

STATE OF LOUISIANA * PARISH OF JACKSON * 2ND JUDICIAL DISTRICT COURT

DONALD L. ESSMEIER, DALTON
E. CRUSE AND JAMES SCHMIDT

FILED: March 26, 2012

VERSUS NO. 32,584

TOWN OF JONESBORO,
HONORABLE LESLIE THOMPSON,
AS MAYOR AND INDIVIDUALLY,
HONORABLE LASTEVIC COTTONHAM,
AS TOWN COUNCILMAN AND
INDIVIDUALLY, HONORABLE DEVIN
FLOWERS, AS TOWN COUNCILMAN
AND INDIVIDUALLY, HONORABLE
CHARLA THOMPSON, AS TOWN
COUNCILWOMAN AND INDIVIDUALLY

BY: Melody Gates
DEPUTY CLERK OF COURT

DILATORY EXCEPTION OF PREMATURITY
PEREMPTORY EXCEPTION OF
NO CAUSE OF ACTION
ANSWER AND AFFIRMATIVE DEFENSES

NOW INTO COURT, through undersigned counsel, comes Defendants, TOWN OF JONESBORO, HONORABLE LESLIE THOMPSON, as Mayor and Individually, HONORABLE LASTEVIC COTTONHAM, as Councilman and Individually, HONORABLE DEVIN FLOWERS, as Councilman and Individually, and HONORABLE CHARLA THOMPSON, as Councilwoman and Individually, who respectfully excepts to Prematurity and No Cause of Action and answers the Plaintiffs Petition as follows:

I.

The Dilatory Exception and Peremptory Exception of No Cause of Action are more fully explained in the attached Memorandum in Support.

ANSWERS

I.

The allegations of paragraph 1 of Plaintiff's Petition does not call for response; however, waiving any objections, a Judgment was rendered on August 17, 2011, such Judgment was stayed on August 22, 2011, by the District Court and out of abundance of caution Defendants currently have a pending Motion to Stay with the Appellate Court.

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CLERK OF COURT

II.

The allegations contained in paragraph 2 are admitted.

III.

The allegations of paragraph 3 are admitted.

IV.

The allegations of paragraph 4 are admitted to the extent the Court of Appeal allowed the appeal to continue as a devolutive appeal. However, the allegation relative “if it is not dismissed for failure to pay cost, same is fully enforceable” is denied. Defendants assert the affirmative defense that this matter is currently stayed by the District Court. Alternatively, a Motion to Stay is currently pending in the Appellate Court. Therefore, the Judgment is unenforceable until a ruling is rendered by the Appellate Court.

V.

Defendants denies all the allegations of paragraph 5. Further Answering Defendants affirmatively asserts the defenses previously discussed in paragraph 4.

VI.

The allegations contained in paragraph 6 are denied. Further Answering Defendants affirmatively asserts the defenses previously discussed in paragraph 4.

VII.

The allegations contained in paragraph 7 are denied. Further Answering Defendants affirmatively asserts the defenses previously discussed in paragraph 4.

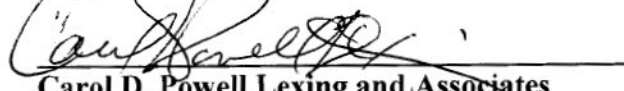
VIII.

The allegations contained in paragraph 8 are denied. Further Answering Defendants affirmatively asserts the defenses previously discussed in paragraph 4.

WHEREFORE, DEFENDANTS, TOWN OF JONESBORO, ET AL, PRAY that their answer and exceptions be deemed good and sufficient, and after due proceedings are had, for Judgment dismissing Plaintiffs demands with prejudice and Plaintiff’s be cast for all cost including attorney fees.

DEFENDANTS PRAY FURTHER for any other general and equitable relief.

Respectfully Submitted:



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Bar Roll No. 21033**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above foregoing Dilatory Exception of Prematurity, Peremptory Exception of No Cause of Action and Answer and Affirmative Defenses has been forwarded to Bobby Culpepper, 525 East Court Avenue, Jonesboro, Louisiana 71251 by facsimile at (318) 259-6278 and Louis G. Scott, 510 Pine Street, Monroe, Louisiana 71201 by facsimile at (318) 387-9576 and U.S. Mail, postage prepaid on this 23rd day of March, 2012.


CAROL D. POWELL LEXING