

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

KENNETH HALL

Plaintiff,

**CIVIL ACTION NO.: 3:12-cv-657
BAJ/DLD**

v.

**STATE OF LOUISIANA,
PIYUSH (“BOBBY”) JINDAL,
in his official capacity as Governor
of the State of Louisiana,
JAMES “BUDDY” CALDWELL, in
his official capacity as Attorney General,
and TOM SCHEDLER, in his official
capacity as the Louisiana Secretary of State,
CITY OF BATON ROUGE,
PARISH OF EAST BATON ROUGE, and
BATON ROUGE CITY COURT**

Defendants.

FIRST AMENDING AND SUPPLEMENTAL COMPLAINT

1. More specifically, this is an action to enjoin violations of Section 5 of the Voting Rights Act of 1965, as amended 42 U.S.C. §§ 1973c and 1973j(d) to enforce rights guaranteed by Section 5 of the Voting Rights Act, the United States Constitution’s majority rule principle, and the Fourteenth and Fifteenth Amendments to the United States Constitution.

JURISDICTION AND VENUE

2. Pursuant to 42 U.S.C. §§ 1973c, 1973j(d), and 28 U.S.C. § 2284 (Three judge Court), this Court has jurisdiction to afford the plaintiff the judicial relief he seeks for violation of his rights protected by the aforesaid statutory and constitutional provisions. The City of Baton Rouge, Louisiana lies within this judicial district, the Middle District of Louisiana

and is the place where the events giving rise to the claim occurred. The Parish of East Baton Rouge, Louisiana lies within this judicial district and is the place where the events giving rise to the claim occurred. Defendants, City of Baton Rouge officials, East Baton Rouge officials, and City Court officials, also all reside and are domiciled in and perform their official duties in this judicial district. Upon information and belief, all Defendants by law reside in the State of Louisiana.

3. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391(b).

ADDITIONAL PARTIES

4. Defendant, City of Baton Rouge, Louisiana, is charged with the responsibility of ensuring that its election laws, as applied, comply with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.
5. Defendant, Parish of East Baton Rouge, Louisiana, is charged with the responsibility of ensuring that its election laws, as applied, comply with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c.
6. Defendant, City Court of Baton Rouge, a/k/a Baton Rouge City Court, Louisiana, is charged with the responsibility of adjudicating local, municipal, and state laws, and is presently comprised of five judges elected pursuant to the aforesaid Defendants' City and Parish's Plan of Government, as from time to time amended, and laws of the Defendant, State of Louisiana.
7. Baton Rouge City Court judges are local judges but are also State of Louisiana judicial officers, and, as such, each must comply with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c, the United States Constitution's majority rule principle, and the Fourteenth and Fifteenth Amendments to the United States Constitution.

FACTS ALLEGED

8. All factual allegations, particularly those specified in paragraphs 4 through 85 inclusively alleged in the Original Complaint are re-alleged herein as if set out fully herein.
9. All Defendants named herein (with the exception of City Court) and in the Original Complaint have authority under Louisiana law to enact or administer voting qualifications or prerequisites to voting, or standards, practices or procedures with respect to voting different from those in force or effect on November 1, 1964.
10. The City of Baton Rouge, Louisiana and the Parish of East Baton Rouge, Louisiana are subject both to the preclearance requirements of Section 5.
11. City Court of Baton Rouge is now subject to and regulated by several amendments to the original Plan of Government for the City of Baton Rouge, Louisiana and the Parish of East Baton Rouge, Louisiana.
12. Section 5 of the 1965 Voting Rights Act states that any “voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting” different from that in force or effect in the City of Baton Rouge, Louisiana, and in the Parish of East Baton Rouge, Louisiana, and in the State of Louisiana on November 1, 1964, may not be lawfully implemented unless the State of Louisiana, or other appropriate authority with the power to enact or administer voting changes such as the City of Baton Rouge and the Parish of East Baton Rouge obtains a declaratory judgment from the United States District Court for the District of Columbia that the changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. However, such change may be implemented without such judgment if it has been

submitted to the United States Attorney General, and the Attorney General has not interposed an objection within sixty days. 42 U.S.C. §1973c.

13. Upon the available information and belief, neither the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana individually and/or acting on behalf of the City of Baton Rouge, Louisiana, or on behalf of City Court did not submit for review under Section 5, the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)].
14. Upon the available information and belief, neither the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana individually and/or acting on behalf of the City of Baton Rouge, Louisiana, the Parish of East Baton Rouge, Louisiana or the City Court, did not submit for review under Section 5, any and all voting changes of the Baton Rouge Plan of Government of the Parish of East Baton Rouge and the City of Baton Rouge.
15. Upon information and belief, neither the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana individually and/or acting on behalf of the City of Baton Rouge, Louisiana, the Parish of East Baton Rouge, Louisiana or the City Court, did not submit for review under Section 5, any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton Rouge, from which precincts and/or divisions of precincts were allocated, assigned, and designated to the Baton Rouge City Court.
16. Upon information and belief, neither the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana individually and/or acting on behalf of the City of Baton

Rouge, the Parish of East Baton Rouge or the Baton Rouge City Court, have not obtained a judgment from the United States District Court for the District of Columbia pursuant to Section 5 declaring that the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office for Baton Rouge City Court judges; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton Rouge, from which precincts and/or divisions of precincts were allocated, assigned, and designated to the Baton Rouge City Court, have neither the purpose nor the effect of denying or abridging the right to vote on account of race or color.

17. The failure of Defendants to obtain Section 5 preclearance of the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office for Baton Rouge City Court judges; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton Rouge, from which precincts and/or divisions of precincts were allocated, assigned, and designated to the Baton Rouge City Court, renders these "voting changes" legally unenforceable.
18. Unless enjoined by this Court, the Defendants will continue to violate the Voting Rights Act by (1) continuing to administer and implement the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; (2) utilizing the current majority vote method of selecting judges to Baton Rouge City Court; (3) using and electing five judges to Baton Rouge City Court; and (4) enforcing the qualifications for selecting judges to the Baton Rouge City Court by

certifying any Baton Rouge City Court election results of the November 6, 2012 election, subsequently swearing into office the prevailing candidates, and disseminating commissions to the prevailing candidates elected from the November 6, 2012 election to the Baton Rouge City Court.

PRAYER FOR RELIEF

19. **WHEREFORE**, Plaintiff respectfully prays that a Court of three judges be convened to hear this action pursuant to 42 U.S.C. §1973c and 28 U.S.C. §2284 and thereafter enter a judgment:

- a. Declaring that the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office for Baton Rouge City Court judges; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton Rouge, from which precincts were allocated, assigned, and designated to the Baton Rouge City Court, are legally unenforceable because the Defendants have not received the requisite preclearance under Section 5 of the Voting Rights Act;
- b. Declaring that the implementation of the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office for Baton Rouge City Court judges; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton

Rouge, from which precincts were allocated, assigned, and designated to the Baton Rouge City Court, violate Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c; and

- c. Enjoining the Defendants, their successors in office, their agents and all persons acting in concert or participation with them, from administering or implementing the Judicial Election Plan [LSA-R.S. §13:1952(4) (b) and (c)]; any and all methods of selecting judges to Baton Rouge City Court including but not limited to: conversion from plurality to majority vote, designation of sections of court (A - E), additional judgeships, and the terms of office for Baton Rouge City Court judges; the qualifications for selecting judges to the Baton Rouge City Court; and annexations to the City of Baton Rouge, from which precincts were allocated, assigned, and/or designated to the Baton Rouge City Court, unless and until preclearance under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c, is obtained; and
- d. Enjoining the Defendants, their successors in office, their agents and all persons acting in concert or participation with them, from certifying the results of the November 6, 2012 election of Baton Rouge City Court judges, unless and until preclearance under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c, is obtained; and
- e. Enjoining the Defendants, their successors in office, their agents and all persons acting in concert or participation with them, from swearing in the prevailing candidates of the November 6, 2012 election unless and until preclearance under

Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c, is obtained;

- f. Plaintiff further prays that this Court grant such additional relief as the interests of justice may require, together with the costs of this action.

Date, 28th day of October 2012.

RESPECTFULLY SUBMITTED:

The Law Offices of Ronald R. Johnson

s/ Ronald R. Johnson

Ronald R. Johnson (La Bar Roll No. 14402)
Law Offices of Ronald R. Johnson
5550 North Foster Drive
Baton Rouge, Louisiana 70805
Telephone: 225-356-3408
Facsimile: 225-356-4438
ronaldjohnson@bellsouth.net
Attorney for the Plaintiff

Stephen M. Irving (La Bar Roll No. 7170)
Steve Irving, LLC
111 Founders Drive
Baton Rouge, Louisiana 70810
Telephone: 225-752-2688
Facsimile: 225-752-2663
steve@SteveIrvingLLC.com
Attorney for the Plaintiff

Joel G. Porter (La. Bar Roll No. 21825)
Attorney at Law
1208 Julia Street
Baton Rouge, Louisiana 70802
Telephone: 225-978-1955
Facsimile: 225-456-2886
Joelg9962@gmail.com
Attorney for the Plaintiff