

SOUTHSIDE ECONOMIC DEVELOPMENT * NO. _____
 DISTRICT FOR THE CITY OF MONROE * 4TH JUDICIAL DISTRICT COURT
 TONY LITTLE, * PARISH OF OUACHITA
 REV. ROOSEVELT WRIGHT, JR., * STATE OF LOUISIANA
 KARL DHALIWAL AND OTIS JONES *

VERSUS

DOUGLAS HARVEY,
 GRETCHEN EZERNACK,
 JUANITA G. WOODS,
 CARDAY MARSHALL, SR. AND
 KEMA DAWSON-ROBINSON

FILED
 Ouachita Parish C-20230569
 Filed Feb 13, 2023 3:03 PM CV5
 Brittnie Cervantes
 Deputy Clerk of Court
 DEPUTY CLERK

PETITION FOR INJUNCTIVE RELIEF

NOW INTO COURT, through undersigned counsel, comes THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT FOR THE CITY OF MONROE, TONY LITTLE, REV. ROOSEVELT WRIGHT, JR., KARL DHALIWAL, and OTIS JONES, the petitioners in the above captioned matter, who are domiciled in the Parish of Ouachita. THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT FOR THE CITY OF MONROE, TONY LITTLE, REV. ROOSEVELT WRIGHT, JR., KARL DHALIWAL, and OTIS JONES, petition and request that this Court grant them injunctive relief. In support, thereof, the petitioners allege the following:

1.

The petitioners in the above-captioned matter are as follows (**hereinafter "PETITIONERS" unless otherwise designated**):

- THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT FOR THE CITY OF MONROE (**hereinafter "SEDD"**), a political subdivision of the State of Louisiana, created by the Louisiana legislature and given capacity to sue in La. R.S. 33:2740.51(L)(1)
- TONY LITTLE, COMMISSIONER (Appointed by Monroe City Council District 3), BOARD OF COMMISSIONERS OF THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT, an individual and also in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana and is a lawfully appointed member of the board pursuant to La. R.S. 33:2740.51(D)(1)(b) and has, pursuant to La. R.S. 33:2740.51(L)(1), powers of a political subdivision necessary or

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convenient for the carrying out of its objects and purposes, including but not limited to the right and power to sue on behalf of the Southside Economic Development District.

- **REV. ROOSEVELT WRIGHT, JR., COMMISSIONER (Appointed by the African American Chamber of Commerce), BOARD OF COMMISSIONERS OF THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT**, an individual and also in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana and is a lawfully appointed member of the board pursuant to **La. R.S. 33:2740.51(D)(1)(d)** and has, pursuant to **La. R.S. 33:2740.51(L)(1)**, powers of a political subdivision necessary or convenient for the carrying out of its objects and purposes, including but not limited to the right and power to sue on behalf of the Southside Economic Development District.
- **KARL DHALIWAL, COMMISSIONER (Appointed by the Monroe Chamber of Commerce), BOARD OF COMMISSIONERS OF THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT**, an individual and also in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana and is a lawfully appointed member of the board pursuant to **La. R.S. 33:2740.51(D)(1)(c)** and has, pursuant to **La. R.S. 33:2740.51(L)(1)**, powers of a political subdivision necessary or convenient for the carrying out of its objects and purposes, including but not limited to the right and power to sue on behalf of the Southside Economic Development District.
- **OTIS JONES, COMMISSIONER (Appointed by the African American Chamber of Commerce), BOARD OF COMMISSIONERS OF THE SOUTHSIDE ECONOMIC DEVELOPMENT DISTRICT**, an individual and also in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana and is a lawfully appointed member of the board pursuant to **La. R.S. 33:2740.51(D)(1)(d)** and has, pursuant to **La. R.S. 33:2740.51(L)(1)**, powers of a political subdivision necessary or convenient for the carrying out of its objects and purposes, including but not limited to the right and power to sue on behalf of the Southside Economic Development District.

2.

Made Defendants herein are as follows (**hereinafter "DEFENDANTS" unless otherwise designated**):

- **DOUGLAS HARVEY, COUNCILMAN, MONROE CITY COUNCIL, MONROE, LA, DISTRICT 1**, an individual and in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana
- **GRETCHEN EZERNACK, COUNCILWOMAN, MONROE CITY COUNCIL, MONROE, LA, DISTRICT 2**, an individual and in her official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana
- **JUANITA G. WOODS, COUNCILWOMAN, MONROE CITY COUNCIL, MONROE, LA, DISTRICT 3**, an individual and in her official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana
- **CARDAY MARSHALL, SR., COUNCILMAN, MONROE CITY COUNCIL, MONROE, LA, DISTRICT 4**, an individual and in his official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana
- **KEMA DAWSON-ROBINSON, COUNCILWOMAN, MONROE CITY COUNCIL, MONROE, LA, DISTRICT 5**, an individual and in her official capacity and is now and at all times mentioned in this petition was a resident of Ouachita Parish, Louisiana

VENUE

3.

Petitioner alleges that the property which gives rise to the allegations set forth herein is located in Ouachita Parish and this Court has venue over this matter because the wrongful conduct that is also the subject of this petition occurred in Ouachita Parish.

SUBJECT MATTER JURISDICTION

4.

This Court has general original jurisdiction over this matter. See **Frank L. Maraist and Harry T. Lemon, *Louisiana Civil Law Treatise, Volume 1: Civil Procedure, §2.2 Jurisdiction Over the Subject Matter* (1999).**

STATEMENT OF FACTS

5.

SEDD was created by the Louisiana Legislature in 2001 through Acts 2001, No. 444, § 1 and codified in La. R.S. 33:2740.51.

6.

The legislature gave the board of commissioners of SEDD mandatory control over and responsibility for the functions, affairs and administration of the district. See La. R.S. 33:2740.51(B).

7.

Karl Dhaliwal was appointed to the Board of Commissioners for the SEDD for a three year term by the Monroe Chamber of Commerce approximately mid-2021. The term of a board members is for three years. See La. R.S. 33:2740.51(D)(2)(a).

8.

Mr. Dhaliwal owns several gas stations/convenience stores located within the boundaries of the SEDD.

9.

The Monroe Chamber of Commerce has a right to appoint one of the seven members of the board of commissioners for the SEDD pursuant to La. R.S. 33:2740.51(D)(1)(c).

10.

Based on information and belief, an allegation was made on or about January 9, 2023 by a member of the Monroe Chamber of Commerce that Mr. Dhaliwal no longer represented the chamber on SEDD. Also, based on information or belief, an allegation was made on or about January 6, 2023 that Mr. Dhaliwal had resigned his appointment to the board on or about January 6, 2023.

11.

Mr. Dhaliwal did not resign his position as a member of the board of commissioners with the SEDD.

12.

Mr. Dhaliwal did not submit a written resignation letter to either Tony Little, the Chairman of the Board of the SEDD, or Roosevelt Wright, Jr., the Secretary of the Board of the SEDD as required by the SEDD by-laws.

13.

Based on information and belief, the Monroe City Council was preparing to pass a resolution regarding Mr. Dhaliwal's term at its January 10, 2023 meeting.

14.

Mr. Dhaliwal has served on the board since his appointment by the chamber of commerce.

15.

Mr. Dhaliwal has expressed his desire to continue serving on the board for the SEDD until his three year term ends.

16.

Mr. Dhaliwal has been regular in his attendance at SEDD board meetings and has missed very few meetings.

17.

Mr. Dhaliwal has never exhibited any negative actions nor disruptive behavior that could be considered as cause for his removal from the board. He has always been cordial and professional.

18.

Mr. Dhaliwal has not neglected his duties as a member of the board.

19.

Mr. Dhaliwal has not done any act which could be considered to be malfeasance in office.

20.

The Monroe City Council has a meeting set for Tuesday, February 14, 2023 at 6:00 p.m. In its agenda for the said meeting, the city council has on its agenda in Section VIII: Resolutions and Minute Entries: Adopt a Resolution removing Karl Dhaliwal from the Board of Commissioners for the Southside Economic Development District and adopt a resolution appointing an unnamed person to the board to replace Mr. Dhaliwal.

21.

The Monroe City Council's adoption of the resolution is an ultra vires action.

FIRST CAUSE OF ACTION
INJUNCTIVE RELIEF

22.

Petitioners repeat, reiterate and re-allege each and every allegation of the preceding paragraphs as if set forth herein, verbatim and fully at length.

23.

If an injunction does not issue enjoining the Defendant from adopting a resolution to remove Karl Dhaliwal from the Board of Commisioners for the Southside Economic Development District, the Petitioners will be irreparably harmed. The Monroe City Council does not have the legal

authority to remove Mr. Dhaliwal as member of the board for the SEDD. Unless an injunction is issued, the city council's action of illegally removing a member of the board for the SEDD to interfere with board's control over and responsibility for the functions, affairs and administration of the district.

24.

An injunction shall be issued in cases where irreparable injury, loss or damage may otherwise result to the applicant, or in other cases specifically provided by law... La. C.C.P. art. 3601(A).

25.

Municipalities derive their powers from the State. Lentini v. City of Kenner, 211 So.2d 311, 314 (La. 1968). Being creatures of this higher authority, they cannot legislate beyond the bounds fixed by the State Constitution and general laws. Id.; See also, Restivo v. City of Shreveport, 566 So.2d 669 (La. App. 2nd Cir. 1990); Bourgere v. Anzelmo, 517 So.2d 1121 (La. App. 5th Cir. 1987); City of Kenner v. New Orleans Aviation Board, 603 So.2d 220, 226 (La. App. 5th Cir. 1992).

26.

Even the attempted implementation of an ordinance is subject to being enjoined. City of Kenner v. New Orleans Aviation Board, 603 So.2d at 226.

27.

Irreparable injury is that injury for which an injured party cannot be compensated adequately in damages and which damages cannot be measured by pecuniary standards. Waters v. Karst, 235 So.2d 222, 226 (La. App. 3rd Cir. 1970) (citing West v. Town of Winnsboro, 211 So.2d 665 (La. 1968); Lentini v. City of Kenner, 211 So.2d 311 (La. 1968)).

Council Action is Ultra Vires

28.

The action proposed would be in contravention of state law because La. R.S. 33:2740.51(D)(1)(c) gives the Monroe Chamber of Commerce the authority to appoint a member to the board of commissioners for the SEDD. Not the Monroe City Council.

29.

The Monroe City Council relies on La. R.S. 33:1415(A) as a basis for the removal of Mr. Dhaliwal.

In any case where the governing authority of any parish or municipality shall have created or established, or shall thereafter create or establish, any board, commission, agency, district, office, government, or any unit having governmental functions, power or authority, such governing authority is hereby authorized to abolish same, and where the creation or establishment required the concurrence of two or more governing authorities, the concurrence of all of them shall be necessary to exercise the authority afforded by this Section; provided, that where any indebtedness of any such board, commission, agency, district, office, government, or any entity whatever having governmental functions, is outstanding, the authority herein provided shall not be exercised until provision is made for the assumption of such indebtedness in the manner provided by law. However, no parish or municipal authority shall abolish any entity pursuant to this Subsection if the creation of that entity is required by state law.

Where a parochial or municipal governing authority is given the power to appoint members to boards or commissions, whether presently or hereafter created, the governing authority shall also have the power to remove and replace the members or commissioners.

La. R.S. 33:1415(A); McIntosh v. Madison Parish Police Jury, 554 So.2d 227 (La. App. 2nd Cir. 1989).

30.

Arguably, La. R.S. 33:1415(A) would allow the Monroe City Council to remove the three members appointed by it to the board. See La. R.S. 33:2740.51(D)(1)(b). However, even if La. R.S. 33:1415(A) allows the city council to act in this manner, the council still would have to show cause for the removal of those board members. For example, the governing authority of the town of Lake Providence has authority to remove a member of the Lake Providence Port Commission who has been appointed by a previous governing authority of Lake Providence and appoint a new member for "just cause shown." *Op. Atty. Gen, No. 88-107, July 26, 1988*. Even more, Evangeline Parish Governing Body and the mayors of the respective municipalities therein could not remove a commissioner on the Evangeline Parish Solid Waste Commission without cause. *Op. Atty. Gen, No. 88-107, July 26, 1988*.

31.

The city council's action is ultra vires. The cause of action to attack the validity of the ordinance as an ultra vires action is valid. Parish of Ouachita v. Town of Richwood, 697 So.2d 623, 627-628 (La. App. 2nd Cir. 1997) (citing Connell v. Commission Council of City of Baton Rouge, 96 So. 637 (La. 1923); Grice v. Mayor and Council of Morgan City, 164 So.2d 370, 373 (La. App. 1st Cir. 1964)).

Council Resolution is Arbitrary and Discriminatory

32.

Differently, the classification established by the city council's resolution is arbitrary and discriminatory and, in fact, punitive in nature because it singles out Mr. Dhaliwal. Mr. Dhaliwal refused to be removed by the Monroe Chamber of Commerce. He has participated in the SEDD's meetings and has expressed his desire to continue serving in the post until his term ends. He had done nothing to warrant his removal. The action seeks to remove Mr. Dhaliwal without legal authority. But, even more, the resolution seeks to remove Mr. Dhaliwal without cause.

Request for a Temporary Restraining Order

33.

In order to protect the Petitioners' rights and interests as a member of the Board of Commissioners for the SEDD, it is necessary that this Court issue a **temporary restraining order**, immediately and without bond, restraining, enjoining and prohibiting the defendants pursuant to **La. C.C.P. art. 3605** from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District.

34.

Petitioner requests that the restraining order sought by this petition be granted without requiring Petitioner to post bond or security because (1)no pecuniary or other harm or damage will result to the Defendants by issuance and enforcement of this temporary restraining order, (2)the restraining order will only be in effect until this matter is heard before the Court, and (3) the requested restraining orders will do nothing besides preserve the status quo.

Request for a Preliminary Injunction

35.

Petitioners ask that the Court issue a rule nisi to be issued directed to the Defendant to show cause on a date and at a time set by the Court why a **preliminary injunction** should not be issued restraining, enjoining and prohibiting the defendant pursuant to **La. C.C.P. art. 3605** from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District.

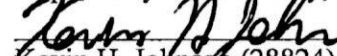
36.

Petitioners also seek to have a trial on the merits for the issuance of a permanent injunction why a **preliminary injunction** should not be issued restraining, enjoining and prohibiting the defendant pursuant to La. C.C.P. art. 3605 from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District..

WHEREFORE, the Petitioner prays:

1. On the first cause of action, that a rule nisi issue directed to the defendants, DOUGLAS HARVEY, GRETCHEN EZERNACK, JUANITA G. WOODS, CARDAY MARSHALL, SR., AND KEMA DAWSON-ROBINSON, to show cause on a date and at a time set by the Court why a **temporary restraining order** should not issue, immediately in accordance with La. C.C.P. art. 3603 and without bond, restraining, enjoining and prohibiting the defendants from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District;
2. On the first cause of action, that the restraining orders and Order sought by this petition be granted without requiring Petitioner to post bond or security;
3. On the first cause of action, that a rule to show cause issue ordering the defendants, DOUGLAS HARVEY, GRETCHEN EZERNACK, JUANITA G. WOODS, CARDAY MARSHALL, SR., AND KEMA DAWSON-ROBINSON, to appear at a time set by this Court, and show cause why a **preliminary injunction** should not be granted pursuant to La. C.C.P. art. 3602 and to La. C.C.P. art. 3606 in the form and substance of the temporary restraining order requested herein and that this Court authorize the use of the verified pleadings, the use of supporting affidavits, the use of proof as in ordinary cases, or the use of any one or all of such methods at the election of either litigant;
4. On the first cause of action, that after due proceedings had, there be judgment herein making the said rule absolute and that a **preliminary injunction** be issued in the form and substance of **the temporary restraining order** prayed for herein;
5. On the first cause of action, on a final hearing, defendants, DOUGLAS HARVEY, GRETCHEN EZERNACK, JUANITA G. WOODS, CARDAY MARSHALL, SR., AND KEMA DAWSON-ROBINSON, be **permanently enjoined** from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District;
6. On all causes of action, such other relief as is just and equitable

Respectfully submitted by,


Kevin H. Johnson (28824)

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Monroe, LA 71211
(318)570-5412

khjlaw97@gmail.com



TONY LITTLE



REV. ROOSEVELT WRIGHT, JR.



KARL DHALIWAL

OTIS JONES

PLEASE ISSUE CITATION AND SERVE:

- COUNCILMAN DOUGLAS HARVEY
1800 FORSYTHE AVE.
SUITE 2
MONROE, LA 71201
- COUNCILWOMAN GRETCHEN EZERNACK
2109 REDWOOD DRIVE
MONROE, LA 71201-3629
- COUNCILWOMAN JUANITA G. WOODS
2411 WOOD STREET
MONROE, LA 71201-7932
- COUNCILMAN CARDAY MARSHALL, SR.
1601 ST. JOHN DRIVE
MONROE, LA 71202-2053
- COUNCILWOMAN KEMA DAWSON-ROBINSON
507 JASON DRIVE
MONROE, LA 71202-6913

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*

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DOUGLAS HARVEY,
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VERIFICATION

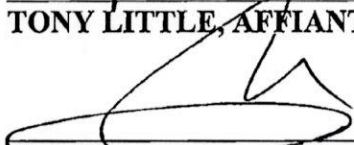
State of Louisiana
Parish of Ouachita

Before me, the undersigned Notary Public, personally came and appeared Tony Little, Rev. Roosevelt Wright, Jr. and Otis Jones, who after being duly sworn by me, Notary, deposed and said:

That Affiants are petitioners in the foregoing petition; that affiants have read the pleading and all the allegations are true and correct, to the best of each affiants' knowledge, information and belief.



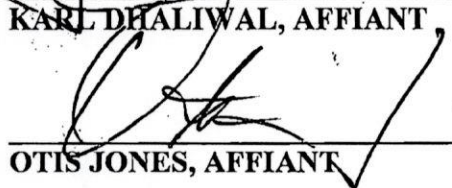
TONY LITTLE, AFFIANT



REV. ROOSEVELT WRIGHT, JR., AFFIANT

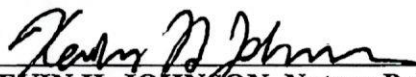


KARL DHALIWAL, AFFIANT




OTIS JONES, AFFIANT

Sworn to and subscribed before me, on the 13th day of February, 2023.



KEVIN H. JOHNSON, Notary Public (Notary #68819)(Bar Roll #28824)
My Commission Expires: at death

 Kevin H. Johnson
Notary Public
Bar Roll # 28824

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VERSUS

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Brittnie Cervantes

Deputy Clerk of Court

DEPUTY CLERK

ORDER

Considering the foregoing verified petition,

IT IS ORDERED that a rule nisi issue directed to the defendants, **DOUGLAS HARVEY, GRETCHEN EZERNACK, JUANITA G. WOODS, CARDAY MARSHALL, SR., AND KEMA DAWSON-ROBINSON**, to show cause on the _____ day of _____, 2023 at the Ouachita Parish Courthouse, Courtroom # _____ at _____ o'clock ____m. and show cause **why a temporary restraining order** should not issue, restraining, enjoining and prohibiting the defendant from adopting a resolution its February 14, 2023 agenda or on any other agenda at a future date from removing Karl Dhaliwal as a member of the Board of Commissioners for the Southside Economic Development District.

IT IS FURTHER ORDERED that a rule nisi issue directed to the defendants, **DOUGLAS HARVEY, GRETCHEN EZERNACK, JUANITA G. WOODS, CARDAY MARSHALL, SR., AND KEMA DAWSON-ROBINSON**, to show cause on the _____ day of _____, 2023 at the Ouachita Parish Courthouse, Courtroom # _____ at _____ o'clock ____m. and show cause **why a preliminary injunction** should not be granted in the form and substance of the temporary restraining order and mandatory temporary restraining order requested herein and that this Court authorize the use of the verified pleadings, the use of supporting affidavits, the use of proof as in ordinary cases, or the use of any one or all of such methods at the election of either litigant;

ORDER SIGNED on the _____ day of February 2023, in Monroe, LA..

 JUDGE

PLEASE ISSUE CITATION AND SERVE:

- **COUNCILMAN DOUGLAS HARVEY**
 1800 FORSYTHE AVE.
 SUITE 2
 MONROE, LA 71201

- **COUNCILWOMAN GRETCHEN EZERNACK**
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1601 ST. JOHN DRIVE
MONROE, LA 71202-2053
- **COUNCILWOMAN KEMA DAWSON-ROBINSON**
507 JASON DRIVE
MONROE, LA 71202-6913