two officials who drafted the Code Noir ou loi Municipale. (See Chapter 1) Due to the extreme nature of the Code, and Reggio's role in the legal document, it is plausible to suggest that he harbored ill will toward people of African descent.

¹⁷ Forstall did not run for re-election in 1778.

¹⁸ [*Magdalena Canella, a free mulatress, vs. Luis Beurepos for the possession of her slave Adelaida*], January 20, 1777, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 12, no. 2 (1929): 341-48; [*Suit for restitution of a slave*], January 20, 1777, *Spanish Colonial Index Books* 6, LHC Library Collection, (LSM: 1994), 3-7; [*Magdalena Canella contra Don Luis Beurepos*], January 20, 1777, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14362>. Unfortunately, the record ends here, making it impossible to confirm if the Cabildo enforced the decision from Havana.

Spanish period. At the same time, this case made an exception for the revelation of an interracial relationship, which future judges would not follow. In most trials, the courts verbally condemned men engaged in interracial affairs, and sometimes also enacted harsh punishments to emphasize their disagreements with these associations. However, they made an exception for Beaurepos because he had previously confessed his “sin” to a Catholic priest, evidently absolving him of any wrongdoing in the eyes of the church. Additionally, Beaurepos claimed that he had ended his relationship with Canella before trial proceedings began, which satisfied the court.¹⁹ Had he not already ended his association with Canella, the courts would have most likely asked him to do so during trial proceedings.

Canella’s trial heightened elite concerns over free women’s appearances in courts not only because of the interracial relationship, but also because of Canella’s knowledge of Spanish law. Her legal acumen allowed her to seek justice using the Havana courts and undermine the authority of the judges who presided over her case.²⁰ This trial, combined with other cases that involved African and Afro-Creole women asserting their power during the mid-1770s, increased bureaucratic perceptions that free women of color threatened societal caste designations. Cabildo officials thus resolved to propose numerous legislative measures that sought to limit the social interactions between men of European heritage and women of African ancestry.

The Cabildo’s first administrative attempt at limiting the social mobility of free African and Afro-Creole women was the drafting of the *Code Noir ou Loi Municipale* in 1778.²¹ In addition to the restrictions that the code proposed for enslaved people, it also oppressed free

¹⁹ [Magdalena Canella contra Don Luis Beaurepos], January 20, 1777, RG 2, LHC’s Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14362>.

²⁰ Hanger, "Patronage, Property and Persistence," 52.

²¹ A more thorough discussion of the Cabildo’s drafting of the *Code Noir ou Loi Municipale*, the restrictions it imposed for enslaved people, and the Cabildo’s ultimate failure to pass the law, see chapter 3, pages 66-68.

African and Afro-Creole people socially, economically, and legally.²² In terms of social constraints, it outlawed interracial marriages, and fined parents who gave birth to mixed-race children. It also restricted free women from wearing clothing styles that were more typically associated with women of European descent. Regarding economic limitations, the code prohibited free people of color from carrying weapons.²³ Finally, it imposed capital punishment on free people of African descent found guilty of theft or assault, but only handed out fines or jail sentences to the city's ethnically European population for the same crimes.²⁴ The Cabildo drafted the code partially in response to the actions of free African and Afro-Creole women during legal proceedings. When the government failed to pass this legislation after Governor Bernardo de Gálvez refused to send them to the Spanish King for final approval in 1779, Cabildo members attempted to pass other legislative reforms that similarly sought to limit free women's socio-economic mobility.²⁵

The Cabildo passed one of these laws on January 19, 1781, when various officials voiced their concerns over free and enslaved African peoples' participation in the city's Catholic Carnival festival. They apparently feared that African and Afro-Creole people who wore masks during the festivities would use the event as an opportunity to create disorder in the city. The records from this meeting explicitly noted that masked people of color during Carnival put the city "en la circunstancia de una Guerra."²⁶ They thus resolved to prohibit people of African

²² Din and Harkins, *The New Orleans Cabildo*, 160-61; Din, *Spaniards, Planters, and Slaves*, 75. See Chapter 3 for the Code's proposed regulations of enslaved people.

²³ Many people of all races believed that the ability to carry arms was essential for economic wealth because hunting remained an important source of sustenance during this period.

²⁴ Ingersoll, "Slave Codes and Judicial Practice in New Orleans, 1718-1807," 48-52.

²⁵ For a more detailed discussion of the drafting of the Code Noir *ou Loi Municipale* and the Cabildo's failure to pass it, see chapter 3.

²⁶ Direct translation: "in the circumstance of a war."

descent from wearing masks or attending dances in the evening.²⁷ One particular anxiety for elites was the concern that men of European descent would mistake masked Afro-Louisianan women for white women and subsequently become romantically involved with them. It is unlikely that misidentifications actually occurred, and more probable that Euro-Louisianan men used this as an excuse to justify their relationships with, or sexual abuse against African and Afro-Creole women. By implementing this regulation, the Cabildo limited opportunities for interracial socialization as they sought to maintain caste boundaries and curb the opportunities for interracial relationships to begin at the Carnival celebration.

Free African and Afro-Creole women responded to elite oppression by working around or ignoring Cabildo regulations. Despite elite attempts, many intimate interracial relationships occurred in Spanish New Orleans. According to the existing evidence, these associations primarily involved men of European descent and women of African ancestry.²⁸ The personal accounts of explorer C. C. Robin provide some explanations as to why he believed these relationships transpired.²⁹ Robin wrote that Euro-Louisianan men, “form[ed] alliances with these colored women and many have children with them.” He also noted that “the Creoles prefer to live with these women rather than give to a white woman the title of spouse.”³⁰ Robin’s writings

²⁷ Actas y Deliberaciones del Cabildo, Book 1 vol. 2, Meeting Minutes, page 46-47, January 19, 1781, Reel #91-11 [Spanish Transcripts], Records of the City Councils, Louisiana Archives/City Archives & Special Collections, New Orleans Public Library; Actas y Deliberaciones del Cabildo, Book 1 vol. 2, Meeting Minutes, page 47-48, January 19, 1781, Reel #91-14 [English Translations], Records of the City Councils, Louisiana Archives/City Archives & Special Collections, New Orleans Public Library.

²⁸ Spear, *Race, Sex, and Social Order in Early New Orleans*, 129-43; Virginia Gould, “In Defense of Their Creole Culture: The Free Creoles of Color of New Orleans, Mobile, and Pensacola,” *Gulf Coast Historical Review* 9, no. 1 (1993): 31; Hanger, *Bounded Lives, Bounded Places*, 97-8.

²⁹ According to academic Stuart O. Landry, who compiled and translated C. C. Robin’s voyage notes, historians have been unable to identify who Robin was outside of his book *Voyage to Louisiana*. However, from Robin’s writings, scholars have been able to identify that Robin lived in Lorraine from 1793-1794, possibly to escape the Terror in Paris. He then traveled to the New World, likely to escape the French Revolution, and found himself in New Orleans because many of the city’s inhabitants spoke French, which was likely Robin’s native language. Robin, *Voyage to Louisiana*, v-xi.

³⁰ Robin, *Voyage to Louisiana*, 249-50.

alluded to the fact that some men of European ancestry chose to engage in interracial relationships to preserve their own financial wealth. Most Euro-Louisianan men of non-elite or merchant status remained relatively poor throughout the Spanish period. These men of lower-class standing typically did not have the financial assets to marry an ethnically French or Spanish spouse. There were also relatively few women of European descent in New Orleans during most of the Spanish period.³¹ Female European immigrants only arrived in considerable numbers after the mid-1790s, when the expansion of plantation agriculture occurred and the city began generating more wealth. It was only after this period that more men of European descent married women of the same ethnic heritages as themselves.³² Prior to the arrival of a larger population of European women, engaging in sexual relationships with free African and Afro-Creole women probably seemed like a more affordable alternative to many Euro-Louisianan men of lower socio-economic standing. They used free women as domestic partners who could satisfy their carnal desires, complete household chores, and even perpetuate their bloodlines. Although some free women of color consented to these relationships, other women did not. Unfortunately, there is little existing evidence to confirm that sexual assault and rape occurred in Spanish Louisiana. Yet, historians of early American history maintain that sexual abuse permeated many interracial relationships.³³ It is likely that some men of European descent used their social positions to subject women to sexual abuse and rape and then coerced these women into remaining silent about the forced nature of the relationship. This constituted a struggle for power that Afro-Louisianan women lost against Euro-Louisianan men. Unfortunately, this form of oppression was carried out in one of the most invasive and violent ways.

³¹ Hanger, *Bounded Lives, Bounded Places*, 22.

³² Woodward, "Spanish Commercial Policy in Louisiana, 1763-1803," 133-64; Clark, "New Orleans," 44-6.

³³ Sharon Block, *Rape and Sexual Power in Early America* (Chapel Hill: The University of North Carolina Press, 2006).

Men of European descent engaged in forced or consensual relationships, but rarely married free African or Afro-Creole women because, under Spanish law, marriages between men of European descent and women of color were illegal.³⁴ Still, couples cohabitated with each other, shared finances, and participated in many of the same activities as married couples. When a free African or Afro-Creole woman resided with her male partner, and the relationship later ended because the man either wanted to separate, or died, she did not have the same rights to property ownership that married women had.³⁵ Consequently, free women of African descent sometimes found themselves severely impoverished and unable to recover any of the finances that she accumulated during the unofficial union. Only in one rare case did a free woman sue her previous lover for financial compensation after her partner ended their relationship. In 1783, Fanchon, a free African woman, sued Pierre Bonne for 2,000 pesos, claiming that she had served Bonne as a maid and lived with him for sixteen years, but had never been paid. Fanchon's lengthy service without payment, combined with the fact that she occasionally used Bonne's surname in public, suggest that Bonne and Fanchon's relationship was not just professional. When the Cabildo called upon Bonne to testify, both Bonne and Fanchon notified the Cabildo to end the proceedings as they had reached an agreement.³⁶ It is likely that Bonne resolved this matter with Fanchon outside of court because he feared that the trial would have revealed the true nature of their association and damaged his reputation among the city's elites. If the trial had proceeded, Bonne's status as an elite would have been damaged. The legal proceedings between

³⁴ Holmes, "Do It! Don't Do It!," 23-7.

³⁵ *Ibid.*, 27-32.

³⁶ [*Proceedings brought by Fanchon, a free negress, against Pedro Bonne, to collect her salary*], September 3, 1783, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 21, no. 4 (1938): 1260-1261; [*Suit by free negress against employed for payment of salary from previous 16 years*], September 3, 1783, *Spanish Colonial Index Books* 10, LHC Library Collection (LSM: 1994), 73; [*Diligencias promosorias por Fanchon Negra libre sobre cobranza de sus salarios contra Don Peirre Bonne*], September 3, 1783, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 17, 2018, <http://www.lacolonialdocs.org/document/14777>.

Fanchon and Bonne exhibited an instance where an elite struggled to financially restrain one free woman of African descent. His attempts to do so and Fanchon's challenge of his subjugation, ultimately resulted in her ability to influence her economic holdings. This case blurred ideas of who was powerful and who was not, as Bonne protected his social status by compromising to pay Fanchon despite his initial attempts to do otherwise.

Bonne feared the repercussions that may have come from revealing of his relationship with Fanchon because many elites expressed their disapproval of these unions in public, and only viewed these relationships as acceptable if they remained private. Cabildo officials mainly responded to interracial unions by drafting, or enforcing, various laws and regulations that sought to limit the emergence of any interracial relationships. As a result, many free women of color who engaged in romantic interracial associations usually struggled for power against their male counterparts behind closed doors and out of public view. Some free women still used the courts for private disputes, but often found themselves discouraged from appearing in the public courts.

One of the regulations that sought to eliminate interracial relationships was the elite-promoted Spanish ideal of "Limpieza de Sangre" or "purity of blood." If a person desired to prove their "Limpieza de Sangre," he or she went to the Cabildo and answered a series of questions to confirm that he or she had only European ancestors. The New Orleans Cabildo conducted these "tests" when a person needed to prove his or her lineage in a matter of succession, or when a woman wanted to marry a man of elite standing in New Orleans. The elite family required that the prospective spouse prove her ethnicity to ensure a "pure" line of Spanish or French descent. Additionally, elites desired proof of "Limpieza de Sangre" not only to confirm the absence of certain "undesirable" ancestries, but also to ensure that both parents

passed down other desirable traits such as honor, faith, and responsibility. These qualities, elites believed, could only be inherited through European bloodlines.³⁷ The promotion of “Limpieza de Sangre” constituted one of the many elite reactions to interracial relationships that they used in the hopes of maintaining caste stratifications.

Many men and women of European descent, regardless of their socio-economic standing, expressed their own prejudicial sentiments toward non-white women who engaged in interracial relationships. Euro-Louisianans labeled these women as “lewd,” “lascivious,” and “licentious,” among other things.³⁸ Although elites were always opposed to intimate, interracial affiliations, they began vocalizing their objections more fully by the 1790s. In 1795, Franco-Creole planter Pierre-Joseph Favrot described “the mixture of blood, which each day continues to multiply” as “abuses that should be reformed and eliminated, as they are most prejudiced to the citizens of this capital.”³⁹ Favrot then recommended that the Cabildo expel all free people of color from New Orleans so that men of European descent would marry young white women, thus “increase[ing] the blanc(white) population.”⁴⁰ In 1800, acting military governor Marqués de Casa-Calvo wrote to Louisiana Governor Nicolas María Vidal, condemning men of European descent, especially elite men in New Orleans who “forget their principles and engage in commerce with [women] of color, even with their own slaves.”⁴¹ These sentiments showed that elites viewed both professional and sexual interracial associations as problematic. The increased

³⁷ Frederick, “A Blood Test before Marriage,” 75–9; Ann Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (Stanford: Stanford University Press, 1999), 41-7; Spear, *Race, Sex, and Social Order in Early New Orleans*, 129-33.

³⁸ Hanger, *Bounded Lives, Bounded Places*, 97; This also occurred in other Spanish American colonies. For a discussion on white views of black women in other areas of Spanish America see Barbara Bush, *Slave Women in Caribbean Society, 1650-1838* (Bloomington: Indiana University Press, 1990), 11-22.

³⁹ Pierre-Joseph Favrot, “List of Suggested Changes with Regard to the Black Population of New Orleans,” in *The Favrot Family Papers*, ed. Guillermo Nájuez Falcón, vol. II, 3 vols. (New Orleans: Howard-Tilton Memorial Library, Tulane, 1988), 169–70.

⁴⁰ Favrot, “List of Suggested Changes with Regard to the Black Population of New Orleans,” 169-70.

⁴¹ Cited in Spear, *Race, Sex, and Social Order in Early New Orleans*, 153-54.

vocalization over this perceived issue constituted a direct reaction by the elites in response to the fact that, by the mid-1790s, free women of African ancestry had accumulated approximately one-quarter of the city's property and money, which they acquired through commercial interactions and inheritances given by men of European descent.⁴² As free women of color progressively inherited more financial wealth, they increasingly challenged the social and financial power of the first caste. Consequently, free African and Afro-Creole women found themselves fighting the legislative and judicial oppression of the Cabildo.

Much of the wealth that free African and Afro-Creole women owned by the end of the eighteenth century came from the inheritances that Euro-Louisianan men left their families, which sometimes included women of color and their mixed-race children. These children concerned Cabildo officials because they complicated the racial boundaries that the elites strove to maintain and furthermore took wealth away from the city's ethnically European population during some court proceedings. Many fathers of European descent publicly acknowledged their children after their baptisms. However, since many interracial couples typically did not marry, priests almost always recorded their mixed-race children as "illegitimate" when they baptized them.⁴³ The "illegitimate" legal status of most mixed-race children made it difficult for them to receive inheritances from deceased fathers because other heirs in the estate often protested their rights to goods or properties during legal proceedings.⁴⁴ Yet, when Euro-Louisianan fathers specifically designated portions of their estates to their mixed-race children, the children were generally more successful in receiving the property given to them because of the documentary

⁴² Spear, *Race, Sex, and Social Order in Early New Orleans*, 129-54.

⁴³ Earl C. Woods and Charles E. Nolan, eds., *Sacramental Records of the Roman Catholic Church of the Archdiocese of New Orleans*, 3-6 vols. (New Orleans: Archdiocese of New Orleans, 1989); Spear, *Race, Sex, and Social Order in Early New Orleans*, 142.

⁴⁴ Spear, *Race, Sex, and Social Order in Early New Orleans*, 142-49.

precedent set by the Cabildo in 1774. However, when no legal documentation accompanied these children's claims, the court did not uphold their rights to inheritances, thus preserving Euro-Louisianan wealth. In doing so, the elite men in the Cabildo successfully undermined the growth of the free black community in New Orleans by denying people of color their inheritances. Thus, the children of African and Afro-Creole women who engaged in interracial relationships also experienced struggles of power in the Cabildo that were rooted in their mothers' race and gender.⁴⁵

As a result of the economic wealth that free African and Afro-Creole women accumulated by the 1790s, the Cabildo continued to enact policies that sought to limit their interactions with Euro-Louisianan men. They specifically tried to segregate social spaces and events. When the only theatre in New Orleans, El Coliseo, opened in 1792, the Cabildo designated floor seats for people of European descent and balcony seats for people of color.⁴⁶ It also attempted, but ultimately failed, to segregate weekly dances. Throughout the Spanish period, free African and Afro-Creole people organized balls that attracted people of all races. While there were also dances reserved only for people of European descent, some Euro-Louisianan men stated that they enjoyed the interracial dances more because free women of color were "less demanding" than ethnically European women.⁴⁷ During the first two decades of the Spanish period, free Africans and Afro-Creoles invited people of all racial heritages and social standings

⁴⁵ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

⁴⁶ René J. Le Gardeur, *The First New Orleans Theatre, 1792-1803* (New Orleans: Leeward Books, 1963), 10-14. *Actas y Deliberaciones del Cabildo*, Book 4 vol. 3, Meeting Minutes, pages 8 and 21.

⁴⁷ Ronald R. Morazan, "'Quadroon' Balls in the Spanish Period," *Louisiana History: The Journal of the Louisiana Historical Association* 14, no. 3 (1973): 310–15.

to these events, which took place in taverns, billiard halls, and private residences.⁴⁸ By 1792, Governor Francisco Luis Héctor de Carondelet established an official, Cabildo-owned dance hall for people of European descent, and also permitted free people of color to organize one dance a week in this hall. The Cabildo initially tried to limit some people of African ancestry from attending the dances, but slaveholders opposed this regulation by arguing that the balls gave enslaved people an incentive to work during the week. The Cabildo then resolved to ban men of European descent from attending these dances so they would not have the opportunity to associate with free women of African ancestry.⁴⁹ However, Euro-Louisianan men largely ignored this regulation and continued to attend the tri-racial balls organized by free women of color.

Some frustrated officials reacted to this indifference by trying to ban the dances altogether. During the final years of the 1790s, the city's attorney general consistently tried to deny free people of color permits for the Cabildo dance hall.⁵⁰ He failed in his attempts and balls and interracial socialization continued. It was only after U.S. acquisition that the government officially ended these social events. Cabildo officials consistently tried to end the gatherings because they enabled women of African descent to form community relationships with Euro-Louisianans. Elites now saw the social repercussions of these relationships and worked constantly to reinforce a three-caste social order that sought to subordinate Afro-Louisianan women. However, most of their attempts failed. As some Euro-Louisianan men of lower social

⁴⁸ Hanger, *Bounded Lives, Bounded Places*, 145-47.

⁴⁹ Morazan, "'Quadroon' Balls in the Spanish Period," 310-11; *Actas y Deliberaciones del Cabildo*, Book 4 vol. 1, Meeting Minutes, page 82-84, January 22, 1796, Book 4 vol. 1 Meeting Minutes, page 84-86, January 29, 1796 Reel #91-12 [Spanish Transcriptions and English Translations], Records of the City Councils, Louisiana Archives/City Archives & Special Collections, New Orleans Public Library.

⁵⁰ *Actas y Deliberaciones del Cabildo*, Book 4 vol. 3, Meeting Minutes, page 141-145, February 21, 1800, Reel #91-13 [Spanish Transcriptions and English Translations], Records of the City Councils, Louisiana Archives/City Archives & Special Collections, New Orleans Public Library.

standings engaged in either consensual or forced interracial relationships, others began business associations with free women of color.

Although much of the wealth that free African and Afro-Creole women accumulated from the Euro-Louisianan population came from intimate interracial relationships, some of it also resulted from professional associations where free women of color worked as food suppliers, laundresses, and retailers. As more African and Afro-Creole women became free and started working in New Orleans, the poor economic condition of the city, combined with the lack of Euro-Louisianan women to share professions with, allowed Afro-Louisianan women to create fruitful professions for themselves. This upset many men of elite social standing, who then tried to usurp some of the finances that these women acquired during court cases. These trials concerned the Cabildo as free women exhibited economic shrewdness and thorough knowledge of their rights under Spanish law during legal proceedings. As such, they too contributed to the laws and regulations that worked to limit social interactions between women of African descent and Euro-Louisianan men.

Free African and Afro-Creole women's economic astuteness created opportunities for them to engage in financial associations with men of European descent. Some of these interactions resulted in financial disputes that required the Cabildo's oversight. In various cases, men of European heritage sought payments of debts owed by free female debtors. Just as with other suits between women of African descent and Euro-Louisianans, many of these cases resulted in struggles for power that tried to restrict the socio-economic mobility of free women of color.⁵¹

⁵¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection,

One legal dispute between a free woman and a Euro-Louisianan man that also involved contested legal documentation began on March 9, 1779, when Francisco Villiers petitioned the court to enforce the payment of a 590 pesos debt owed to him by Maria Luisa, a free African woman. Villiers presented the notary-sanctioned promissory note and stated that Maria Luisa wrote the “mark” on the document. During the eighteenth century, when an illiterate person of any racial heritage entered into a legal contract, he or she left his or her “mark” in lieu of a signature, which looked like the letter “X.” The notary records from Spanish Louisiana reveal that many people, including African and Afro-Creole women, at least knew how to sign their own names.⁵² However, Maria Luisa was not one of them and instead penned an “X” in place of a signature. During the trial, Maria Luisa denied that she signed her mark on the promissory note. Villiers presented two men of European ancestry who confirmed that the mark belonged to Maria Luisa, and the court ruled in Villiers’ favor.⁵³ It is equally possible that either the complainant or defendant lied in an attempt to manipulate the Cabildo courts in his or her own favor. This case exemplified one of the many power struggles between Afro- and Euro-Louisianans that ensued in the courts, and ultimately influenced a free woman of color’s place in the New Orleans social order. Although it is impossible to determine conclusively if Maria Luisa left her mark on the document, the decision demonstrated that the courts used the instance of

1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

⁵² Clark, *Masterless Mistresses*, 117. For a more in-depth examination of literacy rates in early New Orleans see pages 113-17. Clark also juxtaposes literacy rates in New Orleans with other North American cities, demonstrating the exceptionality of female literacy rates in the city. She attributes the high rates among women of European descent to the school run by the Ursuline nuns. Due to a lack of evidence, Clark does not conclusively associate African and Afro-Creole women’s literacy rates with the school, although there is some evidence to suggest so.

⁵³ [*Francisco Villiers vs. Maria Luisa, called Trisa, free negress*] March 9, 1779, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 13, no. 3 (1930): 540-541; [*Suit for payment of note of 590 pesos*], March 9, 1779, *Spanish Colonial Index Books 7*, LHC Library Collection (LSM: 1994), 17; [*Francisco de Villiers Contra Maria Luisa Alias Trisa negra libre*], March 9, 1779, RG 2, LHC’s Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14468>.

contested documentation to rule in favor of the ethnically European complainant so that the woman of African descent remained subordinated. Furthermore, and perhaps more importantly, it also illuminated the unyielding aspirations of free African and Afro-Creole women, who utilized the Cabildo courts to try and improve their social status, regardless of the government's continued oppression.

As free women gained more economic power by the second half of the Spanish period, Cabildo officials less frequently turned to oppressive legislation as many of the city's inhabitants ignored them anyway. Instead, they increasingly handed out more confining decisions for Afro-Louisianan women during court cases. On September 10, 1787, when Marie Therese Cheval petitioned the Cabildo to nullify a private contract between herself and Francisco Durcy, the Cabildo found that the document did not include the formalities required in all official contracts. They declared the agreement null, however, they still ordered Cheval to pay Durcy for "whatever amount" Durcy felt was necessary.⁵⁴ In a separate trial in 1794, the court also ruled against Victoria Garcia, a free woman of African heritage, in her suit against Francisco Lalande Dapremenont for a 200-pesos salary he owed her for Garcia's service to his family as a wet nurse.⁵⁵ The documentary evidence in both trials supported the free women's petitions, yet the Cabildo still ruled against them. These cases demonstrate the Cabildo's desire to stop Afro-Louisianan women from accumulating monetary wealth, and to protect the finances of elite

⁵⁴ [*Maria Teresa Cheval Parda libre Pretendiendo separarse de un contrecho por un papel pribado con Don Francisco Dursy*], September 10, 1787, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed March 30, 2018, <http://www.lacolonialdocs.org/document/16136>; [*Suit for nullification of private contract*], September 13, 1787, *Spanish Colonial Index Books* 16, LHC Library Collection (LSM: 1994), 107-08; [*Proceedings Instituted by Maria Theresa Cheval, a Free Mulatto Woman, to Rescind a Certain Contract she made with Francisco Durcy, by Private Deed*], September 10, 1787, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC, vol. 134, (Doc # 1617, Box 49, File #2644).

⁵⁵ [*Promovidos por Victoria Garcia contra Don Luis Lalande Dapremenont sobre el cobro de cantidad de pesos*], December 2, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed March 30, 2018, <http://www.lacolonialdocs.org/document/16136>.

Euro-Louisianan men as free women garnered more economic power by the end of 1790s. They further show the resistance that many free women of African descent exhibited in the courts against elite oppression.

Free African and Afro-Creole women also appeared in suits that did not concern issues of debts and inheritances from 1769 to 1800. These cases included accusations of assault or theft and varied in their outcomes. Overall, the Cabildo found free women accused of criminal activity guilty, while they did not always do the same for accusations against Euro-Louisianan men.⁵⁶ These trials showed that Cabildo officials generally viewed the testimonies of men of European descent as more credible than those made by women of African ancestry, which reinforced the power dynamics of white male superiority in the city.

Suits that revealed clear bias in favor of Euro-Louisianan men occurred throughout the Spanish period. These cases revealed power dynamics and privilege that favored Euro-Louisianans, which became increasingly apparent in the court system by the end of the eighteenth century. One example of the imbalance of authority between people of color and whites began on December 6, 1776, when Marie Pechon approached the Cabildo seeking compensation for the wounds that she and her son, Francisco, sustained when Patricio Macnemara allegedly attacked them. She accused Macnemara of wounding her and her son with a hunting knife after he refused to believe that they were free people of color. After numerous witnesses attested to the veracity of Pechon's claims, the trial records end without any consequences for Macnemara.⁵⁷ As noted in the court documents, he avoided punishment

⁵⁶ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org>; *Spanish Colonial Index Books*, vols. 25-31, (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. WPA, New Orleans State Museum Library, LHC, vols. 143-149.

⁵⁷ [*Maria, a free negress, vs. Patricio Macnemara claiming damages for an assault and wounding of her son and herself*], December 19, 1776, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 12, no. 1 (1929): 181-184; [*Suit for damages for assault against son*], December 6, 1776, *Spanish Colonial Index Books*

because he was friends with most Cabildo officials. Without his associations, Macnemara would have likely been at least required to pay a fine to the Pechons. While not all cases of assault against free women of African descent went unpunished during the Spanish period, this case demonstrates the power included in being affiliated with the elites. Cases such as these illustrated the Cabildo's disregard for free women's safety when an elite man in power was the defendant. It also portrayed elite desires to keep free African and Afro-Creole women subordinated below men of European descent, which meant that they remained relatively unconcerned with Macnemara's ignorance of the Pechon's legal status. It further conveyed that struggles of power between Euro-Louisianan men of high social standing and women of African descent, both in and outside of the courts.

The Cabildo's preferential treatment of elite men continued until the end of the eighteenth century. A case in point began on June 8, 1795, when Pedro Favrot, an elite Frenchman who served in the Spanish militia, brought charges against Maria Cofignie, a free woman of African heritage, for making slanderous insults against his wife. Several witnesses of European heritage testified in the trial and stated that after Favrot's daughter insulted Cofignie's son for being of mixed racial heritage, Cofignie told the Favrot daughter that her mother was a prostitute.⁵⁸ The Cabildo responded by imprisoning Cofignie, rendering her unable to work. The Favrots then asked the courts to draw out the trial to force Cofignie's confession and apology, which the courts agreed to do.⁵⁹ Since she was a single mother, she eventually ended the suit by

5, LHC Library Collection (LSM: 1994), 148; [*Maria negra libre contra Don Patricio Macnemara*], December 19, 1776, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed March 25, 2018, <http://www.lacolonialdocs.org/document/14350>.

⁵⁸ Her exact insult was "un hija de puta" which directly translates to "a daughter of a bitch." This was a common insult in eighteenth-century New Orleans and was used to call someone a prostitute.

⁵⁹ [*Seguidos por Don Pedro Fabrot contra Maria Cofinie parda libre sobre palabras ynfuriosas*], June 8, 1795, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 2, 2018, <http://www.lacolonialdocs.org/document/17311>.

apologizing to the Favrots. Favrot's acceptance of Cofignie's apology, and the subsequent dropping of the charges, demonstrated that he initiated this suit on principle, not for financial gain. The Favrots, the witnesses, and the Cabildo officials sought to remind Cofignie that they perceived her as inferior to themselves because of her race. This trial similarly demonstrated the power of being an elite in Spanish New Orleans, and the desire among the city's Euro-Louisianan elites to keep women of African descent socially subordinated. By constraining Cofignie during trial proceedings, the Cabildo communicated to New Orleans society the repercussions of publicly insulting a family of high social standing. Yet, many women, such as Cofignie, struggled against the oppressive constructs set in place by the Cabildo and other elites, which likely improved their reputations in the eyes of other free people of color, but damaged it among Euro-Louisianans.

Enslaved women similarly appeared in legal proceedings as defendants in criminal suits. Just like free women of African descent, the Cabildo usually handed down oppressive decisions to enslaved women accused of criminal activity to reinforce their enslaved statuses. Over the course of the Spanish period, ethnically European people brought eight criminal cases against enslaved women. These suits included allegations of enslaved women running away as fugitives, accusations of assault, and charges of theft. Just as the city's elites perceived legal avenues to freedom as destabilizing to New Orleans society, they also viewed instances of enslaved people running away, stealing, or assaulting people of European descent as even more of a threat to caste stratifications, especially following events such as the San Malo Affair and the Pointe Coupée conspiracy.⁶⁰

⁶⁰ For a more detailed discussion of the San Malo Affair and the Pointe Coupée conspiracy, see chapter 2.

Of the criminal trials that involved enslaved women of African descent, cases of running away concerned the elites the most. Because the tribunal of Santa Hermadad had jurisdiction over most trials of runaway slaves, the Cabildo courts did not receive many of these suits.⁶¹ Only two cases involving female fugitives entered the Cabildo during the Spanish period.⁶² In both cases, the Cabildo handed out harsh decisions against the accused fugitives and communicated to New Orleans society that these people remained enslaved. Runaways destabilized slaveholder authority not only for individuals, but in the larger New Orleans society as well. Resolutely, Cabildo officials attempted to enact numerous legislative reforms, including the *Code Noir ou loi Municipale* in 1779, and various taxes for slaveholders in the 1790s to buttress police forces for the enslaved, both of which ultimately failed to pass.⁶³ As a result, the Cabildo continued to struggle against enslaved runaways during court proceedings, which usually resulted in their public subjugation as enslaved people.

Enslaved women were defendants in other criminal trials, and also found themselves receiving harsh punishments from the Cabildo that fortified their enslaved statuses by publicly demonstrating that they remained legally enslaved. In both March 1777, and in 1782, the Cabildo sentenced various enslaved women who were accused and found guilty of stealing less than 100

⁶¹ For a more in-depth examination of runaway slave activities and their impact on the greater Louisiana region, see, Hall, *Africans in Colonial Louisiana*, 201-36.

⁶² [*Criminal proceedings brought by Claudio Guillory to recover a slave that had run away*], January 20, 1781, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 15, no. 3 (1932): 545-46; [*Criminales Claudio Guillory*], January 20, 1781, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed March 29, 2018, <http://www.lacolonialdocs.org/document/14556>; [*Criminal Proceedings brought by Claudio Guillory to recover a slave that had run away*], January 20, 1781, *Spanish Colonial Index Books* 8, LHC Library Collection (LSM: 1994), 20; and [*Que se siguen de oficio contra los Simarrones*], March 1, 1783, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14747>; [*Criminal proceedings against fugitive slaves for shooting at arresting expedition & for running away from their owners*], March 1, 1783, *Spanish Colonial Index Books* 10, LHC Library Collection (LSM: 1994), 20.

⁶³ For a more in-depth discussion see chapter 3.

pesos to 200 lashes in the public streets.⁶⁴ The courts also sentenced a woman named Julia to 200 lashes in the public streets and public shame for two hours a day, for eight days straight, for allegedly putting ground-up glass in her legal owner's breakfast.⁶⁵ These criminal cases influenced the social order by both publicly fortifying slaveholder authority over the enslaved, and by reiterating the enslaved statuses of the accused. The public nature of the punishments enacted against the enslaved undoubtedly discouraged other enslaved people from challenging the power of their slaveholders. While the courts could not deny enslaved women their rights to *coartación*, they did have the ability to enact the harshest punishment possible on women who they viewed as threatening the social order. Yet unlike free women of color, enslaved women could not push back against the elites, or the decisions they made. Instead, they likely received additional punishments from their slaveholders after the Cabildo's decision and were the subjects of violence and oppression beyond what occurred in the public.

By comparison, the Cabildo also punished people who harmed enslaved women, but only when the enslaved laborer was a pregnant woman. The city's slaveholding elite viewed injuries against women carrying children as particularly problematic because they needed natural reproduction to sustain their enslaved populations.⁶⁶ On November 1, 1794, Antonio Lozada

⁶⁴ [Criminal Prosecution of the negroes Cezario, Francisco, Chirstoval, Noel and the negress, Marguerita for breaking into and robbing Widow Courtebleau's house], March 13, 1777, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 12, no. 3 (1932): 498-511; [Criminal prosecution of slaves for break-in and robbery], March 13, 1777, *Spanish Colonial Index Books* 6, LHC Library Collection (LSM: 1994), 19-22; and [Criminal prosecution of Joseph Leon, Joseph Pivoto and Manuel, Soldier of Dragoons for the robbery of a trunk belonging to Captain Antonio Fernandez in Salvador Cunille's house], February 16, 1781, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 15, no. 4 (1932): 687-706; [Criminal prosecution for theft of 300 pesos], February 16, 1781, *Spanish Colonial Index Books* 8, LHC Library Collection (LSM: 1994), 36-7.

⁶⁵ [Don Juan Luis Lalande Dapremont Contra la negra Julia sobre haver dado a comer Vido molida a su ama], October 28, 1785, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 7, 2018, <http://www.lacolonialdocs.org/document/14959>; [Criminal & civil suit against slave for attempted murder of her owner by placing ground glass in her food], October 28, 1785, *Spanish Colonial Index Books* 13, LHC Library Collection (LSM: 1994), 85-86.

⁶⁶ After Carondelet severely restricted the slave trade in the early 1790s following the Haitian and French Revolutions, many slaveholders relied on illicit trading or the forced natural reproduction of enslaved women to sustain their slave populations. Leglaunec, "Slave Migrations in Spanish and Early American Louisiana," 197.

initiated trial proceedings against Pedro Guerro on behalf of a pregnant enslaved woman he owned. He stated that Guerro hired the woman for temporary work and injured her, which caused her to have a miscarriage. The trial lasted until December 3, 1794, when the court ruled in favor of Lozada. They then hired a notary to estimate the harm done to the enslaved woman and the potential value of the unborn fetus. Guerro paid the amount of the evaluation to Lozada, which ended trial proceedings.⁶⁷ On June 1, 1799, a similar suit appeared before the Cabildo courts in which Juan de Castanedo filed proceedings against Estevan Tougnet Pelgria for libel. Castanedo stated that Pelgria had falsely accused him of seriously beating Castanedo's pregnant slave. After a lengthy deliberation, the trial ended on November 22, 1799, when the two parties compromised, and the plaintiff agreed to pay for the enslaved woman's medical costs.⁶⁸ While cases of assault against free women of color often did not get justice, injuries against pregnant enslaved women did because the Cabildo sought to protect the property of elite slaveholders. This illustrated elite desires to fortify the economic statuses of slaveholders in the first caste, who were increasingly threatened by Afro-Louisianans and non-elite slaveholders by the end of the Spanish period.

Just as some enslaved women received favorable decisions from the Cabildo, so did some free African and Afro-Creole women, yet, this only occurred when the Euro-Louisianan involved in the case offended the Cabildo. For example, on February 16, 1786, Carlos Bude accused Rosa, a free Afro-Creole woman, of verbally assaulting him in public and threatening to hit him with a shovel. During his initial petition, he asked the court to imprison Rosa and seize her home. After

⁶⁷ [*Promovidos por Ramon Antonio Lozada contra Pedro Guerrero sobre unos Golpes que dia ala negra del primero de que result haver malparido*], November 1, 1794, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 10, 2018, <http://www.lacolonialdocs.org/document/17960>.

⁶⁸ [*Que el Caballero Regidor Don Juan de Castanedo sigue contra Don Estevan Tougnet de Pelegrie*], June 1, 1799, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 6, 2018, <http://www.lacolonialdocs.org/document/17547>.

the court heard several eyewitness testimonies, they discovered that Bude lied during his initial statement, and was actually involved in a romantic relationship with an enslaved woman named Naneta Cavalier, who frequently visited Rosa's house. It is likely that Bude filed the false charges against Rosa because he hoped that the Cabildo's seizure of Rosa's home would limit his public interactions with Cavalier as he knew their relationship would damage his reputation. The Cabildo released Rosa from jail, imprisoned Bude for his false accusations and relationship with Cavalier, and further required him to compensate Rosa for the days she spent in jail. The court also ordered him to end the relationship immediately so as to prevent any further disturbances in the New Orleans community.⁶⁹ This trial illustrated the Cabildo's denunciation of men of lower-social standing who brought interracial relationships into public view and thereby blurred caste boundaries. As the government sought to oppress African and Afro-Creole women, they similarly sought to denounce the men who distorted the racial boundaries that Cabildo officials desired. Thus, the struggles for power in New Orleans sought to oppress not only women of African descent, but also the Euro-Louisianans whose activities bolstered their social statuses.

The discriminatory legislation that the Cabildo passed, as well as the overall prejudice that many officials exhibited, led free African and Afro-Creole women to undermine elite attempts to keep women of color subordinated. One of the ways they did so was by continuing to hold tri-racial dances, and another was by working outside of Cabildo-sanctioned spaces. Adhering to the gendered division of labor in early New Orleans, many women worked as food vendors who sold fruits, vegetables, and breads. In the late 1780s, the Cabildo opened a public market to regulate food quality and prices to ensure affordability and general well-being for New

⁶⁹ [*Seguidos por Carlos Bude, contra la negra libre nombra Rosa, sobre palabras ynfuriosas*], February 16, 1786, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed March 25, 2018, <http://www.lacolonialdocs.org/document/15000>; [*Suit against free negress for assault*], February 16, 1786, *Spanish Colonial Index Books* 14, LHC Library Collection (LSM: 1994), 31.

Orleans residents. They taxed the vendors who rented stalls at the market and used this revenue for municipal purposes.⁷⁰ There are no extant records that indicate that free African or Afro-Creole women requested permits for the market stalls.⁷¹ Therefore, Cabildo officials either outright denied free women's rental requests and never recorded the petitions they made for them, or free women never filed rental requests to begin with. Since there were no legal stipulations that explicitly restricted free women from renting stalls, the latter is more likely than the former. By contrast, many free women sold their goods outside of the official public market on the streets and in the area that came to be known as "Congo Square," the primary socializing area in New Orleans for people of African descent. Here, both free and enslaved Africans and Afro-Creoles sold goods to each other and to Euro-Louisianans.⁷²

By selling their goods outside of Cabildo-sanctioned spaces, free African and Afro-Creole women avoided paying taxes to the institution that sought to control their socio-economic status. Because New Orleans largely functioned as a frontier society throughout the Spanish period, the city's inhabitants needed to mutually depend on each other for personal survival, which demanded that people of European descent work with and among the city's free black population.⁷³ Many female Afro-Louisianan vendors and shopkeepers thus became the most prominent businesswomen in their sectors. Consequently, these women also took business away

⁷⁰ Din and Harkins, *The New Orleans Cabildo*, 186-90.

⁷¹ Whereas it appears that no free women of African descent applied for licenses to sell their goods as street vendors, a small number did seek licenses to run taverns. In 1787, the city gave taverns licenses to six free women of African descent. This constituted a relatively small percentage of the population as compared to the sixty-three licenses that the Cabildo issued to Euro-Louisianan men in that same year. During the 1790s, several free women also owned boarding houses. These places of business were located on the streets that bordered the Mississippi River, so that sailors, soldiers, and travelers could easily access their services. Although this qualified as free women of color working within Cabildo sanctioned spaces, it allowed them to become economically formidable within the second caste of free people of color. For more information on free women in these places of business see, Hanger, *Bounded Lives, Bounded Places*, 60-5, 147-48; Hanger, "Almost All Have Callings," 157.

⁷² Johnson, "New Orleans's Congo Square," 117-57; Din and Harkins, *The New Orleans Cabildo*, 12.

⁷³ Burson, *The Stewardship of Don Esteban Miró*, 253.

from the Euro-Louisianan merchants who worked in the market that supported the city's elites. While most residents of the city originally frequented the markets, which initially marginalized free African and Afro-Creole female vendors, consumers quickly realized these women sold the same goods for lower prices and subsequently started purchasing foodstuffs from these women instead of the more costly public market.⁷⁴ The ethnically European vendors who rented stalls grew frustrated by their activities and asked the Cabildo to make street vending illegal. In 1797, Don Fernando Alzar petitioned the Cabildo on behalf of himself and fifty other merchants and shopkeepers in the city. He claimed that the economic activities of free African and Afro-Creole women detracted from their livelihoods, as they had to pay rentals fees while these women did not. Unfortunately, Alzar's petition did not include a response from the Cabildo. Regardless of the Cabildo's actions, or lack thereof, free women continued to sell their goods on the streets throughout the Spanish period.⁷⁵ This was one of the ways in which women of African descent struggled against the city's power structures. Although Euro-Louisianan vendors had the ability to approach the Cabildo with their grievances against female vendors of African descent, the economic impoverishment of New Orleans created the circumstances in which they could continue to sell their goods because the city's inhabitants needed them. This thereby allowed them to be able to continue to advance their financial statuses and become socially and economically successful in New Orleans society.

As the eighteenth century progressed, free African and Afro-Creole women increasingly exercised their personal and economic power in New Orleans. The suits brought by and against free women more significantly affected the social order than those brought by enslaved women mainly because free women had more legal rights. The courts also had more abilities to silence

⁷⁴ Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy*, 115-17.

⁷⁵ Johnson, "New Orleans's Congo Square," 122-32; Hanger, "'Almost All Have Callings,'" 154-56.

enslaved women in public than they did free women. As a result of the relations that free women of African descent had with men of European heritage, both intimate and professional, free women collectively owned approximately one-quarter of the city's wealth by the mid-1790s in the form of personal businesses, properties, gold, silver, and other financial assets.⁷⁶ Because Cabildo officials could not outright deny these women their rights in trial proceedings due to established precedents, these men opted to pass legislation that attempted to limit the socio-economic mobility of free women of African descent. As these women grew increasingly aware of the elites' discrimination against them, free women of color sometimes reacted vocally and violently, as exhibited in some trial records, but mainly opted to limit their interactions with the city's elite population. All of these responses constituted resistance against elite perceptions how the social order should form. The combination of free and enslaved African and Afro-Creole women's activities in the courts, the official responses to them, and these women's resistance against elite oppression, all helped contribute to the formation of New Orleans society. Other cases also remained important in helping shape the city's social order and free women's place within it. The legal proceedings between Afro-Louisianan women and other people of African ancestry also influenced the New Orleans social order, yet these trials mainly illustrate how some free women tried to elevate the social standings that they and their families occupied, while others sought to distance themselves from Afro-Louisianans altogether.

⁷⁶ Spear, *Race, Sex, and Social Order in Early New Orleans*, 130.

CHAPTER V

CASES BETWEEN WOMEN OF AFRICAN

DESCENT AND AFRO-LOUISIANANS

Throughout the Spanish period, women of African descent also appeared in the Cabildo courts against both male and female Africans and Afro-Creoles in civil and criminal suits. While these types of trials did not occur frequently, they revealed economic and social interactions between people of African ancestry, both free and enslaved. These trials mainly concerned financial disputes, and only a few involved assaults or acts of physical violence. Because these cases did not directly threaten the social or economic status of Euro-Louisianans, or blur the lines between caste designations, governmental officials remained relatively unconcerned with these suits and did not respond to them with restrictive laws or regulations. The sporadic nature of court proceedings between women of color and other Afro-Louisianans indicate that either few altercations took place between people of color, or that they used means outside of the Cabildo courts to resolve disputes. Regardless, the trials that did take place demonstrated how some African and Afro-Creole women acquired financial wealth. Furthermore, they reflected how certain free women of color used their socio-economic status to elevate the class standings of people of African descent while others strove to distance themselves from the second caste as they attempted to be accepted by Euro-Louisianans.

Most suits involving free or enslaved African and Afro-Creole women showed how women either acquired or disbursed financial assets. These trials did not always involve outright disagreements, but were sometimes simply legal proceedings that distributed inheritances,

established notarized wills, or formalized a woman's ownership of property.¹ Overall, the Cabildo completed eight suits of succession for deceased African and Afro-Creole women and allocated their assets to beneficiaries.² These cases demonstrated how free women acquired property and further exemplified one of the ways in which these women augmented the economic assets of other people of African descent, which consequently improved their social standing.

During the initial years of the Spanish period, few free women of African ancestry owned moveable or fixed property. As such, only three free women's succession suits appeared before the Cabildo in the 1770s. In addition to distributing goods, the wills that these women left also included instructions to emancipate a consanguine or formative family member. For example, Marguerite, a free woman of mixed racial heritage, left a will that instructed the Cabildo to purchase the freedom of her enslaved mother, Genevieve, and brother, Louis, with funds raised by the courts' sale of her property.³ However, the existing evidence suggests that the Cabildo did not uphold the conditions of Genevieve's will, as the case records did not include any declarations of manumissions.⁴ While Cabildo officials appear to have been relatively indifferent

¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

² "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

³ [*Will. Marguerite, free negress*], March 1, 1770, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 6, no. 2 (1923): 316; [*Margueritte mulatresse libre testament*], March 1, 1770, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 2, 2018, <http://www.lacolonialdocs.org/document/13670>; [*Will of Marguerite, mulatresse libre, stating that her estate consisted of a house on Royal Street, which she wishes sold after her death*], March 1, 1770, *Spanish Colonial Index Books* 1, LHC Library Collection, (LSM: 1994), 16.

⁴ [*Margueritte mulatresse libre testament*], March 1, 1770, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 2, 2018, <http://www.lacolonialdocs.org/document/13670>. Furthermore, there are no notary records that show Genevieve's owner ever emancipated an enslaved woman by her name. By contrast, there

to some legal proceedings brought by free African and Afro-Creole women, such as those that involved assaults against other Afro-Louisianans, suits that liberated an enslaved person did concern them. The Cabildo most likely failed to emancipate Genevieve and Louis to protect the property of the Euro-Louisianan men to whom they belonged. In doing so, they not only subordinated the enslaved people that Marguerite afforded freedom but also fortified the economic supremacy of the elite slaveholders who owned them. During the other two suits of succession in the 1770s, the Cabildo honored the emancipation stipulations in the deceased persons' wills. These cases, however, each took one year or more to emancipate the enslaved person(s).⁵ Officials likely dragged out these cases so that the slaveholders they belonged to could remain in an elevated position within the first caste. Marguerite's case, then, was one of the only instances in which the court officials refused to uphold a free Afro-Louisianan woman's written will, but they still tried to ignore the wills of deceased Afro-Louisianan women for as long as possible to maintain slaveholder assets. The Cabildo's influence over these succession proceedings demonstrate that they desired to protect the properties of Euro-Louisianan

are multiple notary records that note that Louis's owner freed multiple enslaved people by his name. However, he did not emancipate anyone by the name of "Louis" until the late 1780s. Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

⁵ In the first suit that began on January 17, 1774, the person who enslaved the deceased woman's son did not free him until October 1775, even though the court inventoried and began selling her goods on January 13, 1774. [*Intestate Succession of a free negress called Marton or Martha*], January 17, 1774, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 10, no. 2 (1927): 292-93; [*Intestate Succession of free black*], January 17, 1774, *Spanish Colonial Index Books* 4, LHC Library Collection, (LSM: 1994), 7; [*Intestado*], January 17, 1774, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 6, 2018, <http://www.lacolonialdocs.org/document/14195>. Additionally, a suit of succession that began on April 21, 1776 freed two enslaved people belonging to the estate, but lasted ten years, ending on April 5, 1786. The trial lasted that long because the primary heir of the estate was not in New Orleans during the initiation of the suit, so the courts waited until her appearance. However, the case ended in 1786 without her appearance in the trial records, and there is also no record that she, or any other beneficiaries of the estate, ever received the funds left to them by the deceased. [*Succession of a free negress called Juana, inventory and valuation of her estate with much litigation over the custody of the proceeds*], April 21, 1776, [*Succession. Orders for manumission of foster children*], April 21, 1776, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 11, no. 3 (19): 519-26; [*Succession of a free negress called Juana, inventory and valuation of her estate with much litigation over the custody of the proceeds*], April 21, 1776, *Spanish Colonial Index Books* 5, LHC Library Collection, (LSM: 1994), 87; [*Testamentara de la negra libre nombrada Juana*], April 21, 1776, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 6, 2018, <http://www.lacolonialdocs.org/document/14308>.

slaveholders, and to limit the socio-economic advancements of people of African ancestry, which they continued to do throughout the Spanish period. Similarly, the persistence of the enslaved to ensure that they received their emancipations demonstrated the resiliency of enslaved Africans and Afro-Creoles against elite oppression.

During the 1780s and 1790s, the courts continued to draw out legal proceedings involving the estates of African and Afro-Creole women to inhibit the beneficiaries' accumulation of wealth. They also began to undervalue the estates of deceased women of color for the same reason throughout these decades. In a suit that began on June 12, 1789, for example, Maria, the granddaughter of a deceased woman named Angelica, alleged that the Cabildo purposely underestimated her grandmother's estate and asked for an official appraiser to re-evaluate Angelica's property. The judge denied her petition even though the court did not follow the official appraisal process. Maria continued to protest the judge's decision until her brother, the other heir to the estate, convinced her to concede the verdict and accept the awarded money, ending trial proceedings approximately one year later.⁶ Throughout these decades, Afro-Louisianan female succession suits were unduly long, with one lasting seven months, one taking a full year, and another two lasting three years. These cases also included contestations as to the value of the goods owned by the deceased women.⁷ The succession of Marthonne Blair, for

⁶ [*Testamentara de la negra libre nombrada Angelica intesntario y estamasion de sus bienes*], June 12, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 6, 2018, <http://www.lacolonialdocs.org/document/15591>.

⁷ [*Diligencia practicada de la fallecimiento de la negra libre Ursula Chamiras*], October 21, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 10, 2018, <http://www.lacolonialdocs.org/document/17113>; [*Autos fechos por fallecimiento de Martona Beliar*], August 15, 1795, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 10, 2018, <http://www.lacolonialdocs.org/document/17331>; [*Testamentaria de Naneta Colet, negra libre*], October 16, 1797, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 10, 2018, <http://www.lacolonialdocs.org/document/17460>; [*Testamentaria de Felicitas Forneret, mulata libre*], July 19, 1798, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 10, 2018, <http://www.lacolonialdocs.org/document/17492>.

instance, left a 221-page case record, which documented disputes over rightful heirs, distributions, and evaluations.⁸ The case lasted approximately one year, during which time the Cabildo, as noted in the court records, mainly protested the distribution of Blair's estate because she left numerous "illegitimate" children, many of whom were of mixed racial heritages. They dragged on trial proceedings in the hopes that the lengthy case would exhaust the heirs of the estate who would then concede to any under evaluations made by the courts and be required to pay the costs of the legal proceeding that increased the longer the trial lasted. Through their efforts, the Cabildo sought to limit the economic growth of free Africans, Afro-Creoles, and peoples of mixed racial heritages, which subsequently hindered how socially powerful these people could become. This would have stratified the economic power between Euro-Louisianans in the first caste and the financially powerful Afro-Creoles in the second caste. Yet many free people of color, including the heirs of Blair's estate, persisted against the oppression of the elite men in the Cabildo, and fought to gain the economic assets that were rightfully theirs.

While people of European descent also experienced suits of succession that contested the distributions of the estates to heirs, they less commonly encountered issues of unjustifiably long trials and always received formal appraisals by the proper officials.⁹ The courts treated female Afro-Louisianan successions differently than those of Euro-Louisianans as the elites grew more concerned over the increased social and economic influence that women of color wielded by the end of the Spanish period. Yet, the Cabildo could not outrightly deny the rights of deceased

⁸ [*Autos fechos por fallecimiento de Martona Beliar*], August 15, 1795, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 10, 2018, <http://www.lacolonialdocs.org/document/17331>.

⁹ Cases which demonstrate that non-people of color experienced succession suits of approximately one month include, but are not limited to, [*Intestate Succession. Constanza Molant*] January 19, 1781, *Spanish Colonial Index Books* 8, LHC Library Collection, (LSM: 1994), 12; [*Succession. Francisco Bigon*] March 1, 1783, *Spanish Colonial Index Books* 10, LHC Library Collection, (LSM: 1994), 21; [*Succession of Domingo Fortier*] September 19, 1785, *Spanish Colonial Index Books* 13, LHC Library Collection, (LSM: 1994), 59; [*Succession of Pedro Chabert*] June 14, 1788, *Spanish Colonial Index Books* 17, LHC Library Collection, (LSM: 1994), 188.

women of African descent who left formal wills because of the legal precedents that they set in the 1770s.¹⁰ Instead, they made these trials lengthier and undervalued many of these women's estates, which limited the socio-economic improvement of their Afro-Louisianan heirs.

The eight succession suits that appeared before the Cabildo represent only a small percentage of the free African and Afro-Creole women who died during the Spanish period.¹¹ The other women who passed away also had financial assets but did not leave formal wills for the Cabildo to oversee. It is likely that the court's treatment of the eight suits discussed above led some women to allocate their wealth before their deaths to avoid the possibility of the courts under evaluation of their goods. This would have also prevented the Cabildo from delaying the distribution of property with lengthy trial proceedings. It is also probable that free African and Afro-Creole women circumvented the courts by leaving instructions with their family members as to how to allocate their assets after they died. Furthermore, married African and Afro-Creole women typically did not create wills for themselves, as their property would have remained in their husbands' possession at the times of their deaths, and thus would not have required the Cabildo's oversight. Thus, free women with substantial financial holdings likely circumvented the oppression of the elites by operating outside of the courts to ensure their beneficiaries would accumulate all of their economic holdings.

Other trial records demonstrate the more widespread ownership of real property among free African and Afro-Creole women, which were primarily lots and residential structures in New Orleans. Free women of color owned houses on every block and often resided with other free and enslaved people of African ancestry. During the eighteenth century, real property in the city was not excessively expensive. For example, a free African woman sold a lot on Ursuline

¹⁰ For a detailed discussion of the case, see chapter 4.

¹¹ Woods and Nolan, *Sacramental Records of the Roman Catholic Church of the Archdiocese of New Orleans*.

Street to another Afro-Louisianan woman for fifty pesos.¹² The relative affordability of real property in early New Orleans enabled free women of many economic backgrounds to purchase land and homes. Cabildo officials did not formally restrict where free Afro-Louisianan women could buy property, meaning that they did not segregate residential spaces as they did places of public leisure.¹³ As a result, many free and enslaved people of African descent lived alongside Euro-Louisianans in integrated neighborhoods. Additionally, numerous people of European heritage rented rooms to people of African ancestry as a means of supplementing their incomes.¹⁴ Free people of color also had certain parts of the city in which they lived away from Euro-Louisianans. The residential composition of the city thus resulted partially from the prejudices and self-segregating practices of people of European descent, and from Afro-Louisianan desires to create a community and culture that was distinct from the city's white population. They subsequently helped build a social order in which the second caste was culturally unified, and socially and economically formidable.

By dividing New Orleans into quadrants, with the first quarter being the southeast quadrant, the second quarter the southwest, the third quarter the northwest, and the fourth quarter the northeast quarter, there is enough data to compare population percentages by race in the first and third quadrants between the 1795 and 1803 censuses (see Figure 2).¹⁵ The first quarter had a

¹² As noted in chapter 3, free women of color made approximately 11 pesos a month, which meant that a woman could earn the cost of purchasing a lot over the course of approximately five months, provided that she did not need to allocate her earnings elsewhere. Most free Afro-Louisianan women needed to pay for other necessities with their income, so it would have taken more time to accumulate the funds required for property ownership. One of the court cases which demonstrated how much property cost was [*Sale, Real Property. Geneveva to Maria Juana, negress*], November 27, 1770, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 6, no. 3 (1923): 535; [*Venta Geneveva Junon a Maria Juana, negra*], November 27, 1770, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 27, 2018, <http://www.lacolonialdocs.org/document/13967>.

¹³ For a more extensive discussion on the segregation of leisure spaces see chapter 4.

¹⁴ Hanger, *Bounded Lives, Bounded Places*, 138-39.

¹⁵ Numerous historians including Gwendolyn Midlo Hall, Kimberly S. Hanger, Jennifer M. Spear, and Gilbert C. Din have found that census records undercounted the free black population throughout Spanish New Orleans. Therefore, the 1795 census does not include numbers from population numbers for the fourth quarter, while the

48 percent white population and only a 9 percent free black population in 1795. By 1803, those numbers slightly increased to 50 percent for the white population and 14 percent for the free black population. Meanwhile, the third quarter had almost equal population sizes between free Afro- and Euro-Louisianans. In 1795, the census recorded a 33 percent white population in the area, with a 35 percent free black population. By 1803, the white population increased to 35 percent while the free black population grew to 38 percent.¹⁶ Additionally, the census records suggest that people residing in the first quadrant owned more enslaved people. This quadrant had an enslaved population at 43 percent in 1795 and a 37 percent in 1803. By comparison, only 28 percent of quadrant three were enslaved during both census years (see Table 2).¹⁷ Therefore, as a collective, the people residing in the first quadrant tended to be wealthy enough to own enslaved people. It is likely that some African and Afro-Creole women who resided in quadrant 1 owned enslaved people in their efforts to be accepted by the Euro-Louisianan community.¹⁸

Unfortunately, some speculation is necessarily involved in the conclusion that some of these slaveholders were people of color because the 1803 census only lists the number of people that resided in each quadrant by race and status and does not include any names or households, and the 1795 records do not explicitly record which Afro- or Euro-Louisianan households owned enslaved people. However, the high population of enslaved people that lived with their owners in this quadrant, combined with the notarial records that demonstrate the widespread ownership of enslaved people among free Afro-Louisianans, help support this conclusion.¹⁹

1803 census did not record the number of free people of African descent in the second quarter. Hanger, *Bounded Lives Bounded Places*, 139.

¹⁶ Census numbers noted in, Hanger, *Bounded Lives, Bounded Places*, 139.

¹⁷ Hanger, *Bounded Lives, Bounded Places*, 139.

¹⁸ Other studies have identified the desire for free Africans and Afro-Creoles to be accepted by ethnically European people throughout the Americas. See for example, Cohen and Greene, *Neither Slave nor Free*, 11-6.

¹⁹ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157. Unfortunately, the census records from 1795 and 1803 do not list residents by name, but only counted the total number of residents in each quarter by phenotype. Furthermore, they do not detail which homes owned enslaved

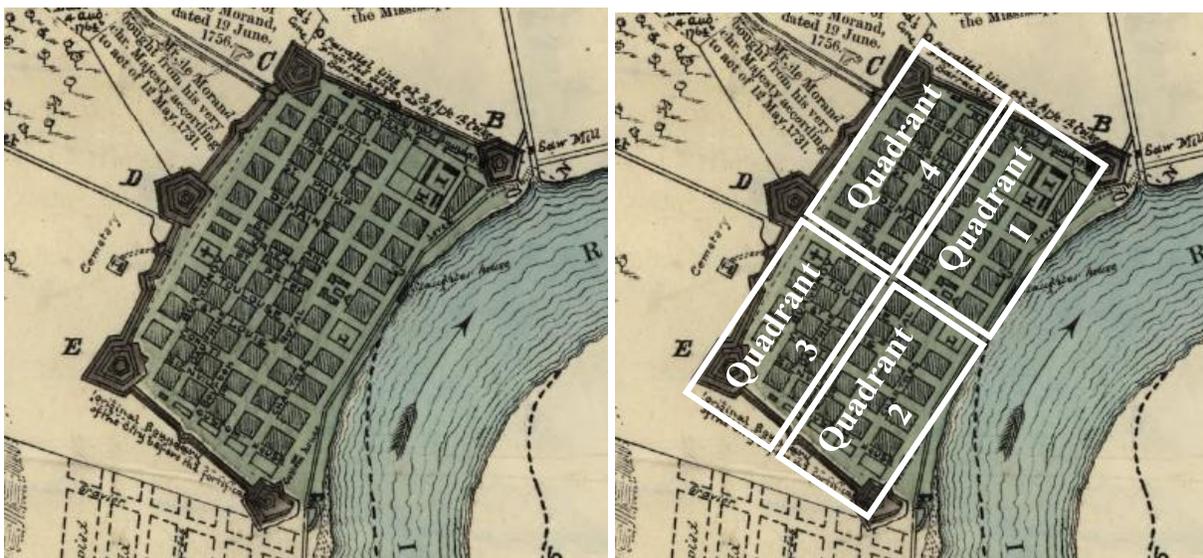


Figure 2: Plan of the City of New Orleans. Source: Charles Laveau Trudeau, *Plan of the City of New Orleans and adjacent plantations*, 1798, map, Library of Congress Geography and Map Division, Washington D.C., <https://www.loc.gov/resource/g4014n.ct000685/>.

Table 2. Population Percentages by Quarter in New Orleans, 1795 and 1803

Group	1795			1803		
	1 st	2 nd	3 rd	1 st	3 rd	4 th
Euro-Louisianans	48	39	33	50	35	50
Free Afro-Louisianans	9	11	35	14	38	25
Enslaved Afro-Louisianans	43	49	28	37	28	25
Total	100	99 ^a	100	101 ^a	101 ^a	100

Source: Kimberly S. Hanger's table compiled from the 1795 and 1803 Census Records. Statistics and records for quarter 4 in the 1795 census, and for free Afro-Louisianans in the quarter 2 in the 1803 census are missing. (Kimberly S. Hanger, *Bounded Lives, Bounded Places: Free Black Society in Colonial New Orleans, 1769-1803* (Durham: Duke University Press, 1997), 139.

a. Rounding error from source.

people for white or black residents in each quadrant. Winston De Ville, *The 1795 Chimney-Tax of New Orleans: A Guide to the Census of Proprietors and Residents of the Vieux Carré* (Ville Platte, Louisiana: Smith Publications, 1994); "New Orleans Census Record, 1803" (1803), New Orleans Municipal Records, Manuscripts Collection 16, Box 6 Louisiana Research Collection, Tulane University, Louisiana Research Collection, Howard-Tilton Memorial Library, Tulane University, New Orleans.

Although New Orleans bureaucrats did not formally segregate residential areas, the census records suggest that people of African descent more frequently purchased the lots and houses in quadrant three. Notary records also indicate that these lots were typically less expensive than those in quadrant one, and therefore more accessible to recently liberated people of African descent who had few financial holdings due to the costly nature of *coartación*. This area tended to be more inexpensive partially because the land was lower in elevation, which made it more susceptible to natural disasters, and because it had less access to the Mississippi River. Reports in the early nineteenth century described quadrants 3 and 4 as the most severely affected by flooding caused by hurricanes.²⁰ Because people of African descent and others who lived in these areas were disproportionately affected by natural disasters, they would have been required to use some of their financial assets to fix or replace property damaged during heavy rains or floods. This would have lowered their economic power and caused them to remain more reliant on loans and creditors that they might have otherwise been able to afford if they did not have to allot finances to repairing damaged property.

Additionally, the devastating fire that swept through New Orleans on March 21, 1788, afflicted quadrants 3 and 4 more significantly than quadrants 1 and 2.²¹ While the environmental characteristics of these areas did not contribute to the excessive damage from the fire as it did with flooding, the fire diminished the monetary holdings of the quadrants' residents. After the fire, Governor Esteban Rodríguez Miró requested inventories from those who lost property during the fire. The records suggest that a disproportionately higher number of free African and Afro-Creole women lost substantial amounts of property as a result of the devastation. Men and women of Euro-Louisianan descent also reported losses to the Cabildo, but it was people of

²⁰ Dessens, *Creole City*, 31-3.

²¹ Ermus, "Reduced to Ashes," 298-300.

African ancestry who had few financial or landed assets who primarily filed claims.²² While government-sanctioned segregation did not emerge until the U.S. acquired the Louisiana territory, the embryonic formations of a racially segregated city began during the Spanish period, when people of color more commonly occupied less expensive spaces that were also populated by people who had the same racial identities and cultures as themselves. Unfortunately, these areas also tended to be more prone to natural disasters. Although these circumstances depleted the financial holdings of many of the Afro-Louisianan people who resided in these spaces, they created a socially unified body that remained culturally cohesive into the nineteenth century.

Female African and Afro-Creole homeowners of all socio-economic standings housed consanguine, affinal, and formative families in their residences. In doing so, these women afforded their family members an opportunity to improve their finances as they did not have to allocate a portion of their earnings to rent as others did. These homes also served as important centers for familial and cultural developments among Afro-Louisianans, which then established social relations between families of African descent in New Orleans. Most homes included nuclear families with parents who were sometimes married, but generally were not. The Cabildo notary and sacramental records documented the instances of official marriages within the free black community from 1769 to 1800.²³ Formalized unions required a notary to draw up marriage contracts, and a priest to officiate the ceremony.²⁴ Of the ninety-three marriages between free

²² Hanger, *Bounded Lives, Bounded Places*, 86.

²³ Some examples include, *Marriage contract and dowry of Pedro (free mulatto) to Naneta (free mulatress)*, April 25, 1778, notary of Andres Almonster y Roxas v. 10, folio 251; *Marriage Contract Francisco Alexandre Celombe (free mulatto) and Henriette Toutant (free mulatress)*, May 22, 1793, notary of Francisco Broutin v. 25, folio 144; *Marriage contract between Simon (free negro) and Maria Theresa (free negress)*, March 8, 1779, notary of Juan B. Garic v. 12, folio 157; Woods and Nolan, *Sacramental Records of the Roman Catholic Church of the Archdiocese of New Orleans*.

²⁴ Woods and Nolan, *Sacramental Records of the Roman Catholic Church of the Archdiocese of New Orleans* v. 3, x-xix.

people of African ancestry, seventy-one listed both partners as having the same phenotype.²⁵

Therefore, while most free women of African descent married men of similar ethnic backgrounds, not all did, but all of these women contributed to the cultural solidification of the second caste of free Afro-Louisianans.

The court's intervention in one dispute over a marriage proposal indicates that free women of color not only married men with different racial heritages, but also that families worried about the social implications and possible legal restrictions of these unions. On September 6, 1788, Judge Antonio Argote released Bartholome Bautista, a free man of mainly African heritage, from jail after he initiated a suit against Pedro Pablo Labastille for wrongful imprisonment. Labastille explained that he had previously had the Cabildo put Bautista in jail because Bautista had convinced his daughter, Catalina Labastille, to leave home and marry him, which Labastille opposed. Labastille initially justified his objection on the grounds that his daughter was a "quadroon," or a woman of only one-quarter African heritage.²⁶ He stated that Catalina's and Bautista's different racial heritages led him to believe that they legally could not marry, however, Labastille confessed that his friends had since informed him that the two could marry according to the laws of the province and stated that he now approved of the union.²⁷ Labastille mistakenly believed that his daughter's predominantly European racial heritage

²⁵ Hanger, *Bounded Lives, Bounded Places*, 95-97. These records, as noted by Hanger, should be considered in the context that prejudiced Euro-Louisianan men made these records, and as such it is likely that they misidentified phenotypes and did not accurately record racial heritages, making some of these records questionable.

²⁶ Unfortunately, the trial records do not indicate her ethnic heritage.

²⁷ [*Bartolomé Bautista, grifo libre, contra Jua La Franche sobre impedir este el matrimonio con hija con el señor Bartolomé*], September 6, 1788, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 27, 2018, <http://www.lacolonialdocs.org/document/16340>; [*Suit to be released from jail and to force father to show cause as to why petitioner should not marry his daughter*] September 6, 1788, *Spanish Colonial Index Books* 18, LHC Library Collection, (LSM: 1994), 76; [*Proceedings Instituted by Bartolome Bautista, a free negro to have the court order Pedro Pablo Labastille, to show cause why he should not marry his daughter Catalina*], September 6, 1788, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC, vol. 137, (Doc # 1860, Box #51, File #2408).

restricted her from marrying racially African or Afro-Creole men, yet her partially African ethnic background did allow the union under Spanish law.²⁸ It is likely that the tendency of most women of African descent to marry within their own racial heritage would have led to Labastille's misconception. While Labastille's case was unique, this suit demonstrates that New Orleanians were cognizant of the potential legal and social restrictions of marriage, and that the Cabildo remained relatively unconcerned with unions between free people of African descent. The Cabildo took no action in this particular case, because Catalina's marriage to Bautista meant that she would have children of predominantly African heritage that would not threaten caste designations because of their phenotype(s). It also showcases the anxieties that some people of African descent had over the phenotypes and racial backgrounds of other Afro-Louisianans. It is possible that Labastille had some prejudices of his own against people who had more African racial heritages than he or his daughter did. Labastille may have desired for his daughter, and the children that she would have after marriage, to have lighter complexions so that they might be more readily accepted by the city's racially European population. Thus, while some people of color may have wanted their children to marry people of lighter skin colors in the hopes of being accepted by Euro-Louisianans and thereby improve their social status, others, like Catalina Labastille were less concerned with the social implications of marrying people with different or darker phenotypes from themselves.

According to the existing evidence, it does not appear that enslaved Afro-Louisianans had the same concerns with phenotypes and racial backgrounds. However, marriages between enslaved Africans and Afro-Creoles had different complications during the Spanish period. During the 1770s and most of the 1780s, enslaved people engaged in what would today be

²⁸ Hanger, *Bounded Lives, Bounded Places*, 92.

termed as “common law” marriages. Most slaveholders supported these unions because they knew they could enslave the children born from them, which would bolster their economic power and solidify their social standing as wealthy Euro-Louisianans.²⁹ Furthermore, according to the accounts of Anglo traveler C. C. Robin, slaveowners encouraged, and sometimes forced, enslaved women to spend their free time as prostitutes so they could be impregnated without the complications of a common law marriage.³⁰

In an effort to regulate enslaved marriages and the subsequent children born from them, the *Real Cédula de su Majestad sobre la educación, trato y ocupaciones de los esclavos* of May 31, 1789, required slaveholders to pay the costs of official marriages for their enslaved laborers. New Orleans, however, never observed the legislation. According to the law, if a union occurred between two enslaved people belonging to different legal owners, the wife would go to live on her husband’s plantation and would then legally belong to her husband’s owner. To compensate the woman’s slaveholder, the husband’s legal owner would then have an appraiser evaluate the woman’s worth and pay the amount to her previous owner.³¹ Many slaveholders expressed to the Cabildo that they felt that the appraisal process that took place after a marriage disproportionately favored the slaveholder who owned the husband because it did not account for the potential financial appreciation of the wife’s future childbearing.³² Marriages between enslaved people was one of the few Afro-Louisianan social relations that concerned Cabildo officials because it affected slaveholder assets, yet the elites did not want the government to interfere with these issues. The many protests from elites and officers of the Cabildo resulted in the city ignoring the royal decree entirely, and instead they handled any concerns regarding

²⁹ Holmes, “Do It! Don’t Do It!,” 27.

³⁰ Robin, *Voyage to Louisiana*, 246-47.

³¹ Holmes, “Do It! Don’t Do It!,” 27.

³² *Actas y Deliberaciones del Cabildo*, Book III, vol. 2, Meeting Minutes, page 96, February 26, 1790.

enslaved marriages between themselves and the other slave owner.³³ This meant that enslaved women were subjected to the desires of the slave owners in issues of marriage, which then affected who they legally belonged to and subsequently may have limited their abilities to emancipate themselves. By controlling who enslaved people married, slaveholders had some influence over those who wanted to change their social status and become free, which consequently played a role in societal formations.

Elite slaveholders residing in New Orleans vehemently protested the implementation of this law because of the marriage stipulation and the other regulations. The other mandates in the Real Cédula required slaveholders to forbid enslaved people from working on Sundays, even to produce food, clothes, and other goods for themselves, which they had previously been accustomed to doing throughout the Spanish and French periods. Since the Real Cédula prohibited the enslaved from working, it also required slaveholders to give their enslaved populations all the food and clothes that they required, which slave owners were not accustomed to and which some could not afford. Many slaveholders had become reliant on their enslaved populations being able to grow their own fruits and vegetables, and make their own clothes, which ultimately led most slave owners to strongly protest the Real Cédula entirely. New Orleans elites consequently ignored the decree entirely.³⁴ This decision also benefitted the enslaved, as it allowed them to continue to work for themselves so they could accumulate the necessary finances to legally free themselves. Yet, it also maintained the authority of slaveholders who could force their enslaved populations to do or not do certain activities without the Cabildo's intervention in those matters. This therefore constituted one of the ways in which

³³ Din, *Spaniards, Planters, and Slaves*, 124-29.

³⁴ *Ibid.*

the elites compromised and allowed women to continue the activities that might lead to their self-emancipations to protect their own finances and economic standings.

The Cabildo had little interest in, or influence over, the marital relations and activities of free Afro-Louisianan peoples and families. Regardless of their parents' marriage status (or lack thereof) most African and Afro-Creole children, both free and enslaved, lived in households headed by women of African descent. Approximately 66.7 percent of free mixed-race men, women, and children, and 91 percent of free African men, women, and children lived in female-headed households.³⁵ These homes primarily included nuclear families; only 6.7 percent of mixed-race women, and just 1.1 percent of African women headed homes that included extended families.³⁶ Within these residences, women of mixed racial heritage statistically had more children than African women. While the explanation as to why this occurred is not immediately evident, historian Kimberly S. Hanger cites better nutrition, less need to overwork, and improved health care as possible reasons. She argues that men of European descent who more commonly engaged in informal intimate relationships with mixed-race women provided these resources, which made them healthier child bearers.³⁷

Both free and enslaved African and Afro-Creole women who became mothers usually baptized their children as Catholics. Throughout the Spanish period, women of African descent converted to Catholicism for numerous reasons, one of which was to be more accepted by Euro-Louisianans.³⁸ During baptisms, parents named godparents who were meant to provide spiritual guidance to the child. Some godparents also lived with their godchildren, which created extended networks among Afro-Louisianans. Whether godparents owned the homes where godchildren

³⁵ Hanger, "Household and Community Structure among the Free Population of Spanish New Orleans, 1778," 70.

³⁶ *Ibid.*, 71.

³⁷ *Ibid.*, 69-70.

³⁸ Clark and Gould, "The Feminine Face of Afro-Catholicism in New Orleans, 1727-1852," 409-48.

lived, or parents housed their children's godparents, it created a system of support within the free black community that elevated the socio-economic status of dependent residents. These living arrangements, combined with the religious activities of these families, unified Afro-Louisianans through culture and religion.³⁹

Free women of African descent who owned lots and residential structures in New Orleans improved the financial status of their family members and facilitated the growth of a distinct Afro-Louisianan culture. One example of a free woman of color used her financial assets to assist her family can be seen in a 1782 case when self-emancipated Margarita Trudeau earned enough money from her retail store to purchase her forty-year-old son's freedom from his owner.⁴⁰ Many families started businesses together, as evidenced by notarial records that list husbands and wives as co-owners of various shops and businesses of leisure activities.⁴¹ In addition to the various stores that women owned on their own or alongside family members, free women of color worked as the city's primary buyers and sellers of food.⁴² Without socially and economically strong familial networks, some recently manumitted free people of color found themselves in situations that closely resembled slavery. Their lack of affiliations with the free black community and the impoverishment from coartación often meant that many ended up residing with the owners who had previously enslaved them, and who continued to treat them as if they were still enslaved.⁴³ Thus, free women's property ownership and housing of family

³⁹ Hanger, *Bounded Lives, Bounded Places*, 90.

⁴⁰ Notary of Andres Almonester y Roxas v. 12, folio 95, February 15, 1782.

⁴¹ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

⁴² Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy*, 202.

⁴³ Hanger, *Bounded Lives, Bounded Places*, 81; Court cases in New Orleans that demonstrated this include [*Diligencias practicadas por Valentin Saulet, contra Magdalena grifa libre, sobre roistoria de un mulato*], March 30, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 22, 2018, <http://www.lacolonialdocs.org/document/15520>; [*Maria Juana negra Pretendiendo su libertad de Nicolas negro libre*], February 3, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 22, 2018, <http://www.lacolonialdocs.org/document/16355>. Other scholars have also identified this trend in other

members created the circumstances whereby people of color could afford to buy property of their own, begin businesses, and network with other Afro-Louisianans. This led to a socio-economically formidable second caste of free people of color in New Orleans.

Free women of African descent further influenced social relations among Africans and Afro-Creoles with their ownership of another type of property: enslaved people. The expenses included in purchasing an enslaved person meant that these women constituted some of the wealthiest free Africans and Afro-Creoles in New Orleans. Most of the legal proceedings in which a free woman of color owned an enslaved person were brought so the free woman could legally establish the enslaved person(s) as her property.⁴⁴ They also petitioned the Cabildo to establish proprietorship of enslaved people to sell them. The courts typically approved these requests, especially when the free woman sold the enslaved person to a man or woman of European heritage.⁴⁵ Free women of African descent acquired enslaved people to elevate their own status in New Orleans, to assist them with their jobs, and to perform labor for them. Enslaved people labored in the same capacities for free women of color as they did for Euro-Louisianans, and performed tasks of household chores, kept the businesses that these women

colonies in Spanish America. These scholars include, Karasch, *Slave Life in Rio de Janeiro, 1808-1850*, 363; Cohen and Greene, *Neither Slave nor Free*, 12-13.

⁴⁴ For example, on April 2, 1781, Janneton, a free African woman petitioned the court to establish her ownership over three enslaved people and asked the court for permission to move them to the Acadian Coast, which the court approved. [*Permission to move residence. Janneton, free black*], August 2, 1781, *Spanish Colonial Index Books 8*, LHC Library Collection, (LSM: 1994), 47.

⁴⁵ [*Diligencias practicadas por Maria Luisa, negra libre, para hazer constar ser madre y heredera de Mariana Harilo*], August 26, 1785, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/14936>; [*Maria, negra libre a Josef Duncieaus, pretendiendo se les autorizen para la venta de una Habitas y un negro*], February 14, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/15481>; [*Juana Poret contra Elena Poret sobre cobranza de pesos*], April 18, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/17049>. The courts denied only one such request on February 14, 1789, on the grounds that the plaintiff, an African woman named Maria, was trying to sell an enslaved person that her son acquired during a suit of succession. Since her son could not formally own the property until he turned fourteen years old, the court ruled that she could not sell his enslaved property. [*Maria, negra libre a Josef Duncieaus, pretendiendo se les autorizen para la venta de una Habitas y un negro*], February 14, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/15481>.

owned, and helped with agricultural labor. Free women of color also owned enslaved people because it signified their separation from enslaved Afro-Louisianans, attested to their financial holdings, and allowed them to remain economically competitive with other slaveholders. The city was, after all, largely a frontier society until the end of the eighteenth century, which meant that everyone took the measures they felt were necessary to remain economically competitive. Since these women's activities reinforced the subordination of enslaved African and Afro-Creole people and fortified the boundaries between caste designations, the Cabildo did not inhibit their ownership of the enslaved. With their activities, free women of color not only reinforced the enslaved in the third caste, but simultaneously elevated themselves within the second caste in the hopes of gaining the acceptance and approval of Euro-Louisianan slaveholders.

Financial disputes that included enslaved people further exhibited the economic activities between women and other men or women of African descent. Free African and Afro-Creole women bought and sold the enslaved from other Afro-Louisianans, many of whom were also female.⁴⁶ Some free people of color purchased enslaved people with credit or loans to create a social appearance in which they had the economic wealth to own the enslaved, but sometimes found themselves as defendants in civil suits when they could not afford to pay back their lenders.⁴⁷ These cases illustrate that free women who did not own property, businesses, or have substantial economic wealth, sought assistance from wealthier free women who did have financial assets so that they could create a social image for themselves that conveyed them as more economically well-off than they actually were. Furthermore, they showed the desire among

⁴⁶ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

⁴⁷ [*Magdalena Tatin negra libre: contra Balentino negro Tambien libre; sobre corbo*], November 24, 1788, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/15407>; [*Juana Poret contra Elena Poret sobre cobranza de pesos*], April 18, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/17049>.

many to use slaveholding to remain economically competitive, to distance themselves from other Afro-Louisianans, and to be accepted by the Euro-Louisianan community.

As with other cases that occurred between free women of color and other people of African descent, financial suits that included enslaved people did not enter the Cabildo courts frequently. Instead, the notary records primarily show the prevalence of slave selling and buying by free African and Afro-Creole women from 1769 to 1800. In addition, these records also indicate that free women typically owned enslaved females, while free men typically owned enslaved males.⁴⁸ This primarily occurred because free people of color used enslaved labor to supplement their own professions, which were heavily gendered throughout the Spanish period. Women constituted the majority of slaveowners within the free black community throughout the Spanish period, but this trend declined after U.S. acquisition.⁴⁹ By owning enslaved people, free women demonstrated their economic power, socially distanced themselves from the enslaved population, and tried to be accepted by Euro-Louisianans by assisting the elites in keeping enslaved people subordinated in the social order.

While many free women of African descent used enslaved people to improve their social and economic status, a substantial number of free African and Afro-Creoles purchased enslaved people to liberate them.⁵⁰ They sometimes did so promptly following the purchase, and sometimes waited to manumit them. Those who postponed the liberation primarily did so for one of two reasons. The first was that a slaveholder might issue a letter of manumission after the

⁴⁸ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

⁴⁹ Hanger, "Patronage, Property and Persistence," 50.

⁵⁰ Some examples of this include, but are not limited to, *Emancipation of slave, Angela Parret (free negress) to Manon, and child (negress)*, May 4, 1772, notary of Andres Almonaster y Roxas v. 2 folio 165; *Emancipation of slave, Maria Derneville (free negress), to Pelagia (negress)*, June 24, 1782, notary of Andres Almonaster y Roxas v. 13 folio 292; *Emancipation of slave, Carlos Bieque (free mulatto) to Adelaida (mulatress)*, March 26, 1791, v. 7 folio 181; *Emancipation of slave, Maria Anna (free negress) to Francisca (negress)*, May 30, 1775, notary of Juan Bautista Garic v. 6 folio 156.

enslaved person had saved up enough money to purchase her or his freedom. The second was that some free African and Afro-Creole slaveholders apprenticed enslaved people in trades that they themselves worked in, such as sewing, laundressing, food production, metalworking, or tailoring, to provide them with means to financially support themselves after their liberations.⁵¹ The practice of free Afro-Louisianan slaveowners apprenticing enslaved people further explains why free women typically owned enslaved females, and free men mainly owned enslaved males. The free African and Afro-Creole women who freed enslaved people exhibited considerable wealth in doing so by being able to purchase the enslaved person. Those who emancipated the enslaved person without compensation displayed even more prosperity as they never reaccumulated the money required to buy and support an enslaved person, however, those that apprenticed enslaved people benefitted economically from the enslaved persons' labor. Thus, the free women of African descent who had significant monetary holdings augmented the free black population in New Orleans by freeing enslaved people who they owned.⁵² This elevated the caste designation of the enslaved people they liberated and improved social relations among all free people of color. Recently freed Africans and Afro-Creoles added to social networks among the free black population, as it gave them more people to create professional and familial relationships. Furthermore, the enslaved people freed by free Afro-Creole women often entered the free populations with important skill sets that were handed down to them by the women who initially benefitted from their labor and later freed them. The emancipated then used these skills in their own professional lives to make businesses and may have also handed down their expertise their own children.

⁵¹ Hanger, "“Almost All Have Callings,”” 158-61.

⁵² Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

Free African and Afro-Creole women also strengthened the economic influence of the free black communities in ways aside from their ownership (and sometimes emancipation) of enslaved people. By the mid-1790s, free women of African descent collectively owned approximately one-fourth of the wealth in New Orleans.⁵³ This capital was spread out among free women, with some owning considerable amounts of property and others holding small quantities.⁵⁴ Those who had substantial financial holdings acquired it in numerous ways. Some received inheritances from deceased relatives, others worked as food vendors, retailers, and laundresses, and many accumulated their wealth through a combination of the former and the latter. Because New Orleans society divided work based on sex, Afro-Creole women, and especially those who worked as food vendors, became the primary buyers and sellers of foodstuffs.⁵⁵ It was therefore the economic composition of New Orleans that allowed free women to gain significant wealth in their own professions, which subsequently gave them socio-economic authority over their own lives and their place in society to the dismay of Euro-Louisianans.

Free Afro-Louisianan women who had significant economic holdings began loaning out money as creditors, and subsequently used the court systems to enforce payments from debtors. Loans between free women and other people of color increased as the free black population grew. In the 1770s, only one suit arose in which a free woman acted as a creditor to another free woman. The 1780s had the highest volume of suits concerning financial associations, with two trials that occurred between free women, six trials petitioned by women against free men of color, and one trial brought against a free woman by a free man. By the 1790s, the frequency of

⁵³ Spear, *Race, Sex, and Social Order in Early New Orleans*, 130.

⁵⁴ Hanger, "Patronage, Property and Persistence," 60.

⁵⁵ Usner, *Indians, Settlers, and Slaves in a Frontier Exchange Economy*, 202.

monetary disagreements between free women increased to four suits but dropped to no suits brought by free women against free men, and only two trials petitioned by free men against free women.⁵⁶ The courts typically ruled on civil suits based on the legal documents presented during court proceedings. As such, petitioners usually won their suits, which sometimes resulted in the Cabildo's seizure of the defendant's property, imprisonment of the defendant, or both.⁵⁷

Petitioners who failed to prove their cases usually lost because they did not have the adequate documentation to support their claims.⁵⁸ Additionally, the notary records indicate a significantly higher frequency of free women engaged in creditor/debtor relationships with Afro-Louisianans that did not require the courts' intervention over issues of debts.⁵⁹ Therefore, it appears that free people of African descent more regularly honored their financial agreements with free women, or, if more discrepancies did occur outside of the courts, then free people of color apparently settled these matters using alternate methods. If either of these situations occurred, it points to the relationships of integrity that may have existed between Afro-Louisianans in New Orleans.

The cases of financial disputes that did enter the Cabildo in the 1780s suggest that free women of African descent gave substantial loans to free African and Afro-Creole men to assist them with professional enterprises. Notarial records also indicate that some enslaved men took

⁵⁶ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

⁵⁷ Examples of this include [*Carlota Dorneville parda libre contra Francisco Risner alias Ducovelle. Sobre cobranza de pesos*], November 8, 1787, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 28, 2018, <http://www.lacolonialdocs.org/document/15265>; [*Magdalena Tatin negra libre: contra Balentino negro Tambien libre; sobre corbo*], November 24, 1788, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/15407>.

⁵⁸ [*Seguidos por Don Francisca Delille Dupard contra Pedro Bahy sobre el cobro de cantidad a pesos*], June 10, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 2, 2018, <http://www.lacolonialdocs.org/document/15589>.

⁵⁹ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

out loans from free women of color to pay for their own court cases of *coartación*.⁶⁰ Overall, these cases concerned amounts of money ranging from 360 to 1,000 pesos, yet not all these suits were disagreements.⁶¹ On July 18, 1785, for example, Francisca, a free African woman, and two other creditors of European descent utilized the courts to grant Santiago Tixseran and his wife a two-year extension on the debts they owed to each creditor.⁶² The Tixserans owed Francisca 375 pesos, which was roughly equivalent to the amount they owed the other two creditors.⁶³

Francisca could easily have prosecuted the Tixserans for failing to honor their agreement, had the Cabildo imprison them, and seized any property they owned. However, Francisca prolonged their agreement. Francisca's actions established her as being at least as wealthy as the Euro-Louisianans who also gave the Tixserans money, as they similarly gave the Tixserans an extension. Although the case records do not explicitly state it, it is possible that Francisca had professional relations with the other Euro-Louisianan creditors, which may explain why the creditors collectively petitioned the Cabildo. Through Francisca's ability to lend such a significant amount of money, and then grant an extension on the loan, she demonstrated that she had enough economic wealth to support not only herself, but also other free people of African descent. Her activities would have elevated her social status among other Afro-Creoles who may have viewed her extension as generosity, and as supportive of other, less financially wealthy free

⁶⁰ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

⁶¹ [*Carlota Dorneville parda libre contra Francisco Risner alias Ducovelle. Sobre cobranza de pesos*], November 8, 1787, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 28, 2018, <http://www.lacolonialdocs.org/document/15265>; [*Magdalena Tatin negra libre: contra Balentino negro Tambien libre; sobre corbo*], November 24, 1788, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/15407>; [*Elena negra libre contra la succession del difunto Juan Paquet, sobre cobro de pesos*], January 26, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/15960>.

⁶² Santiago's wife is only referred to as "wife" in the trial document.

⁶³ [*Santiago Tixseran y Julia negros libres consortes solicitando esperas*], July 18, 1785, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed May 1, 2018, <http://www.lacolonialdocs.org/document/16299>.

people of color. Thus, her ability to lend such a significant amount of money, combined with her willingness to grant the extension, exhibited her status, economic and legal astuteness, and her willingness to financially assist the Tixserans.

Economic power and influence was more evenly spread between free African and Afro-Creole men and women during the 1790s, and as a result, fewer Afro-Louisianan men wanted credit from free women, as they instead sought it from other men of both African and European descent. Only two suits took place between free men and free women in which the woman appeared as the defendant. These cases and the other four trials that occurred between free women involved approximately 100 to 200 pesos debts, which were relatively smaller amounts as compared to those of the 1780s.⁶⁴ Again, the notary records prove that financial loans and agreements materialized more frequently during the 1790s than are reflected in court documents.⁶⁵ Therefore, either people of African descent usually upheld their agreements with free African and Afro-Creole women, or they settled disputes outside of the Cabildo courts. If people of African descent did resolve issues of financial disagreements using alternate methods, it would suggest that they lived harmoniously enough to have done so. The trials that did transpire did not elicit oppressive reactions against people of color from the Cabildo because they did not threaten to take wealth away from people of European descent and furthermore maintained wealth within caste boundaries. There is no evidence to suggest that the elites objected to the economic success of Afro-Louisianans, so long as that wealth did not surpass that of the first caste, did not liberate enslaved people, and remained within the free black

⁶⁴ [*Juana Poret contra Elena Poret sobre cobranza de pesos*], April 18, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 25, 2018, <http://www.lacolonialdocs.org/document/17049>; [*Elena Poreé grifa libre contra Augustina Populos tambien*], May 7, 1793, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/17054>.

⁶⁵ Notarial Records of the Parish of Orleans, Clerk of Civil District Court for the Parish of Orleans, vols. 157.

community. This allowed women of African descent to work both within and outside of the Cabildo to settle financial disputes with other Africans and Afro-Creoles.

In addition to the financial suits that arose between people of African descent, criminal suits of assault also illustrated social relations between women and other Africans and Afro-Creoles. Based on the existing trial documents, the free black population remained relatively nonviolent toward each other during the Spanish period in New Orleans. Only four cases of assault occurred between women of African descent and other Africans and Afro-Creoles.⁶⁶ Two of these cases involved free women as plaintiffs and defendants, the third concerned criminal action taken by an enslaved female against her legal owner, and the fourth was over an enslaved man's assault of an enslaved woman. The criminal cases in the Cabildo courts all regarded severe injuries inflicted on the complainants. It is possible that more issues of theft, assault, or other criminal activities happened within the free black community from 1769 to 1800, but if they did, people of color settled those matters outside of the legal system.

The two violent incidents that did transpire between women of African descent happened in public spaces, which made them further influential on social relations because people of both European and African descent witnessed the occurrences themselves. The first suit began on June 27, 1789, when Elena Fucáu instituted proceedings to secure eyewitness testimonies concerning Maria Juana Choutau's assault against her. During her initial testimony, Fucáu stated that Choutau verbally assaulted her and hit her with a paddle on March 26, 1789. Fucáu also

⁶⁶ [Criminal prosecution of Carlota, negress, slave of Francisco Brantal, for having attempted to set fire to her master's house], April 5, 1781, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 16, no. 2 (1933): 339-345; [Elena Fucáu contra Maria Juana Choutau, mulatas, acusandola de crimen por haberla mal tratado de palabras y acciones], June 27, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 18, 2018, <http://www.lacolonialdocs.org/document/15602>; [Criminal proceedings instituted against Joli Coeur, negro esclavo of Juan Serret of Iberville], March 13, 1800, *Spanish Colonial Index Books* 31, LHC Library Collection, (LSM: 1994), 42; [Criminales por querela dada por la negra libre Angela Piquery, contra la mulata libre Ysabel Conand por haberla heudo alevosamente], May 27, 1800, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/18277>.

claimed that Choutau bit her thumb, which fractured her bone and prevented her from working. The court granted Fucáu's petition and called Andres Mercenario and Francisca de Ceja to testify regarding the alleged incident. Both witnesses stated that they were present at the altercation, but that they did not know French and therefore did not understand what was said during the verbal exchange that sparked the assault. Furthermore, they claimed that they did not see which woman struck the first blow.⁶⁷ The trial records ended here, meaning that either the plaintiff decided to settle matters with the defendant outside of court, or that the Cabildo dismissed the case due to a lack of evidence. The court's seeming disregard for this case illustrates that the elite men who served in the Cabildo did not desire for the government to assist people of color when the incidents did not concern Euro-Louisianans. This left people and women of African descent to settle matters and physical violence outside of the Cabildo courts, which would have created societal relationships where people sought non-governmental forms of justice through their community.

The second suit started on May 17, 1800, when Angela Piquery, a free African woman, filed criminal proceedings against Ysabel Conand, a free woman of mixed racial heritage. Piquery alleged that at nine-thirty in the evening on the night of the incident, an enslaved woman owned by Conand came to Piquery's house to notify her that Conand requested her presence at her home. After Piquery exited her home, she found herself immediately confronted by Conand in front of many other witnesses. Conand accused Piquery of making defamatory statements about her and asked for a public apology. When Piquery did not immediately do so, Conand

⁶⁷ [Elena Facáu, contra Maria Juana Choutau, mulatas, acusandola de crimen, por haberla mal tratado de palabras, y acciones], June 27, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 18, 2018, <http://www.lacolonialdocs.org/document/15602>; [Suit instituted to secure testimony concerning assault], June 27, 1789, *Spanish Colonial Index Books 22*, LHC Library Collection (LSM: 1994), 170; [Elena Fucáu vs Maria Juana Choutan for assault], June 27, 1789, trans. WPA, *The Judicial Records of the Spanish Cabildo 1769-1800*, New Orleans State Museum, LHC, vol. 141, (Doc # 2205, Box 54, File #2143).

attacked Piquery with a knife, slashed her on the face twice, and then fled the scene. Piquery asked the court to seize up to 400 pesos of Conan's assets for her injuries. The judge ultimately instructed Conand to pay all of Piquery's medical bills and the total costs of the court proceedings.⁶⁸ This constituted one of the only instances in which the complainant received a financial award from the courts, likely because the even occurred in such a public manner that the courts could not ignore.

The third criminal trial included violent actions committed by an enslaved woman, when Carlota, a thirteen-year-old enslaved girl, tried to burn down her legal owner's home. Her owner, Francisco Brantan, was a free man of African descent who filed the suit against her, which ultimately resulted in the Cabildo's conviction of Carlota and sentencing her to fifty lashes in public.⁶⁹ Brantan likely initiated this suit to affirm his status as a slaveholder in the public eye and to demonstrate to the elites that he was not a free Afro-Louisianan who owned slaves only to emancipate them. Carlota likely also knew this and furthermore may have been a victim of Brantan's physical or sexual assault, which led to her try and escape her circumstances by attempting to burn down Brantan's home. The court's decision resubordinated Carlota in the social order as an enslaved person, while simultaneously separating Brantan from other free people of African descent and protecting his rights as a slaveowner.

These trials reflected that as the Spanish period progressed, disagreements more frequently arose, some of which were violent in nature. Unfortunately, the courts did not take the

⁶⁸ [*Criminales por querela dada por la negra libre Angela Piquery, contra la mulata libre Ysabel Conand por haberla heudo alevosamente*], May 27, 1800, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/18277>.

⁶⁹ [*Criminal prosecution of Carlota, negress, slave of Francisco Brantal, for having attempted to set fire to her master's house*], April 5, 1781, trans. Laura L. Porteous, Abstracts of the SJR of Louisiana published in the *LHQ* 16, no. 2 (1933): 339-45; [*Criminales contra la negra Carlota esclava de Francisco Brantan por haver asentado incendiary la casa de Francisco*], April 5, 1781, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/14576>.

time to discover the origins of these disputes as they did with cases that involved assaults against people of European descent, or at least they did not state them in the trial records.⁷⁰ Few assaults took place between free and enslaved men of African descent as well, suggesting that the Afro-Louisianan population largely co-existed harmoniously.⁷¹ It is possible that the public nature of these incidents prompted these parties to appear before the Cabildo to preserve the societal expectation that criminal actions warranted a court appearance. If more episodes transpired in private, such as in individual residences, they may have settled these disagreements outside of the courts, which would point to the quality of social relations between Afro-Louisianans.

Unfortunately, the paucity of sources written by Africans and Afro-Creoles leave historians with primarily government documents as sources for aggressive incidents, making it difficult to determine if the suits that appeared before the Cabildo were the only instances of

⁷⁰ [*Elena Facau, contra Maria Juana Choutau, mulatas, acusandola de crimen, por haberla mal tratado de palabras, y acciones*], June 27, 1789, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 18, 2018, <http://www.lacolonialdocs.org/document/15602>; [*Criminales por querela dada por la negra libre Angela Piquery, contra la mulata libre Ysabel Conand por haberla heudo alevosamente*], May 27, 1800, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/18277>; [*Criminales contra la negra Carlota esclava de Francisco Brantan por haver asentado incendiary la casa de Francisco*], April 5, 1781, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed April 30, 2018, <http://www.lacolonialdocs.org/document/14576>; [*Criminal proceedings instituted against Joli Coeur, negro esclavo of Juan Serret of Iberville*], March 13, 1800, *Spanish Colonial Index Books* 31, LHC Library Collection, (LSM: 1994), 42.

⁷¹ "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149. By comparing all the criminal trials that involved Africans and Afro-Creoles, it is evident that the Cabildo handed out lengthier punishments for men than they did to women. Throughout the Spanish period, the Cabildo condemned free and enslaved men found guilty of criminal action to the Royal Works service, where they were forced to fix levees, roads, and other public works. By comparison, the courts never sentenced women to this punishment, and instead beat them in public and then sent them home to their legal owners. Men also experienced public beatings, and then sent them to the Royal Works. Free women may have experienced financial losses as a result of criminal suits, but they were never forced into long periods of service that barred them from earning back the wages they lost as a result of trial decisions. Din and Harkins, *The New Orleans Cabildo*, 80; "Spanish Judicial Records," RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed February 28, 2018, <http://www.lacolonialdocs.org/search>; "Abstracts of the Spanish Judicial Records of Louisiana," trans., Laura L. Porteous, *LHQ* 6–18 (1923); *Spanish Colonial Index Books*, 31 vols. (LHC Library Collection, 1994); *The Judicial Records of the Spanish Cabildo, 1769-1800*, trans. The WPA, New Orleans State Museum Library, LHC, vols. 108–149.

physical altercations in New Orleans during the Spanish period. However, even if more criminal activities did occur, and people of African descent settled issues outside the courts, this would have indicated that the Afro-Louisianan population coexisted harmoniously enough to do so. Aside from the instances that did appear in the Cabildo, the existence of Congo Square attests to peaceful, or at the very least non-violent nature of the African and Afro-Creole community, as they used this area to socialize, participate in leisure activities, and buy and sell goods from one another.⁷² Additionally, the cohabiting African and Afro-Creole families, the various dances hosted by free people of African descent, and other social activities that largely took place without violence, further testified to the tranquil nature of the Afro-Louisianan population and the second caste of free people of color.⁷³ This allowed them to remain a socially and economically formidable group that continued to influence social relations in New Orleans even after the eighteenth century.

Over the course of the Spanish period, women of African descent engaged in civil and criminal suits against other people of African descent. The economic composition of the city led to both competition and accordance between free African and Afro-Creole women and other Afro-Louisianans. The trials that occurred as a result of these social relations mainly concerned issues of disputed financial exchanges, while only a few regarded assaults. These suits did not elicit the same responses from the Cabildo as trials that involved women of African descent and Euro-Louisianans did because these suits did not cross the caste designations that elites sought to maintain. Instead, the trial records provide valuable insights into the financial holdings and socio-economic relations between free and enslaved Africans and Afro-Creoles. Many women of African descent accumulated or demonstrated significant wealth during trial proceedings, which

⁷² Johnson, "New Orleans's Congo Square," 117–57.

⁷³ A more complete discussion of the dances hosted by African and Afro-Creole women can be found in chapter 4.

allowed them to either assist, or try to separate themselves from, other Africans and Afro-Creoles. Taken in combination with the Cabildo's notary records, these cases also show that civil or criminal disagreements did not happen frequently between women and other people of African descent because this population either tended to honor their contracts, or otherwise settled differences outside of the courts. Within these social relations, free African and Afro-Creole women's socio-economic activities created a formidable and influential community of African descent, which continued to fight for their legal, economic, and social places in New Orleans society after the United States acquired Louisiana.

CHAPTER VI

CONCLUSION

On February 16, 1802, an enslaved woman named Maria Suly entered the Cabildo to file a petition for her emancipation. Her legal owner, Don Simon Poreé, formally objected her request, which started a year-long trial that debated Suly's right to freedom. When the courts ruled in Suly's favor, Poreé asked for six hundred pesos as compensation. Suly protested Poreé's request by reasoning that she had sustained an injury during her enslavement that restricted her ability to work. The court responded by sanctioning a third and final appraiser to determine the amount she needed to pay for her freedom. Suly agreed with the court's appraisal and attained her free status after the trial ended on February 9, 1803.¹ With her actions, Suly constituted one of the final women who freed themselves using the Spanish courts and the customary right of *coartación*.² Although many enslaved women in the nineteenth century might have also desired to use *coartación* to obtain their liberation from resistant legal owners, they were unable to utilize this right after 1803 when the United States took control of Louisiana and New Orleans.

While Spanish hegemony in Louisiana formally ended in 1800, Spanish laws and governance continued in New Orleans until the Louisiana Purchase in 1803.³ The political and

¹ Unfortunately, the trial transcripts do not state the final sum that Suly paid.

² [*Maria Suly negra esclava vs. Don Thomas Poreé sobre su libertad*], February 16, 1802, RG 2, LHC's Louisiana Colonial Documents Digitization Project, LSM, accessed August 24, 2018, <http://www.lacolonialdocs.org/document/18127>.

³ By 1800, Spanish imperial administrators had grown increasingly weary with the political, economic, and social issues in New Orleans and Louisiana. Elite Cabildo officials had displayed their disregard for the authority of the Spanish crown during the 1790s, as exemplified by their refusal to observe the *Real Cedula de su Majestad sobre la eduaión, trato y ocupaciones de los esclavos*. Thus, in November 1800, an apathetic Spain officially ceded Louisiana back to France in the Second Treaty of San Ildefonso. The inhabitants of New Orleans, however, remained largely unaware of the exchange as Spanish officials and governmental institutions remained in place until 1803. In 1803, United States president Thomas Jefferson purchased Louisiana from the French, which nearly doubled U.S. landholdings. For more information on mainly the reactions of the white population of New Orleans to this exchange, see, Vernet, "A Community of Resistance," 47–70.

legal changes brought by the United States' acquisition of Louisiana territory garnered protests and resistance from the city's elite Euro-Louisianan population who sought representation under the new system of governance.⁴ Free people of color similarly fought for their rights under the new government, yet the U.S. sought to create a race-based system of slavery in Louisiana and further desired to erase, or at least limit, the free population of color.⁵ After France officially transferred control of Louisiana territory to the United States in December 1803, the U.S. government severely restricted the ways by which enslaved people could liberate themselves when they abolished the customary right of *coartación*. Free women of African descent, by comparison, continued to utilize the U.S. courts as they sought to protect the rights of free Afro-Louisianans under the new system of governance. The participation of free African and Afro-Creole women in the U.S. courts was largely a result of the activities that these women took part in during the Spanish period. Through their appearances in the Cabildo courts, the reactions they elicited from the elites, and the responses of African and Afro-Creole women against the subjugation that they experienced, free and enslaved women of African descent helped contribute to a society in which free Afro-Louisianan women could fight against the oppressive policies and legislation enacted against them during the eighteenth and nineteenth centuries. Their continued struggles for power over their own lives ultimately allowed them to have some

⁴ After the U.S. passed The Act for the Organization of Orleans Territory and the Louisiana District and subsequently denied representation for the inhabitants of the region, elites in New Orleans organized and planned to send a delegate to Washington with their grievances. For primary sources on the incident see Clarence Edwin Carter, ed., "Hatch Dent to James H. McCulloch," in *The Territorial Papers of the United States*, vol. 9 (Washington: United States Government Printing Office, 1940), 265.

⁵ Euro-Louisianan elites then refused to include free people of color in their organizations, after which the free population tried to gather for their own meeting. Dunbar Rowland, "Claiborne to Madison," in *Official Letter Books of W. C. C. Claiborne: 1801-1816*, vol. II (Jackson, Mississippi: State Department of Archives and History, 1917), 235. This resulted in harsh reactions from U.S. governmental officials and the city's elite population, who met and explicitly stated in a city council meeting that they viewed the free people of color who organized as a "provocation to rebellion to demand equal citizenship with the White." "Proceedings of City Council Meetings," July 7, 1804, (City Archives, New Orleans Public Library: New Orleans).

control over their social standing and at least a partial influence over the direction of societal formations after 1803.

Although the Spanish period only lasted approximately three decades, the actions of both free and enslaved women of African descent from 1769 to 1800 allowed them to remain legally knowledgeable, and socially and economically influential after 1803. During the Spanish period, these women used the courts to free hundreds of enslaved people who then joined the city's free African and Afro-Creole population. As a result of their actions and those of others as well, the free Afro-Louisianans constituted at least one-fifth of the entire New Orleans populace by the end of the eighteenth century.⁶ These women also gained important skills during the Spanish period that they carried with them into the nineteenth century. Some Afro-Louisianan women learned how to read, write, or at least sign their own name as a result of attending the day school run by the Ursuline nuns.⁷ This allowed them to sign for themselves in legal matters, and potentially even be able to read laws, statutes, and court decisions. They also became knowledgeable on how to navigate the courts during civil and criminal cases that occurred during the Spanish period. Afro-Louisianan women likely passed down their legal expertise to family and friends, which helped make the free population of color more informed as to how to utilize courts of law during the nineteenth century. Many free women of African descent also continued to live and work alongside other Afro-Louisianans. This gave them the opportunity to build social and cultural relations among the free African and Afro-Creole community. These connections were essential in creating a socially and culturally unified second caste of free people of color. Finally, the economic advancements of free women of African descent during the Spanish period carried over into the U.S. period. Most free women continued to work in the

⁶ Hanger, *Bounded Lives, Bounded Places*, 22.

⁷ Heaney, *A Century of Pioneering*, 60, 156.

retail and service sectors as the primary seamstresses, laundresses, retailers, shopkeepers, food suppliers, and other professional services in New Orleans.⁸ Their economic activities, combined with their engagements in familial relationships with the city's Euro-Louisianan population ultimately resulted in their collective attainment of nearly one-quarter of the city's wealth.⁹ All of the various legal, social, and economic activities of free women of African descent during the Spanish period allowed them to continue their socio-economic influence in New Orleans society after 1803, even as the new legal system tried to oppress and subordinate them below people of European descent. As the struggle for power between elite Euro-Louisianan men and free women of African descent continued, a distinct, three-caste social order solidified in New Orleans that had a socially and economically influential population of free Africans and Afro-Creoles.¹⁰

Because of their activities in the Cabildo courts, free African and Afro-Creole women continued to appear in significant trials during the nineteenth century that fought for their rights. As a result of the various cases and decisions, the U.S. denied free Afro-Louisianans the rights to citizenship, to vote, or hold political office, but did allow them to legally own property, including enslaved people, and to have access to the legal rights necessary to obtain and preserve their property.¹¹ Free African and Afro-Creole women's actions in the courts were central to solidifying the socio-economic abilities of free people of African descent who lived in New Orleans after U.S. acquisition. Once they formally protected their property rights, free women of color continued to engage in enterprises as business owners, property holders, and slave owners. They thus remained economically powerful through their ownerships of considerable finances, property, and other assets, subsequently allowing free women to remain competitive with some

⁸ Aslakson, *Making Race in the Courtroom*, 35.

⁹ Spear, *Race, Sex, and Social Order in Early New Orleans*, 130.

¹⁰ Johnson, *Slavery's Metropolis*, 2-15.

¹¹ Aslakson, *Making Race in the Courtroom*, 137-48.

of the city's Euro-Louisianans. Free African and Afro-Creole women also continued to have illicit sexual relationships with men of European descent, which helped them remain socially influential in many of the same ways as they had been from 1769 to 1800. These women had mixed-race children with Euro-Louisianan men, acquired property from them, and generally gained social prominence through their intermittent public appearances with their romantic partners.¹² As women of African descent used the courts to ensure their socio-economic abilities, they solidified the second caste of free people of color into an economically formidable, and socially influential group in early-nineteenth-century New Orleans.

There are some areas of further research that may expand the scope this study that would further display the socio-economic influence of free women of African descent in early New Orleans. It would be especially interesting to make more direct connections from the Spanish to the U.S. periods. Did the free women who appeared in precedent-setting cases after 1803 also appear in legal proceedings during the Spanish period? Or were these women the daughters, sisters, familial relatives, or friends of Africans and Afro-Creoles that petitioned the courts during the Spanish period? Additionally, in 1811, the largest slave revolt in U.S. history occurred just outside of New Orleans on the German Coast.¹³ What role, if any, did free men and women from New Orleans play in this insurrection? Were any of the litigants from the Spanish Cabildo courts involved in the rebellion? Did any of the women who freed themselves during the Spanish period find themselves the victims of re-enslavement after 1803, and then take action during this revolt? The current literature primarily focuses on the actions of men during the event, but what

¹² Aslakson, *Making Race in the Courtroom*, 2-16, 66; Spear, *Race, Sex, and Social Order*, 179-214.

¹³ Daniel Rasmussen, *American Uprising: The Untold Story of America's Largest Slave Revolt* (New York: Harper Perennial, 2012).

roles did women play? Unfortunately, the existing historical documentation may render some of these questions unanswerable, but they certainly warrant an investigation at the least.

Many of the women of African descent who lived in Spanish New Orleans improved their socio-economic status and those of other Afro-Louisianans. By using the court systems to have some influence over their own lives, and then resisting the oppression carried out against them by the city's elites, these women undoubtedly had some influence on the shaping of society in New Orleans from 1769 to 1800.

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