

**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,
BATON ROUGE CITY COURT, and
JUDGES SUSAN PONDER, ALEX WALL,
and LAURA DAVIS**

Defendants.

THIRD AMENDING AND SUPPLEMENTAL COMPLAINT
GENERAL ALLEGATIONS

1. Additionally and more specifically, Plaintiff Kenneth Hall alleges that he is not treated equally by the Defendants, is subjected to irrational discrimination based on his residence as illegally assigned by Act 609 by the Louisiana Legislature’s Section 2 designation within the 1993 Judicial Election Plan in violation of the concept “we the people”, the right of majority rule, and the First, Fourteenth, and Fifteenth Amendments to the U.S. Constitution. See *Gray v. Sanders*, 372 U.S. 368 (1963).
2. The 1993 Judicial Election Plan’s statutory scheme differs significantly from the Louisiana constitutional scheme in the Louisiana State Supreme Court Justice Districts in the *Wells v. Edwards*, 409 U.S. 1095, 93 S.Ct. 904, 34 L.Ed.2d 679 (1973) case, in that Plaintiff Hall is

a member of the newer class of Baton Rouge citizens—an African-American majority race of citizens—residing in and qualified to vote for City Court judges, but he is prevented from equality in voting and participating in the election process by the Louisiana Legislature’s Judicial Election Plan’s sub-district/precinct/division allotment of judges scheme and from fairly exercising his rights of suffrage.

3. Furthermore, this multiple-and-penumbra based constitutional and statutory complaint is an action to enjoin, declare, find liability, and remedy past, present, ongoing, and future state and local governmental officials’ voluminous, repeated, and unlawful actions, chiefly violations exhibited by the separate and at times concerted and combined conduct of varied and various Louisiana state officials and municipal officers of the United States Constitution’s majority rule principle and the First, Fourteenth, and Fifteenth Amendments to the United States Constitution.
4. This is also an action to find liability under the 1871 Civil Rights Act, as amended, 42 U.S.C. §§ 1983 and 1986; and an action to find, remedy, declare, and to enjoin violations of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973; as well as, violations of Section 5 of the Voting Rights Act of 1965, as amended to enforce human, civil, and voting rights guaranteed to Plaintiff, Kenneth Hall, current, future citizens and qualified electors of Baton Rouge by laws of the United States.

JURISDICTION AND VENUE

5. Pursuant to 42 U.S.C. §§1973c, 1983 and 28 U.S.C. §§1331, 2284, this Court has jurisdiction to afford Plaintiff Hall and the class he seeks to represent the judicial relief he seeks for violation of his and others’ rights protected by the aforesaid constitutional and statutory provisions. The Louisiana Legislature convenes and drafts state laws of

Louisiana within this judicial district, the Middle District of Louisiana, and Baton Rouge is the place where the events giving rise to the claims occurred. The Louisiana Legislature is the official state assembly of legislative officials. The Louisiana Legislature consists of a Senate and a House of Representatives. Members of the state legislature perform their official duties in this judicial district. Upon information and belief, all members of the legislature by law reside in the State of Louisiana.

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

PARTIES

7. Defendant, the *Louisiana House of Representatives*, by and through Charles E. “Chuck” Kleckley, in his official capacity as Speaker of the Louisiana House of Representatives and Walt Leger, III, in his official capacity as Speaker Pro Tempore of the Louisiana House of Representatives are jointly and equally charged with the responsibility of ensuring that its administrative rules, the Louisiana Constitution and statutory laws, particularly the popular election and redistricting laws of Louisiana, as written by it, and as applied, comply at all times with the Constitution of the United States, and with both Sections 2 and 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.
8. Defendant, the *Louisiana Senate*, by and through John A. Alario, Jr., in his official capacity as President of the Louisiana Senate and Sharon Weston Broom, in her official capacity as President Pro Tempore of the Louisiana Senate are jointly and equally charged with the responsibility of ensuring that its administrative rules, the Louisiana Constitution and statutory laws, particularly the popular election and redistricting laws of Louisiana, as are written by it and as applied, comply at all times with the Constitution of the United

States and with both Sections 2 and 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.

FACTUAL ALLEGATIONS

9. All factual and general allegations, particularly those specified herein above, and in all paragraphs of the (a) Original Complaint, (b) the First Amending and Supplemental Complaint, and (c) the Second Amending and Supplemental Complaints are re-alleged herein as if set out fully herein.
10. All Defendants, the State of Louisiana, the Governor, the Attorney General, the Secretary of State, East Baton Rouge Parish, the City of Baton Rouge, City Court of Baton Rouge, Judge Susan Ponder, Judge Alex Wall, Judge Laura Davis, and the Louisiana Legislature (The Senate and the House of Representatives) have separately, jointly, and/or cooperatively acted in such a way that they now must be ordered to comply with the Constitution of the United States, the 1871 Civil Rights Act, 42 U.S.C. §§ 1983 and 1986, as well as, Sections 2 and 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.
11. Defendant, Secretary of State has the legal and administrative capacity, and authority to enforce the election laws of Louisiana and to grant Plaintiff Hall essential aspects of the relief sought particularly not to endorse, or enforce the challenged Judicial Election Plan, which contains the assignment of enumerated and selective voting precincts and sections in violation of federal law. Despite being aware of Plaintiff Hall's challenges to the 1993 Judicial Election Plan, the Secretary of State has enforced the Judicial Election Plan by holding elections for City Court on November 6, 2012 and December 8, 2012, in violation of Plaintiff's Halls constitutional rights.

12. The Louisiana Senate and the Louisiana House of Representatives (sometimes heretofore and hereafter referred to as “Louisiana Legislature”) consist of legislative officers and, as such, are state actors, individually and collectively, as a political body or branch of government, that must comply with the Constitution of the United States, and the 1871 Civil Rights Act, 42 U.S.C. §§1983 and 1986, as well as, Sections 2 and 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c.
13. The Louisiana Legislature has had continuous authority to approve a revised Judicial Election Plan to remedy the violations of federal law complained of herein since the statistical data from the U.S. Census revealed changes in the City of Baton Rouge demographics, as well as, the power to redact and/or to revise a valid Judicial Election Plan to conduct elections for candidates to City Court.
14. The City of Baton Rouge and the Parish of East Baton Rouge by authority of their Charters and/or Plans of Government have had the continuous ability to: (a) adopt and change the boundaries, voting precincts, standards, practices, polices, qualifications, dates, type, and method of elections for City Court; (b) approve, add/delete judgeships, add/delete divisions of court, include annexations, and to allocate (*e.g.*, assign/add/delete/split) precincts; (c) reapportion Election Sections 1 and 2 to remedy violations of Plaintiff Hall’s rights that are protected by federal law, specifically asserted herein; and (d) endorse favorable resolutions to the Louisiana Legislature calling for adjustments to the 1993 Judicial Election Plan to redress Plaintiff Hall’s claims.
15. The next session of the Louisiana Legislature is scheduled to convene at noon on Monday, April 8, 2013 and it is the first opportunity for the State of Louisiana, particularly, the Louisiana Senate and the Louisiana House of Representatives, to revise and to approve a

lawful Judicial Election Plan in accordance with federal law, particularly, the “one person, one vote” principle, right to vote, majority rule, the right not be discriminated against on the basis of race, and the right to participate equally in the political process, consistent with the 1871 Civil Rights Act, 42 U.S.C. §§1983 and 1986 and the 1965 Voting Rights Act.

16. The Mayor-President is the chief executive officer of the City of Baton Rouge and the Parish of East Baton Rouge, State of Louisiana. He is responsible for the administration and enforcement of the City and the Parish Charters and the ordinances and resolutions adopted by the Metropolitan Council. He has the power to recommend to the Louisiana Legislature a revised Judicial Election Plan, and in such a role is an essential party to redress and to effectuate a remedy regarding the challenged Judicial Election Plan.

17. The Mayor-President, the City of Baton Rouge and the Parish of East Baton Rouge through the Metropolitan Council have been particularly aware of the demographic changes in the City of Baton Rouge since at least 2000. These Defendants meet on a weekly basis and have the authority to revise and to approve a lawful modification to the 1993 Judicial Election Plan in accordance with federal law, particularly, the “one person, one vote” principle, right to vote, majority rule, the right not be discriminated against on the basis of race, and the right to participate equally in the political process, consistent with the 1871 Civil Rights Act, 42 U.S.C. §§ 1983 and 1986 and the 1965 Voting Rights Act.

18. The Secretary of State certifies all candidates elected for public office in Louisiana, particularly those winning candidates (City Court Judges Susan Ponder and Alex “Brick” Wall) for the just held elections for City Court within 30 days of the general election. The

Secretary of State will soon issue all (unopposed and the prevailing candidates in the December 8, 2012 election) commissions to all elected candidates elected for City Court, who are expected to receive those commissions and assume the office of City Judge (Division A, B, C, D, and E) for the six year term commencing January 1, 2013, with the attendant emoluments of office.

19. The State of Louisiana via legislative House Bill No. 798, Act 252, approved on July 6, 1958, “amended and re-enacted Sections 2071, 2073, 2076, 2077, 2078, 2079 and 2080 of Title Thirteen (13) of the Louisiana Revised Statutes of 1950 relating to the City Court of the City of Baton Rouge; providing for jurisdiction of the City Court; providing for the judges thereof; providing for the place where the Court is to be held; providing for the qualification and method of election for the judges; . . . providing for the recusation and vacations for the judges; and repealing all laws or parts of laws in conflict herewith.”

Be it enacted by the Legislature of Louisiana:

Section 1. That Sections 2071, 2073, 2076, 2077, 2078, 2079 and 2080 of Title (13) of the Louisiana Revised Statutes of 1950 be amended and re-enacted so as to read as follows:

Section 2071: The City Court of the City of Baton Rouge heretofore created and established by the provisions of R.S. 13:2071, as amended, is hereby continued and shall have jurisdiction over the territorial area of the City of Baton Rouge, as extended from time to time. The Court shall consist of two judges.

The provisions of this act are made subject to the rights, privileges and duties of the City Council of the City of Baton Rouge under the provisions of Section 11.04 of the Plan of Government for the Parish of East Baton Rouge and City of Baton Rouge as to term, compensation, and such other matters in said section as may be under the constitution and laws of the State of Louisiana properly within the province of said City Council. . .

The Court shall have two (2) divisions, to be known as Divisions ‘A’ and Division ‘B’. The judge who is the senior in point of service on the Court

shall be the presiding judge, and shall serve as judge of Division of Division 'A'.

Section 2076: The City Judges shall be electors of the City of Baton Rouge, who shall have been admitted to the practice of law in Louisiana at least three (3) years prior to their election. They shall not practice law in any Court during their terms of office, nor shall they or any officer or employee of the Court shall receive any fees. The judges shall be elected for terms of four (4) years at such time and in the manner provided in Section 11:04 of the Plan of Government of the Parish of East Baton Rouge and the City of Baton Rouge. The first term of the additional judge shall commence on January 1, 1961 and shall terminate December 31, 1964, unless otherwise provided in Section 11.04 of the Plan of Government for the Parish of East Baton Rouge and the City of Baton Rouge.”

20. The State of Louisiana via legislative House Bill No. 189, Act 32, effective June 22, 1960, repealed “Chapter 7, “City and Municipal Courts,” of Title 13 and sections 1870 through 2483.17 thereof, and adopted, enacted, and substituted a new Chapter 7, “City Courts”, and seventy-six new sections 1871 through 1902, 1951, 1952, 2001 through 2010, 2071 through 2089, and 2151 through 2162, of Title 13, so as to recognize and continue the existence, territorial jurisdiction, composition, and organization of these courts as hereto established by law.”
21. According to Act 32, in 1960, Louisiana specifically exempted “the judges of the city of Baton Rouge” from being “elected for terms of six years at the congressional election for representatives beginning with the judges elected at the congressional election for representatives in the year 1960”. See Act 32 (House Bill No. 189) Section 3. Chapter 7. City Courts, particularly Section 1872(B) (C), and (D), which provided that “the judges of the city court shall be elected for terms of four years at such time and in the *manner provided in the applicable provisions of the plan of government for the parish of East Baton Rouge and the city of Baton Rouge.*” (Emphasis added) Section 1873 also added

qualifications of judges, particularly requiring “judges of city courts to be licensed to practice law for at least five years previous to their election, and qualified resident electors of the territorial jurisdiction of the court for at least two years prior to their election.” Additionally, Section 1952(4) provided “[t]he City Court of Baton Rouge, domiciled in the city of Baton Rouge, parish of East Baton Rouge, having two city judges and a city constable. The court shall be divided into two divisions, namely, division “A” and division “B”, and its territorial jurisdiction shall extend throughout the territorial area of the city of Baton Rouge as extended from time to time.”

22. On information and belief, as of 1976, some or all candidates for public office in Louisiana were required to be elected by a majority vote in accordance with the Election Code, Title 18 *et seq.* of the Louisiana Revised Statutes. The City of Baton Rouge by nature of its home rule charter was exempted from this requirement and could have maintained its plurality method of electing its municipal officers.
23. On information and belief, the State of Louisiana’s change in the City of Baton Rouge’s method of voting from plurality to majority voting for City Court elections was not properly submitted for preclearance, administratively pre-cleared, and/or judicially reviewed and approved in accordance with the 1965 Voting Rights Act.
24. On information and belief, prior to the adoption of Title 18, all elections for City Court were held during the *municipal election period* and not utilizing and/or doing open primaries in accordance with its Charter and Plan of Government, which is a dissimilar time and type of election period from that of the *congressional election period*. (Emphasis added)

25. City Court elections are now held at the congressional election period and candidates are elected by a majority vote of the qualified electors of Baton Rouge, particularly the just held elections on November 6 and December 8, 2012 for Baton Rouge City Court despite the fact that the modification from the *former municipal election period* to the *current congressional election period* for City Court elections were not submitted for preclearance, administratively pre-cleared and/or judicially approved in accordance with the Section 5 of the 1965 Voting Rights Act. (Emphasis added)
26. The Defendants failed to properly submit, seek administrative or judicial review of the *then* effective, existing, state and municipal election laws and all relevant information to the U.S. Attorney General for the U.S. Attorney General to assess state and local changes in voting laws, methods, practices, periods of elections, dates, the qualifications for selecting judges to the Baton Rouge City Court; and election standards, particularly relevant Acts of the legislature, local Plans of Government, the City's and the Parish's Charter information, and City and Parish Resolutions and Ordinances,.
27. The City of Baton Rouge, the Parish of East Baton Rouge, and City Court of Baton Rouge are all separate and distinct political bodies, each of which are required to submit voting changes affecting elections to its political entity in accordance with Section 5 of the 1965 Voting Rights Act.
28. City Court of Baton Rouge is now subject to and regulated by several amendments to the City of Baton Rouge and Parish of East Baton's original Plan of Government, ordinances, and resolutions, for its operation, method of holding elections, qualifications, terms of office, and the conduct of elections to the court.

29. Upon information and belief, the sections of the Plan of Government, as amended, from time to time, for the City of Baton Rouge and for the Parish of East Baton Rouge as they pertain to qualifications, time period, mode, and the holding and method of elections to City Court were not pre-cleared.
30. Upon information and belief, the applicable sections of the 1974 Louisiana Constitution and the Election Code, as amended from time to time, for the City of Baton Rouge and for the Parish of East Baton Rouge as they pertain to voting changes, qualifications, description of and types of election, joint elections, time period, the holding, and the method of elections to City Court, were not properly pre-cleared; or in the alternative, not properly considered for preclearance.
31. Upon information and belief, the City of Baton Rouge and the Parish of East Baton Rouge [*not City Court*] claim they are now subject to and regulated by Act 609 of 1976, the Election Code of Louisiana—1976; LSA-R.S. §18 Section 1, *et seq.*, particularly Section 401; Section 511; and Section 512, adopted in accordance with the Louisiana Constitution of 1974 LSA-Const. Art. XI; and LSA-Const. Art V, Section 22(A) for the election of judges to the office of City Judge for Baton Rouge City Court, Louisiana, which provide the voting method (primary & general) of holding elective office and the period (“Election shall be at the regular congressional election”) of elections to the court. (Emphasis added)
32. Upon the available initial disclosures, pleadings filed by the defendants, and information and belief, the 1974 Constitution of Louisiana was never submitted to the U.S. Justice Department and thus any action granting authority to the State Legislature to enact election laws as to regulate elections for City Court are invalid. Moreover, LSA-Const. Art V, Section 22(A), which provides for the election of judges to the office of City Judge for

City Court and that proscribes the voting method (primary & general) of holding elective office and the period (“Election shall be at the regular congressional election”) of elections to the court are invalid.

33. Upon known information and belief from public records disclosures and/or from the unsubstantiated, limited, and restrictive correspondence from the City of Baton Rouge’s Memorandum in Opposition to Plaintiff’s Request for Preliminary Injunction (R. Doc. 41-1, p. 1) the Election Code authorized by the 1974 Constitution of Louisiana was submitted to the U.S. Justice Department. However, the U.S. Assistant General’s response to the Assistant Attorney General of Louisiana’s submission, dated October 19, 1976, stating that “[t]he Attorney General does not interpose any objection to the **change is question**” is general, restrictive and limited as to the particular voting change submitted by the Attorney General **acting for and on behalf of the State of Louisiana only**. The submission does not identify who, whether, and what political/governmental/or judicial bodies were affected thereby; and thus any act or action assumed to grant to the Louisiana Legislature to enact election laws as to regulate voting and elections for City Court are invalid and unenforceable. Moreover, and especially LSA-Const. Art V, Section 22(A) for the election of judges to the office of City Judge for Baton Rouge City Court, Louisiana, which for its operation provide the voting method (primary & general) of holding elective office and the period (“Election shall be at the regular congressional election”) of elections to the court are also invalid. (Emphasis added)
34. 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, the Parish of East Baton Rouge,

and the State of Louisiana on November 1, 1964, pertaining to elections for City Court may not be lawfully implemented unless the State of Louisiana, or other appropriate authority with the power to enact or administer voting changes, or the standing to seek the U.S. Justice Department's approval such as the City Court, the City of Baton Rouge, the Parish of East Baton Rouge, the executive branch of Louisiana, or the Louisiana Legislature or agents thereof, first 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.

35. Upon information and belief, neither the City Court, the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana acting on behalf of the City of Baton Rouge, or any other Defendant, has submitted for Section 5 review the current adverse effect and irrational purpose for which the 1993 Judicial Election Plan, as maintained and will continue to have on qualified African American electors of Baton Rouge and on African American candidates seeking election to City Court.

36. Upon information and belief, neither the City Court, the City of Baton Rouge, the Parish of East Baton Rouge, nor the State of Louisiana acting on behalf of the City of Baton Rouge, or any other Defendant, has correctly submitted or further submitted for Section 5 review the current adverse effect the old annexations (particularly twenty-one annexations that were made to the territory of the City of Baton Rouge from 1965 to 1995 identified in the June 13, 1995 correspondence from Elizabeth Johnson, Acting Chief, Voting Section

attached to the City-Parish Memorandum in Opposition to Plaintiff's Request for Preliminary Injunction filed Doc. R. 41-3); which were utilized in the 1993 Judicial Election Plan, and that will continue to have on qualified African American electors of Baton Rouge and on African American candidates seeking election to City Court.

37. All Defendants are personally aware, or are presumed aware that the 2010 United States Census Bureau's tabulation of population of the City of Baton Rouge, Louisiana was 229,493 persons with a Black population of 124,542 or 54.3% in accordance with notifications requirements of LSA-R.S. §18:1906. The population of White persons not Hispanic was 86,679 or 37.8% of the city of Baton Rouge. As of the 2010 Census, the Black voting age population of Baton Rouge, Louisiana is more than 50% of the total voting age population in Baton Rouge, Louisiana.

38. All Defendants are likewise aware that the 2000 United States Census tabulation of population of the city of Baton Rouge, Louisiana was 227,818 with a Black population of 113,953 or 50%. The population of White persons made up 45.7% of Baton Rouge's population with a White population of 104,117. The Black voting age population of Baton Rouge, Louisiana was less than 50% of the total voting age population in 2000.

39. All Defendants are likewise aware that the 1990 United States Census tabulation of population of the city of Baton Rouge was 219,531 with a Black population of 96,346 (43.8%). The population of White persons made up 53.9% of Baton Rouge's population with a White population of 118,429.

40. All Defendants are aware that in 1993 the State of Louisiana, recognizing past voter racial discrimination against Blacks by Whites, amended the Judicial Election Plan through provisions (4) b and c, and thereby created two election districts (Election Section 1 and

Election Section 2), assigned various voting precincts to Election Sections 1 and 2, reapportioned and redistricted by population and the “one-person, one-vote” principle,

41. All Defendants are aware that Election Section 1 was assigned Divisions B and D, and that Election Section 2 was assigned Divisions A, C, and E.
42. All Defendants are aware that Election Section 1, when originally created, contained a majority population of African American citizens as well as a majority of the African American voting age population. Election Section 2, when originally created, contained a majority of White citizens as well as a majority of the White voting age population.
43. All Defendants are aware that based in part on population data, the 1993 Judicial Election Plan allocated a particular and selective number of majority and minority race-based precincts to Election Section 1 and Election Section 2. On the allotment basis, Election Section 1 was assigned two (2) judicial election offices and Election Section 2 was assigned three (3) judicial election offices and intended that the “one-person, one-vote” principal apply politically and become effective for prospective elections of judges to City Court.
44. Upon information and belief, it is not suspected nor believed that race was utilized as the sole purpose for the election sections for Baton Rouge City Court; however, out of an abundance of caution, if this court finds that race was the sole basis, the Judicial Election Plan is unconstitutional and impermissible under the United States Constitution, and therefore is illegal.
45. All Defendants are aware that prior to the enactment of the State of Louisiana’s Election Code that City Court judges were required to be elected via plurality voting as required by the City’s Charter and its various Plans of Government, as well as according to the

statutory laws of Louisiana from a single city-wide election district based upon the geographical boundaries as determined by the various Councils (viz., City, Parish, Metropolitan) governing the City of Baton Rouge prior to any later and specific or general changes.

46. Upon information and belief and from review of the initial disclosures, no Defendant has ever submitted the Charter of Baton Rouge and the Charter of the Parish of East Baton Rouge for Section 5 review as required by the Voting Rights Act of 1965, as amended, to adequately and accurately place the Attorney General on notice of any planned, covert, or overt voting changes affecting to determine its purpose and effect on Plaintiff Hall's constitutional and statutory rights as particularized heretofore and herein.
47. The failure of the Defendants to obtain requisite and sufficient Section 5 preclearance of any and all past and proposed known and unknown voting changes, particularly, in the methods of elections, the change in the election periods, the change in qualifications, the change in boundaries, the relevant changes in the 1974 Louisiana Constitution, and the Louisiana Election Code acted pursuant thereto, as well as, any other discoverable voting change for the election of City Court judges renders these changes legally unenforceable.
48. Particularly, LSA-R.S. §18:1 *et seq*, by restraints of the Constitutions of 1921 and 1974 and by the superior status of operation of the home rule Charters of Baton Rouge and the Parish of East Baton Rouge, and the Plan of Government, as amended, could not and did not change, nor convert the mode of the elections of City Judges from a plurality to majority voting system; nor convert the period of the elections of City Judges from anything other than at the municipal election -- city election system established in the City

of Baton Rouge Charter, nor was the same submitted or called to the attention of the United States Attorney General Voting Section regulating preclearance.

49. All Defendants, if not previously aware, are now aware that the United States Assistant Attorney General on August 29, 1988 brought to the attention of the Attorney General of Louisiana that the additional judgeship (Division E), particularly Act No. 5, House Bill No. 226 (1988) “raised concerns that the at-large method of electing the city court, viewed in the totality of the electoral circumstances present in the city may violate Section 2 of the Voting Rights of 1965.” (R. Doc. 41-6, p.1).
50. All Defendants, if not previously aware, are now aware that between the 1990 Census tabulation and the 2010 Census tabulation, the City of Baton Rouge’s overall population increased, the African American population increased from 43.8% to 54.3%, and the White population decreased from 53.95% to 37.8%.
51. All Defendants, if not previously aware, are now aware based on the 2010 U.S. Census tabulation, that African Americans now constitute at least 54.3% of the City of Baton Rouge’s total population; and as of September 9 of this year constitute no less than 53% of the registered voters in the City of Baton Rouge. As of September 9, 2012, the total number of African American registered voters is 70,323; the total number of White registered voters is 58,055; and the total number of Other race voters is 6,211.
52. All Defendants, if not previously aware, are now aware, as of December 9, 2012, according to official records of the Voter Registrar for East Baton Rouge Parish, the number of qualified electors residing and eligible to vote in City Court elections, pursuant to the Judicial Election Plan Section 1’s assigned precincts consists of 50,475 voters, of which 8,490 are White, 40,047 are Black, and 1,938 are Other races. As of December 9,

2012 the qualified electors residing and eligible to vote in the Judicial Election Plan Section 2's assigned precincts consists of 89,947 voters, of which 50,925 are White, 34,355 are Black, and 4,667 are Other races.

53. The Louisiana's Legislature adopted a systematic policy, procedure, method, and practice, to redistrict its various district, family, juvenile, appellate, and its supreme court in accordance with standards promulgated by Section 2 of the 1965 Voting Rights Acts, and its jurisprudence as a result of the *Clark v. Edwards*, 725 F. Supp. 285 (M.D. La. 1988) and *Chisom v. Edwards*, 839 F.2d 1056 (5th Cir. 1988), cases against the State of Louisiana for violations of Sections 2 and 5 of the 1965 Voting Rights Act, as amended.
54. The Louisiana Legislature's preferred systematic method to include additional judgeships to district and juvenile courts is established by Act 603, House Bill No. 105, 1994, Third Extraordinary Session, wherein multiple state courts were redistricted and reorganized on the basis of "one person, one vote," majority rule, and in accordance with standards promulgated by Section 2 of the 1965 Voting Rights Acts, as amended.
55. The Louisiana Legislature's selective and preferred systematic method to include an additional judgeship to city courts is established by Act 501, House Bill No. 1964, 1992, Regular Session, wherein Shreveport City Court was redistricted and reorganized on the basis of "one person, one vote" and in accordance with standards promulgated by Section 2 of the 1965 Voting Rights Acts, as amended.
56. The Louisiana Legislature's preferred systematic method to redistrict Baton Rouge City Court was established by Act 240, House Bill No. 1406, 1993, Regular Session, wherein Baton Rouge City Court was redistricted and reorganized on the basis of "one person, one

vote” and in accordance with standards promulgated by Section 2 of the 1965 Voting Rights Acts, as amended.

57. The Louisiana Legislature endorsed and codified method and practice to redistrict city courts in Baton Rouge and Shreveport was reaffirmed and re-established by Act 240, House Bill No. 1406, 1997, Regular Session, wherein Shreveport City Court were redistricted and reorganized on the basis of “one person, one vote” and in accordance with standards promulgated by Section 2 of the 1965 Voting Rights Acts, as amended.

58. Despite the Louisiana Legislature’s preferred and systematic method of making adjustments in the territorial boundaries and allotted precinct methods for districts/sub-districts of the state’s varied judicial election sections, based on principles of “one-person, one-vote,” majority rule, and equal opportunity to participate in the electoral process, the State of Louisiana, particularly the Louisiana Legislature, have refused irrationally to redistrict the courts of Louisiana, particularly, the City Court of Baton Rouge, evidencing invidious discrimination and non-race neutral reasons for not doing so, consistently and in accordance with the same standards and evidence-based population and demographic data, which it utilized post the vote discrimination judgments in *Clark* and *Chisom*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Kenneth Hall respectfully prays that this Court notify the Chief Justice of the Fifth Circuit to convene to hear his United States’ Constitutional claims and the associated and properly authorized determinations required of the Section 2 aspect of the asserted Voting Rights claims and the properly associated and authorized preliminary determinations required of this Court of the Section 5 aspect of the asserted Voting Rights claims; that a Court of three judges be convened to hear the asserted Section 5 claims and aspects

of this action pursuant to 42 U.S.C. §1973c and 28 U.S.C. §2284; and thereafter both Courts enter appropriate individual judgments in accordance with law, and as previously prayed for, and as further prayed for herein, and for all general and equitable relief, particularly the additional relief as each court is jurisdictionally authorized based on the premises considered:

- a. Declaring that race was not utilized as the sole purpose for the 1993 Judicial Election Plan's for Baton Rouge City Court, or in the alternative, if substantiated based on evidence adduced at trial, this Court finds that race was the sole basis or a primary factor, then the 1993 Judicial Election Plan should be determined to be either unconstitutional and impermissible as presently configured, or in the alternative, unconstitutional because the sub-districts are not so narrowly tailored in accordance with and pursuant to the United States Constitution, and are therefore illegal. See *Prejean v. Foster*, 227 F.3d 504 (5th Cir. 2000).
- b. Declaring that any and all alleged voting changes and others to be proven at trial, such as, changes in the mode and method of elections, residency requirements, the period of the elections, qualifications of candidates for the elections, and electorate for City Court of Baton Rouge constitute changes affecting voting within the meaning of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c, as legally unenforceable because they have not received the requisite preclearance under Section 5 of the Voting Rights Act;
- c. Declaring that implementation of the changes in city boundaries, city annexations to the City of Baton Rouge (particularly twenty-one annexations that were made to the territory of the City of Baton Rouge from 1965 to 1995 identified in the June 13, 1995 correspondence from Elizabeth Johnson, Acting Chief, Voting

Section attached to the City-Parish Memorandum in Opposition to Plaintiff's Request for Preliminary Injunction filed Doc. R. 41-3), city annexations (particularly twenty-one annexations which were made to the territory of the City of Baton Rouge from 1965 to 1995 identified in the June 13, 1995 correspondence from Elizabeth Johnson, Acting Chief, Voting Section attached to the City-Parish Memorandum in Opposition to Plaintiff's Request for Preliminary Injunction filed Doc. R. 41-3) for the election of judges to the office of city judge, Divisions A, B, C, D, and E, of Baton Rouge, and the electorate for all divisions of the City Court of Baton Rouge elections violate Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c;

- d. Ordering that the relevant Defendants (City Court and/or the City of Baton Rouge and/or the Parish of East Baton Rouge and/or the Louisiana Legislature and/or the State of Louisiana) immediately seek preclearance or administrative review and approval or seek a declaratory judgment for their continued use of the majority voting method for electing judges to City Court in accordance with the 1993 Judicial Election Plan [LSA-R.S. 13:1952(4) (b) and (c)];
- e. Ordering that the relevant Defendants (City Court and/or the City of Baton Rouge and/or the Parish of East Baton Rouge and/or the Louisiana Legislature and/or the State of Louisiana) immediately seek preclearance or administrative review or seek a declaratory judgment for their continued use of the congressional time, open, primary and the general state method and periods to hold elections to City Court for election of City Court judges;

- f. Ordering that the relevant Defendants (City Court and/or the City of Baton Rouge and/or the Parish of East Baton Rouge, and/or the Louisiana Legislature and/or the State of Louisiana) immediately seek preclearance or administrative approval or seek a declaratory judgment for their continued use of any and all changed voting methods, procedures, standards, and election practices for elections to City Court not pre-cleared in accordance with the 1965 Voting Rights Act, as amended;
- g. Ordering that the relevant Defendants (City Court and/or the City of Baton Rouge and/or the Parish of East Baton Rouge and/or the Louisiana Legislature and/or the State of Louisiana) to not use or enforce the use of any and all changed voting methods, procedures, standards, and election practices for elections to City Court neither pre-cleared nor judicially declared valid in accordance with the 1965 Voting Rights Act, as amended, such being illegal and unenforceable (particularly twenty-one annexations which were made to the territory of the City of Baton Rouge from 1965 to 1995 identified in the June 13, 1995 correspondence from Elizabeth Johnson, Acting Chief, Voting Section attached to the City-Parish Memorandum in Opposition to Plaintiff's Request for Preliminary Injunction filed Doc. R. 41-3, p. 1 of 8);
- h. Declaring the judgeships for all divisions (A, B, C, D, and E) of City Court vacant as of January 1, 2013; thereby permitting the Louisiana Supreme Court an opportunity to select, appoint, and seat *ad hoc* judges or judges pro tempore consistent with state law for City Court until lawful elections to City Court can be

held; or in the alternative to permit the illegally elected judges to holdover until valid elections are held;

- i. Declaring the seniority of judgeships is a justiciable issue for all divisions (A, B, C, D, and E) of City Court and seniority for judges shall start at the effective date of newly held and valid elections for City Court in light of disputes evidenced in *Chisom, et al. v. Jindal, et al.*, No. 86-4075, Section E, September 1, 2012;
- j. Declaring City Council Ordinance No. 3103 dated October 10, 1973 (the creation of Division “C” judgeship reported to and pre-cleared by the United States Justice Department to be elected at-large by majority vote to a designated post, in that said ordinance “to take office effective November 15, 1974 thereafter shall be elected at the same time and in the same manner as provided for the election of members of the Parish Council and the Mayor-President. He shall be elected for a term of four (4) years”) invalid and legally unenforceable; and to enjoin the enforcement of same;
- k. Declaring Act No. 522 of the 1979 Louisiana Regular Legislative Session (the creation of Division “D” judgeship reported to, originally objected to, and later pre-cleared by the United States Justice Department on October 10, 1980, to be elected at-large by majority vote to a designated post) invalid and legally unenforceable; and to enjoin the enforcement of same;
- l. Declaring Metropolitan Ordinance No. 8646 of April 27, 1988 (the creation of Division “E” judgeship in accordance with the Provisions of Section 11.04 of the Plan of Government and provisions for the manner and time of election of the Judge of said court to be “at the same time and in the manner as provided for the

election of Judges for Divisions, A, B, C, and D of City Court” effective January 1, 1989) invalid and legally unenforceable; and to enjoin the enforcement of same;

- m. Declaring Metropolitan Ordinance No. 8646 of April 27, 1988 (the creation of Division “E” judgeship in accordance with the Provisions of Section 11.04 of the Plan of Government and provisions for the manner and time of election of the Judge of said court to be “at the same time and in the manner as provided for the election of Judges for Divisions, A, B, C, and D of City Court” effective January 1, 1989) invalid and legally unenforceable; and to enjoin the enforcement of same;
- n. Declaring all annexations subsequent to the Assistant United States’ Attorneys June 13, 1995 preclearance correspondence referred to herein, particularly seven annexations made to the City of Baton Rouge, as described in Document 41-3, pages 1-8 as they pertain to (a) Ordinance No. 10738 (1996); (b) Ordinance No. 10945 (1997); (c) Ordinance Nos. 11201 and 11202 (1998); (d) Area annexed to District 2 of the Baton Rouge City Court; (e) Ordinance No. 12896 (2004) and its designation to District 3 of the City of Baton Rouge; (f) Ordinance No. 14935 (2010); as well as, any and all other unknown annexed areas as legally unenforceable for the election of Judges for Divisions, A, B, C, and D of City Court, both prospectively and retroactively ineffective for all elections to City Court; and to enjoin the enforcement of same;
- o. Declaring the Election Code of Louisiana, LSA-R.S. 18:1, *et seq.*, established by Act 697 of the 1976 Regular Session of the Louisiana Legislature and submitted

to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended; LSA-R.S. 18 §401, §511, §512, and by the Louisiana Constitution of 1974 LSA-Const. Art 5, Section 22(A) for the election of judges to the office of City Judge for Baton Rouge City Court, Louisiana, which for its operation provide the voting mode (primary & general) of holding elective office and the period (“Election shall be at the regular congressional election”) of elections to the court as illegal and unenforceable when applied to elections for all divisions of City Court of Baton Rouge; and to enjoin the enforcement of same;

- p. Declaring the Election Code of Louisiana, as amended, LSA-R.S. §18:1, *et seq.* —established in 1976 by Act 697 of the 1976 Regular Session of the Louisiana Legislature and submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended; LSA-R.S. 18 § 401, §511, §512; and by the Louisiana Constitution of 1974 LSA-Const. Art 5, Section 22(A) for the election of judges to the office of City Judge for all divisions for Baton Rouge City Court, Louisiana, which for its operation provide the voting mode (majority votes) of holding elective office to the court as illegal and unenforceable when applied to elections for City Court of Baton Rouge; and to enjoin the enforcement of same;
- q. Declaring the Louisiana Constitution of 1974 LSA-Const. Art. XI, Section 1, which authorizes the Louisiana Legislature to adopt “an election code which shall provide for permanent registration of voters and for the conduct of all elections” as it may pertain to the office of City Judge for all divisions for Baton Rouge City Court, Louisiana, which for its operation provide the voting mode (majority

votes) of holding elective office to the court as illegal and unenforceable when applied to elections for City Court of Baton Rouge, and to enjoin the enforcement of same; and

r. Damages for violations of Plaintiff Hall's civil and voting rights.

Plaintiff Hall further prays that this Court, to extent of its authority and jurisdiction, grant such additional relief, equity, and as the interests of justice may require, together with the expenses, costs, disbursements, and attorney fees of this action, and to extent it lacks authority and jurisdiction over the Section 5 claims, refer those aspects of the complaint to a three court panel, consistent with the 1965 Voting Rights Act, as amended.

Date, 19th day of December 2012.

RESPECTFULLY SUBMITTED:

The Law Offices of Ronald R. Johnson

s/ Ronald R. Johnson
Ronald R. Johnson (TA) 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