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SEC. 22

Michael W. McClanahan, Noel Hammatt,
Chrishunda Harris, Jeanette L. Harrison,
James C. Finney, William J. Glasper, Sr.,
Merritt E. McDonald, Byron N.
Sharper, Sr., and Russell J. Stokes, Jr.
Plaintiffs

NUMBER _____ SECTION _____
19TH JUDICIAL DISTRICT COURT
EAST BATON ROUGE PARISH
STATE OF LOUISIANA

VERSUS

East Baton Rouge Parish School Board;
Craig Freeman; & Tom Schedler,
Louisiana Secretary of State
Defendants

**PETITION TO ANNUL PURPORTED REAPPORTIONMENT/
REDISTRICTING OF THE EAST BATON ROUGE PARISH SCHOOL BOARD;
FOR DECLARATORY JUDGMENT; AND FOR INJUNCTIVE RELIEF**

NOW INTO COURT through undersigned counsel, come *Petitioners*, each residents of the age of majority, domiciled in and residing in East Baton Rouge Parish ("EBRP"), and registered voters within a District of the East Baton Rouge Parish School Board ("EBRPSB") as approved by the United States Department of Justice in 2012, and adopted by the East Baton Rouge Parish School Board at its meeting on November 15, 2012:

- Mr. Michael W. McClanahan ("Mr. McClanahan"), a resident living in EBRPSB, District 4;
- Dr. James C. Finney ("Dr. Finney"), a resident living in EBRPSB, District 2;
- Mr. William J. Glasper, Sr. ("Mr. Glasper"), a resident living in EBRPSB, District 2;
- Mr. Noel Hammatt ("Mr. Hammatt"), a resident living in EBRPSB, District 7;
- Ms. Chrishunda Harris ("Ms. Harris"), a resident living in EBRPSB, District 6;
- Ms. Jeanette L. Harrison ("Ms. Harrison"), a resident living in EBRPSB, District 3;
- Mr. Merritt E. McDonald ("Mr. McDonald"), a resident living in EBRPSB, District 8;
- Mr. Byron N. Sharper, Sr. ("Mr. Sharper"), a resident living in EBRPSB, District 4; and
- Mr. Russell J. Stokes, Jr. ("Mr. Stokes"), a resident living in EBRPSB, District 5;

The Memorandum in support, filed contemporaneously herewith, and all documents, and exhibits and attachments are incorporated herein by reference as if fully restated.

1. Made **Defendants** herein are **The East Baton Rouge Parish School Board; Craig**

Freeman, in his *purported* capacity as a member of the East Baton Rouge Parish School Board; and **Tom Schedler**, in his capacity as Louisiana Secretary of State. **La. R.S. 17:51**

2. This court is the proper VENUE as acts giving rise to the causes of action asserted herein occurred within the geographic boundaries of East Baton Rouge Parish, within the 19th Judicial District for the State of Louisiana, and the injuries and violations alleged herein occurred/commenced in East Baton Rouge Parish. This Court has JURISDICTION over this matter in accordance with Louisiana Law.
3. Defendant Schedler is a proper party defendant, as in his role as Secretary of State, he is responsible for administering all laws governing voter registration and elections; maintaining the statewide voter registration system; scheduling elections and qualifying candidates for elections; and for compiling, reporting and maintaining official elections returns and statistics.
3. At special meetings held on June 5, 2014 and July 24, 2014, the EBRPSB introduced untimely, procedurally and substantively defective Reapportionment/Redistricting Plans , that did not comply with existing law, and therefore, must be **ANNULLED** as a matter of law. **La. R.S. 18:1922; and 17:71.3(E)(2)(b)**. Specifically, Petitioners assert the following:
4. As a preliminary matter, *former* EBRPSB Member Craig Freeman was not authorized under Louisiana Law to participate in any vote of the EBRPSB on July 24, 2014 as, on information and belief, he no longer regularly resides in EBRPSB District 6, the district from which he was elected. Thus, Mr. Freeman's seat was VACANT on July 24, 2014. **La. RS 17:52** An objection to Mr. Freeman participating in the July 24, 2014 meeting was raised by EBRPSB Member Vereta Lee, but was overruled by Mr. David Tatman, President of the EBRPSB, and no vote was taken on Mr. Freeman's status. However, Mr. Freeman's seat was vacant by operation of law on the date he ceased regularly residing in District 6, the district from which he was elected, which date preceded the July 24, 2014 meeting. **La. RS 17:52(E)**
5. As is more fully explained herein below, even if Freeman was legitimately allowed to participate in the proceedings, including voting on the redistricting/reapportionment matter,

and his participation most certainly was not proper, Defendant East Baton Rouge Parish School Board (“EBRPSB”) exceeded its authority and breached its duties owed to Petitioners when it voted on July 24, 2014 to approve a new, untimely reapportionment plan, intended to be included on the November 4, 2014 ballot. **La. R.S. 17:52, 17:71.1, 17:71.3, 17:71.4, 18:465(E), & 18:1922.**

6. The East Baton Rouge Parish School Board was required to reapportion itself “*by the end of the year following the year in which the population of this state is reported to the president of the United States for each decennial census.*” **La. R.S. 18:1922 & 17:71.1**
7. After the 2010 decennial census, the population of Louisiana was required to be reported to the President of the United States by December 31, 2011. Therefore, the EBRPSB was required to reapportion its voting districts **not later than December 31, 2012.**
8. The EBRPSB approved a plan for reapportionment on November 15, 2012, within the time frame required by law. **La. R.S. 18:1922 & 17:71.3**
9. Defendant EBRPSB failed to authorize a special census to use as a basis for reapportionment of the school board prior to its July 24, 2014 vote, and no special census was ever taken for purposes of reapportionment of the EBRPSB after approval of the plan on November 15, 2012. **La. R.S. 18:1922, 17:71.1 & 17:71.3**
10. The plan purportedly approved by the EBRPSB at its Special Meeting on July 24, 2014 occurred AFTER the **July 23, 2014 deadline** for candidates to be nominated by petition. **La. R.S. 18:465 (E)(1).** Defendant’s July 24, 2014 Reapportionment Plan denied plaintiffs any opportunity to consider qualifying by petition, and/or to consider other candidates who would want to qualify for the newly drawn, reduced number of districts by petition.
11. Because of the untimeliness of the purported adoption of the EBRPSB’s Redistricting/Reapportionment plan, potential candidates, including the Petitioners herein, could not qualify by petition because the number of districts, their boundaries and precincts had not been determined by the July 23, 2014 deadline, and were not available to petitioners, nor to any other potential candidates. **La. R.S. 18:465 (E)(1).**

12. The vote on July 24, 2014 was 6-5 in favor of the plan entitled "*Modified Freeman - 9 Member - 7*" with Mr. Freeman being one of the six persons voting in favor. Because Mr. Freeman's seat was VACANT, he was not authorized to vote on the reapportionment/redistricting of the EBRPSB, which means the vote was a 5-5 tie, and therefore, failed. **La. R.S. 17:52(E)(2-3).**
13. Petitioners each, jointly and *in solido*, have a vested interest in having an opportunity to make an informed decision about whether to qualify by petition for established districts and in having the opportunity to select among other candidates who might want to qualify for the elected school board by petition.
14. On November 15, 2012, the EBRPSB approved a Reapportionment/Redistricting Plan based on the 2010 decennial census, that was also approved by the United States Department of Justice. **La. R.S. 17:71.3**
15. Since November 15, 2012, the EBRPSB has not authorized the taking of a special census to use as a basis for reapportionment, and no special census has been taken to use as a basis for reapportionment. **La. R.S. 17:71.3**
16. On June 5, 2014, the East Baton Rouge Parish School Board held a special meeting at its principle place of business, 1050 South Foster Drive, Baton Rouge, Louisiana. The sole item on the agenda was to introduce reapportionment plans; to order the date and time of a public hearing on said plans, and to "authorize staff to provide for related matters in conformance with LRS 17:58.2 et seq." [**Exhibit 1**- 6/5/2014 & 7/24/2014 Agendas]
17. Five Plans were introduced at the June 5, 2014 meeting. However, no resolution was read into the record, nor adopted for any of the plans that were introduced at the June 5, 2014 meeting. **La. R. S. 17:71.4** [**Exhibit 2**- Affidavits of Board Members Arbour, Lee, Lynch, Nelson-Smith, T. Smith attached hereto].
18. No resolution was ever introduced, adopted, published, nor read into the record at any official meeting of the EBRPSB, including at the July 24, 2014 Special Meeting where four of the five plans introduced on June 5, 2014 were voted upon. [**Exhibit 1 & Exhibit 2** -

Affidavits, *in globo*]

19. In accordance with Louisiana Law, **one “plan”, not multiple “plans”**, shall be published and considered at a public meeting before an official vote can be taken of the governing body. **La. R.S. 17:58.2** [See particularly, **La R.S. 17:58.2(C)**]. However, in this case, five different plans were introduced on June 5, 2014. [**Exhibit 2** -Affidavits, *in globo*]
20. On June 9, 2014, the errant proposed plans were published in the Advocate, the official journal of the EBRPSB. Said publication was substantively defective, with only four of the five plans introduced on June 5, 2014 being published. Specifically, only four of the proposed five plans were published, with one plan being published twice on June 9, 2014.
21. Because of the substantive defect in the publication of only four (4) of the five (5) proposed plans, EBRPSB Member Gerald T. “Jerry” Arbour raised an objection to moving forward with a vote on the plans. Additionally, Mr. Arbour made a motion to defer a vote on the plans until they could be properly published. Mr. Arbour’s motion was voted down in a 6-5 vote, with Mr. Freeman, the *former* school board member who currently regularly resides in Oklahoma, improperly casting the sixth vote for the majority.
22. Based on the foregoing, Petitioners are entitled to injunctive relief, including a Temporary Restraining Order, and after due proceedings, Preliminary and/or Permanent Injunction(s); and to Declaratory Judgment. A showing of irreparable injury is not necessary when the deprivation of a constitutional right, such as the right to vote, is involved. However, the denial of the right to fairly participate in the reapportionment of the school board would cause Petitioners “irreparable loss without adequate remedy at law.” Further, based on the overwhelming defects enumerated herein, it is clear that Petitioners are entitled to the relief sought, that they will prevail on the merits. **La. CCP, Art. 3601**; and Chandler v. State, 844 So.2d 905 (La. App., 2003).
23. Petitioners are further entitled to have his Honorable Court issue a Judgment Declaring that EBRPSB District 6 seat was VACANT on July 24, 2014 by operation of law, and remains VACANT, as Craig Freeman, the *former* School Board Member from that district no longer

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regularly resides in District 6. La. R.S. 17:52(E)(2 & 3)

WHEREFORE, the premises considered, PETITIONERS MOVE this Honorable Court to enter a **Temporary Restraining Order**, a **Rule to Show Cause** why the court should not enter Judgment in accordance with the relief requested herein by Petitioners; and after due proceedings, enter a **Preliminary and/or Permanent Injunction**, precluding the *Defendants*, the **East Baton Rouge Parish School Board**; **Craig Freeman**, in his *purported* capacity as a member of the EBRPSB ; and **Tom Schedler**, in his capacity as Secretary of State from the following:

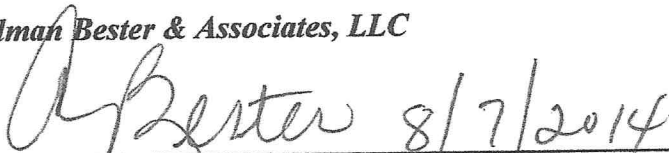
1. moving forward in any way with the errant Reapportionment/Redistricting Plan that was voted upon at the July 24, 2014 meeting of the East Baton Rouge Parish School Board, including, but not limited to enjoining Defendants from changing the boundaries, precincts and/or district lines of the EBRPSB in any way:
2. Enjoining defendants from including the errant districts voted upon on July 24, 2014 on the November 4, 2014 Election Ballot.
3. Enjoining Craig Freeman from participating in any further proceeding so the EBRPSB.

PETITIONERS FURTHER PRAY that this Honorable Court would, after due proceedings, issue Declaratory Judgment, holding that the District 6 seat on the East Baton Rouge Parish School Board is VACANT and was VACANT on July 24, 2014 by operation of law in accordance with **La. R.S. 17:52(E)(2 & 3)**; and that the Reapportionment/Redistricting Plan voted upon by the East Baton Rouge Parish School Board on July 24, 2014 is UNTIMELY, NULL and VOID in accordance with **La. R.S. 17:71.3, 17:71.4, and 18:922**.

PETITIONERS FURTHER PRAY that this Honorable Court would, after due proceedings, Order the East Baton Rouge Parish School Board to pay all costs of these proceedings, including but not limited to, court costs and reasonable attorneys fees.

Respectfully submitted,

Tillman Bester & Associates, LLC


Alfreda Tillman Bester, MBA, JD, La. Bar Roll #27381

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3313 Government Street
Baton Rouge, LA 70806
Phone: (225) 334-7490 Email: LaNAACP1@juno.com
Attorneys for Plaintiff

PLEASE SERVE this Petition, the Memorandum in Support & Rule to Show Cause on the following:

David Tatman, In his capacity as President of
East Baton Rouge Parish School Board
1050 S. Foster Drive
Baton Rouge, LA 70806
Phone: 225-922-5400

Tom Schedler in his capacity as **Louisiana**
Secretary of State Through
8585 Archives Ave
Baton Rouge, LA 70802
Phone: 225-922-2880

Craig Freeman, In his *purported* capacity as
a member of the East Baton Rouge Parish School Board
1050 S. Foster Drive
Baton Rouge, LA 70806
Phone: 225-922-5400

Michael W. McClanahan, Noel Hammatt,
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STATE OF LOUISIANA

VERSUS

East Baton Rouge Parish School Board;
Craig Freeman; & Tom Schedler,
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Defendants

RULE TO SHOW CAUSE

CONSIDERING the Petition, the law, the facts and the evidence, IT IS ORDERED THAT Plaintiff's Motion for a Temporary Injunction is hereby GRANTED.

IT IS FURTHER ORDERED THAT Defendants East Baton Rouge Parish School Board; Craig Freeman; & Tom Schedler, Louisiana Secretary of State show cause on August ____, 2014 at ____ a.m./p.m. why a Preliminary and/or Injunction should not issue enjoining the *Defendants*, **the East Baton Rouge Parish School Board; Craig Freeman**, in his *purported* capacity as a member of the EBRPSB ; and **Tom Schedler**, in his capacity as Secretary of State from the following:

1. moving forward in any way with the errant Reapportionment/Redistricting Plan that was voted upon at the July 24, 2014 meeting of the East Baton Rouge Parish School Board, including, but not limited to enjoining Defendants from changing the boundaries, precincts and/or district lines of the EBRPSB in any way:
2. Enjoining defendants from including the errant districts voted upon on July 24, 2014 on the November 4, 2014 Election Ballot.
3. Enjoining Craig Freeman from participating in any further proceeding so the EBRPSB.

DEFENDANTS are further ordered to show cause why this Honorable Court should not issue Declaratory Judgment, holding that the District 6 seat on the East Baton Rouge Parish School Board is VACANT and was VACANT on July 24, 2014 by operation of law in accordance with **La. R.S. 17:52(E)(2 & 3)**; and why the Reapportionment/Redistricting Plan voted upon by the East

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Baton Rouge Parish School Board on July 24, 2014 is not UNTIMELY, NULL and VOID in accordance with La. R.S. 17:71.3, 17:71.4, and 18:922.

DEFENDANTS ARE FURTHER ORDERED to show cause why this Honorable Court would, after due proceedings, should not order the East Baton Rouge Parish School Board to pay all costs of these proceedings, including but not limited to, court costs and reasonable attorneys fees.

Order signed at Baton Rouge, Louisiana on this August ____, 2014.

District Court Judge

Michael W. McClanahan, Noel Hammatt,
Chrishunda Harris, Jeanette L. Harrison,
James C. Finney, William J. Glasper, Sr.,
Merritt E. McDonald, Byron N.
Sharper, Sr., and Russell J. Stokes, Jr.
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Defendants

VERIFICATION

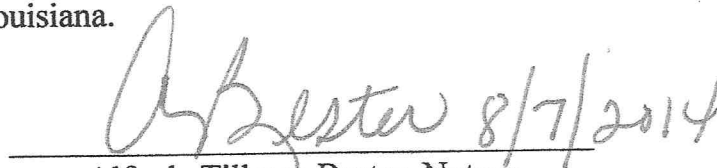
BEFORE me the undersigned authority, duly commissioned, qualified and sworn in and for the State of Louisiana and parish above-stated, personally appeared Michael W. McClanahan, who, after being by me first duly sworn, did depose and say:

1. That he is of the age of majority and domiciled in Baton Rouge, East Baton Rouge Parish, Louisiana.
2. That he has read the foregoing *Petition to Annul...* and that all assertions made therein are true and accurate to the best of his knowledge, information, and belief.



Michael W. McClanahan, Affiant

SWORN TO and subscribed before me on this **August 7, 2014**, at Baton Rouge, East Baton Rouge Parish, Louisiana.



Alfreda Tillman Bester, Notary
Louisiana Bar #27,381
Commissioned for Life