

MAYOR-PRESIDENT SHARON WESTON  
BROOME, LEWIS O. UNGLESBY, and  
M.E. CORMIER

DOCKET NO. 690041 SEC. 23  
19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

CHRIS RIALS and NORMAN BROWNING, STATE OF LOUISIANA  
Organizers of the Petition to Incorporate St.  
George

### **PETITION**

NOW INTO COURT, through undersigned counsel, come Mayor-President Sharon Weston Broome, Lewis O. Unglesby and M.E. Cormier, all residents of the full age of majority of the Parish of East Baton Rouge, State of Louisiana, who, for their petition, aver and plead as follows:

#### **1. THE PLAINTIFFS**

A. MAYOR-PRESIDENT SHARON WESTON BROOME, the Duly Elected Mayor-President of the City of Baton Rouge and the Parish of East Baton Rouge, is an elected official of a governing authority of the City of Baton Rouge and Parish of East Baton Rouge which is adversely affected by the proposed incorporation of the City of St. George as defined in La. R.S. 33:4(A)(3);

B. LEWIS O. UNGLESBY, is an elector and property owner residing in the geographic area designated to form boundaries proposed for the incorporation of the City of St. George as defined La. R.S. 33:4(A)(1) and (2); and,

C. M.E. CORMIER, is an elector who resides outside the geographic area designated to form boundaries proposed for the incorporation of St. George who appears for the purpose of asserting certain claims pertaining to the adverse impact of the proposed incorporation on her person and on municipalities in the vicinity (LSA-R.S. 33:4 B, D and E).

#### **2. THE DEFENDANTS**

Named defendants herein are NORMAN BROWNING and CHRIS RIALS, both believed to be residents of the Parish of East Baton Rouge (“**Defendants**”) who, as designated Chairman and Vice Chairman of the petition for incorporation of St. George pursuant to LSA-R.S. 33:1A(6), serve as agents for the petition in all legal matters.

#### **3. JURISDICTION AND VENUE**

Jurisdiction of this Honorable Court is pursuant to the Louisiana Constitution of 1974 and venue in the 19th Judicial District Court is authorized by La. R.S. 33:4(B), because this is a suit to

challenge the proposed incorporation of the City of St. George in East Baton Rouge Parish. La. R.S. 33:4(B) specifically provides that “the petition shall be filed in the district court having jurisdiction over the area in which all or a majority of the electors eligible to have voted in the special election on incorporation reside.” The filing of this legal action contesting the proposed incorporation is timely filed within the times specified in La. R.S. 33:3(D).

#### **BACKGROUND AND FACTUAL BASIS**

4.

In or about 2014, three unelected, self-appointed and self-anointed citizens in the southeast portion of the unincorporated area of the Parish of East Baton Rouge formulated an idea to create the “City of St. George” and, in doing so, arbitrarily created boundaries around their self-proclaimed proposed city. They created and circulated their first petition for incorporation of St. George. The three unelected persons were Norman Browning, Joshua L. Hoffpauir and Dustin Yates. (Messrs. Hoffpauir and Yates did not sign up as organizers of the current (second) petition and were replaced by Chris Rials).

5.

There were numerous properties and businesses which, without consultation, based on the arbitrary boundaries of the then proposed City of St. George, would have been included in the newly proposed city and who did not desire to be in the proposed city, so they successfully petitioned for annexation to the adjoining incorporated area, which is the City of Baton Rouge. Thus, they opted out of the proposed new City of St. George.

6.

Thereafter, and pursuant to LSA-R.S. 33:1-7, the three unelected/self-appointed organizers set out to acquire enough signatures on their petition to incorporate the proposed City of St. George for the purpose of having an election called on the issue. Even though for many years, East Baton Rouge Parish has had a consolidated City-Parish form of government with shared revenues, services and expenses throughout the parish and all of the residents of the parish, including those outside of then proposed City of St. George, would have been adversely affected by the incorporation of the proposed city, the statutory procedures would only allow the voters within the proposed new city boundaries to cast a vote on the issue. La. R.S. 33:3(B). In the 2019 Regular Session of the Louisiana Legislature, the opponents of the incorporation drive attempted to amend LSA-R.S. 33:3B so that all electors in the Parish of East Baton Rouge would be allowed to vote

on the issue. The proponents of St. George objected to the amendment, lobbied the legislature and the measure was unable to get out of a committee. It was clear that the proponents did not want anyone other than the electors in their arbitrarily and selectively drawn boundaries to cast a vote on the issue.

7.

Fortunately for the electors of the entire Parish of East Baton Rouge, the organizers were unsuccessful in obtaining enough signatures on the first petition to call an election as determined by the Registrar of Voters. Consequently, the Defendants were required by statute to wait two years before attempting a second petition drive.

8.

Undeterred by their initial failure, on March 2, 2018, the unelected, self-appointed Defendants, filed a second notice of the Petition for Incorporation with the office of the Louisiana Secretary of State. (See Exhibit “A”). As discussed below, this time the arbitrarily defined boundaries of the original petition (although still arbitrary) were revised with a purpose. Following submission of the signed petition for certification, the Registrar of Voters certified that the second petition had enough signatures and the Governor called an election. The proposal to incorporate was narrowly approved in an election held on October 12, 2019, but only those electors residing the proposed city were allowed to vote. This suit is filed in conformity with La. R.S. 33:4 which sets forth the procedure for legal action contesting the proposed incorporation. This section also sets out the following criteria for the court to consider in deciding whether to grant or deny the incorporation as follows:

“B. . . . The petition shall set forth the reasons why the incorporation should not be approved which may include the reason that the incorporation might adversely affect the person or governmental entity. . . .

D. The district court shall determine whether there has been full compliance with the provisions of this Subpart, including the accuracy of the statements in the petition and of the certification of the registrar of voters. The court shall also reach a determination as to whether the municipality can in all probability provide the proposed public services within a reasonable period of time and whether the incorporation is reasonable. In determining whether the incorporation is reasonable, the court shall consider the possible adverse effects the incorporation may have on other municipalities in the vicinity.

E.(1) If the district court determines that the provisions of this Subpart have been complied with, that the municipality has the capacity to provide the proposed public services within a reasonable period of time, and that the incorporation is reasonable, the district court shall enter an order declaring the date the municipality shall become incorporated. The order shall set forth the name and the boundaries of the municipality. Unless this order is vacated by a

timely suspensive appeal, a copy of the order shall be filed in the office of the secretary of state.

(2)(a) If the district court determines that the provisions of this Subpart have not been complied with, that the proposed municipality will not be able to provide the public services proposed in the petition within a reasonable period of time, or that the incorporation is unreasonable, the district court shall enter an order denying the incorporation.”

**DEFICIENCIES IN COMPLIANCE WITH La. R.S. 33:1(A)(4)**

9.

La. R.S. 33:1(A)(4) provides that a proposed petition for incorporation “**shall**” include “...a listing of the public services the municipal corporation proposes to render to the area **AND** a *plan* for the provision of those services.” [Emphasis supplied] In an attempt to satisfy this requirement, the Defendants included Exhibit “B,” a so-called “List of Public Services” only on the face of the petition. In an alarming and defective lack of detail, Defendants plan for public services is as follows:

- a) Fire and policing by continuation and services through St. George and East Side Fire Districts and East Baton Rouge Parish Sheriff’s Office;
- b) Sanitation and garbage services through continuation of contracts in the consolidated garbage district;
- c) Sewage by continuation of services through the consolidated sewer district;
- d) EMS by continuation of services through East Baton Rouge Parish, Department of EMS; and
- e) 911 service through continuation of service through the East Baton Rouge Parish 911 district.

For the significant remainder of public services, namely,

- f) Planning and zoning;
- g) Building inspection;
- h) Maintenance of traffic signs and signals;
- i) Maintenance and improvement of municipal public streets and roads;
- j) Maintenance of right of ways;
- k) Maintenance and improvement of drainage system;
- l) Regulation of alcoholic beverage control; and
- m) Animal control,

the organizers simply state that they “**may provide**” the additional services “**subject to availability of funds** derived from taxes, license fees, permits and other revenue which becomes

available to the municipality and/or authorized by state law.” [Emphasis supplied] Thus, these services are optional according to their so-called plan. It is noted that in their first petition in 2014 their so-called plan stated that the new city “**will provide**” all of the additional services outlined above. The reduction of these services from an *obligation* to an *option* means that the petition is not in full compliance with LSA-R.S. 33:1, et seq.

10.

When a legal action to contest an incorporation is filed, the District Court shall first “determine whether there has been full compliance with the provisions of this Subpart, including the accuracy of the statements in the petition and of the certification of the registrar of voters.” In that the second petition for incorporation of the City of St. George fails to comply with the requirements of La. R.S. 33:1(A)(4), it is fatally defective. Accordingly, the proposed incorporation cannot go forward and the court should enter an order denying the incorporation.

**REASONABLENESS OF THE PROPOSED INCORPORATION  
AND ADVERSE IMPACT**

11.

Adopted in 1984 and unamended since then, LSA-R.S. 33:4 is a prophylactic statute specifically designed to ensure that, if an incorporation is challenged, the proposed municipality, its citizens and surrounding municipalities affected by such incorporation are not unreasonably harmed. The District Court, in reviewing a legal action to contest an incorporation, is required to decide several issues. Specifically, court is mandated to determine whether:

(a) “the municipality can in all probability provide the proposed public services within a reasonable period of time.” La. R.S. 33:4(D), and,

(b) “municipality has the capacity to provide the proposed public services within a reasonable period of time.” La. R.S. 33:4(E). [Emphasis supplied].

12.

Ultimately, before a proposed incorporation can be granted, there must be a finding by the District Court that “...the incorporation is reasonable.” La R.S. 33:4(D).

13.

Among the matters the District Court must consider in the determining whether the proposed incorporation is reasonable is set forth in La. R.S. 33:4(D):

“In determining whether the incorporation is reasonable, **the court shall consider the possible adverse effects the incorporation may have on other municipalities in the vicinity.**” [Emphasis supplied]

The proposed incorporation of the City of St. George will have substantial adverse impact on the City of Baton Rouge, as well as the remaining unincorporated areas of the parish..

14.

The paucity of the so-called “plan” to provide the services which the proposed City of St. George “may” elect to provide demonstrates that the Defendants do not have the “capacity” to execute the so-called “plan” to deliver services. If Defendants cannot even define the services the proposed City of St. George *will* provide, the cost thereof and the source of funding, they certainly don’t have the capacity to execute the non-existent plan.

15.

The evidence at the trial of this matter will show that the proposed municipality and its organizers cannot “in all probability provide the proposed public services within a reasonable period of time” and, therefore, the incorporation is unreasonable. To be reasonable the defendants must show that their capacity to provide the services, i.e., that the legitimate and documented expected revenues and expenses are reasonable. The evidence will show that Defendants do not have the capacity to operate a city and the District Court is mandated in La. R.S. 33:4(E) to protect the electors residing in the proposed city and those owning property in the proposed city from these vague and ambiguous campaign promises which do not meet the standard of “full compliance with the provisions of this Subpart.”

16.

In their so-called “plan” for providing the policing component of public safety, the organizers claim that this will be provided by the continuation of services by the elected sheriff of the parish and the new city has budgeted to pay \$4 million to the sheriff for his provision of services to the new city. On information and belief, it is specifically alleged that no one from the proposed new city has made any plausible or credible effort to negotiate an agreement with Sheriff Sid Gautreaux for the provision of these services or what the cost may be. Therefore, their so-called “plan” in this regard is completely unreasonable and actually nonexistent both as to scope of the work and the projected cost.

17.

The cost of the policing component of public safety in other Louisiana cities of comparable size to St. George is more likely to be in the range of at least \$18 million to more than \$21 million,<sup>1</sup> not the \$4 million they have projected in what appears to be a fantasy budget with no basis in fact or reasonable statistics or comparison to cities of a comparable size. The fantasy budget is not incorporated into their petition or even attached as an exhibit. Therefore, the “petition” does not satisfy the “full compliance” with the provisions of LSA-R.S. 33:1, et seq. requirement regarding the contents of a petition for incorporation.

18.

Absent from the so-called plan is recognition that the Louisiana Constitution requires a “regularly paid” and full time police and fire department in cities over 13,000 residents and that the city must have a classified fire and police civil service. St. George will have a population of approximately eighty-six thousand (86,000), well in excess of 13,000. Therefore, in addition to the unrealistic financial projections for policing in St. George, Defendants’ proposal is not permitted by the Louisiana Constitution. The East Baton Rouge Parish Sheriff’s Office does not have classified civil service requirements. Therefore, St. George cannot legally do what it claims it will do by delegating all the policing to the East Baton Rouge Parish Sheriff’s Office and perhaps unpaid volunteers who will likely be untrained and not POST certified.

19.

There are other items on their fantasy budget which are demonstrably incorrect. For example, their estimate of St. George liability for accrued city-parish retirement debt is as much as \$3.5 million dollars short. This significant miscalculation (insupportable guesstimate) calls into question the reliability of the entire fantasy budget. All of the items of underestimated expenses and over estimated revenues will be shown on the trial of this matter, all of which makes the incorporation unreasonable.

20.

Petitioners specifically allege and will offer evidence at the trial of this matter that the proposed municipality and its organizers cannot “in all probability provide the proposed public services within a reasonable period of time” and, therefore, that the incorporation is unreasonable.

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<sup>1</sup> Lake Charles 2018 population was 75,000. It had 189 officers and the cost of policing was \$21,000,000. Alexandria, La., 2018 population was 47,334 (30,000 less than St. George). It had 160 officers and the cost of policing was \$18,100,000.

To be reasonable the organizers must show that their capacity to provide the services, i.e., expected revenues and expenses is reasonable and that the proposed services can be provided “in all probability” in a reasonable period of time under La. R.S. 33:4D. [Emphasis supplied]. The “in all probability” standard is explicitly stated in the statute to require a higher threshold of proof for any challenged incorporation effort and it is incumbent on defendants to provide sufficient evidence to meet this elevated standard.

21.

The incorporation of St. George will have significant, definite and discernable adverse effects on the City of Baton Rouge as well as the rest of the unincorporated areas of East Baton Rouge Parish. The creation of the City of St. George would make that entity the fifth largest city in the state of Louisiana. The mere size of such new city will have a negative impact on Baton Rouge city services. Plaintiffs will offer evidence of the adverse impact on the City of Baton Rouge and the remaining unincorporated areas of the parish.

22.

The creation of the City of St. George would be a negative impact on the city of Baton Rouge as it relates to, but is not limited to, the following areas of services to the public and operations of government:

- A. Substantial reduction and necessary cuts to all services included in the consolidated budgets of the City-Parish;
- B. Obligations related to Pensions for present and future employees;
- C. Obligations related to Other Post-Employment Benefits;
- D. Impairment of current bonded indebtedness;
- E. Reduction in the credit rating of the City-Parish increasing the cost of borrowing; and
- F. Other negative impacts to the City of Baton Rouge that will be proven at trial.

#### **VIOLATION OF THE PLAN OF GOVERNMENT**

23.

Section 1.05 of the Plan of Government for East Baton Rouge Parish provides as follows:

##### **SECTION 1.05 Incorporated Municipalities**

The incorporated municipalities of Zachary, Baker and Central shall be parts of the rural area as defined in section 1.08 and shall continue in existence as municipalities subject, except as specifically provided in this Plan of Government, to the general laws of the State relating to incorporated municipalities towns and villages, and may enlarge their boundaries as provided in such laws.



**No additional city, town or village shall be incorporated in East Baton Rouge Parish.** (As amended October 20, 2007) (Emphasis added).

Thus, the incorporation of St. George specifically requires an amendment to Section 1.05 and any amendment to the Plan of Government requires a vote of the entire parish. Most recently the incorporation of the City of Central was actually submitted to all voters in East Baton Rouge Parish in 2007 which resulted in the parish-wide approval of an amendment to Section 1.05 of the Plan of Government to add the City of Central to the list of possible municipalities allowed in the Parish of East Baton Rouge.

24.

Should the court determine that the proposed incorporation of St. George is reasonable and should go forward, it should not be allowed to proceed until a vote of the entire parish to amend Section 1.05 of the Plan of Government is held to add the City of St. George to the list of possible municipalities in the parish.

25.

Approximately two-thirds of the voters in East Baton Rouge Parish were not allowed to vote because they do not live in the St. George area, even though the incorporation of St. George will adversely and financially affect them. Plaintiff M.E. Cormier lives within the city limits of the municipality of Baton Rouge. She is one of and a representative of those persons who live in the area of Baton Rouge outside the proposed City of St. George and, therefore, has standing to state and support her claim and the plaintiffs' claim of the adverse impact which the Court is specifically mandated to address, that is, whether the incorporation will have an adverse impact on other municipalities in the vicinity. La. R.S. 33:4(B), (D) & (E).

26.

In the Defendants newly proposed City of St. George, the Defendants correctly excluded the areas previously annexed into Baton Rouge - two hospitals, several malls and a casino to name a few. Not surprising at all, however, considering some of their stated motives, they intentionally eliminated a huge population of minority voters from their proposed city. The effect of this elimination resulted in a much lower representation of minority voters in the newly proposed city. In one study done by a data analysis firm, the percentage of minority representation in the originally proposed City of St. George (the first and failed petition) was reduced from 23% to 12% in the current petition for incorporation of St. George. This constitutes a clear intent to

impermissibly dilute minority voting power and has a direct adverse impact on minority representation.

27.

Between the first petition for incorporation and the second petition there were several consequential amendments in the 2016 regular session of the legislature to LSA-R.S. 33:1-7.

Specifically:

- a) A set time period of nine months (270 days) for circulating petitions for signatures was fixed. Previously there was no time limit for this process;
- b) The time period for persons to withdraw their signatures from a petition was significantly reduced. Previously, signatures could be withdrawn until such time as the petition was certified by the Registrar of Voters and, following the amendment, signatures could be withdrawn only up to five days after a signed petition was submitted for certification;; and,
- c) Annexation of properties from within the boundaries of a proposed city into and adjoining the city was prohibited between the notice of the filing of the petition and its certification after submission by the Registrar of Voters.

28.

As applicable to this case, persons who desired to withdraw their signatures were adversely affected in that they were unaware of the date of submission to of the petition to the Registrar of Voters and thus, in the short time frame (5 days) allowed by the amendment were unable to timely withdraw their signatures.

29.

On information and belief, petitioners allege that the written description of the boundaries of the proposed city improperly split certain precincts and, therefore, certain ineligible persons may have voted on the issue and certain eligible voters may have been prevented from voting in the election.

#### **PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFFS PRAY THAT:

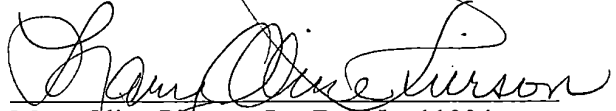
- A. The Defendants, Norman Browning and Chris Rials be cited and served with a certified copy of this petition at their addresses as shown on the petition for incorporation;
- B. After all legal delays a trial be held and following the presentation of evidence in support of the allegations herein, there be a judgment herein in favor of the Plaintiffs and against the

Defendants and that the Court enter a judgment and order denying the incorporation of the City of St. George.

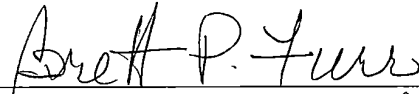
C. In the alternative, and if the Court determines that the petition for incorporation should be granted, that the court order that an election in the entire parish be called and held to determine if there should be an amendment to Section 1.05 of the Plan of Government.

D. The plaintiffs be awarded all attorneys' fees as allowed by law, all costs of this proceeding and all general and equitable relief.

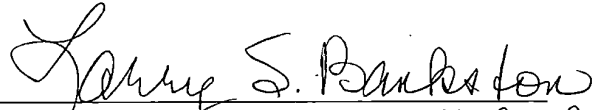
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