

JANICE HEBERT BARBER, ET AL.

SUIT NO.: 621,071 SEC. 26

VERSUS

19TH JUDICIAL DISTRICT COURT

LOUISIANA WORKFORCE COMMISSION,
ET AL.

EAST BATON ROUGE PARISH
STATE OF LOUISIANA

RULING

This matter came before the Court on March 17-18, 2015, for a hearing on the Preliminary Injunction filed by plaintiffs, Janice Hebert Barber, Jennifer Valois, John H. Fairbanks, M.C., Pierce D. Nunley, M.D., John Logan, M.D., John Faulkner, Darrell Cormier, Peggy Edwards, Joan Savoy, Karin Frierson, and Vanessa Arnold. This matter also came before the Court on June 22, 2015, for oral argument regarding the Preliminary Injunction hearing held on March 17-18, 2015.

After reviewing the Petition for Declaratory and Injunctive Relief, memoranda in support, pleadings and attachments, and listening to oral arguments presented at the hearings held on Monday, March 17, 2015, Tuesday, March 18, 2015, and Monday, June 22, 2015, the Court hereby makes the following ruling:

The Court hereby **SUSTAINS** the Exception of No Cause of Action as to "the attorney plaintiffs," Janice Hebert Barber and Jennifer Barber Valois, and the "doctor plaintiffs," Dr. John Logan, Dr. Pierce Nunley, and Dr. John Fairbanks finding that the attorney plaintiffs and doctor plaintiffs have no standing to challenge the constitutionality of the subject statutes and regulations. Thus, the claims asserted by Janice Hebert Barber, Jennifer Barber Valois, Dr. John Logan, Dr. Pierce Nunley, and Dr. John Fairbanks are **DISMISSED**. The Court **OVERRULES** the Exception of No Cause of Action as to the remaining plaintiffs.

As to the "Automatic "Tacit" Medical Treatment Denials," the Court hereby **grants** the relief requested by plaintiffs. Defendants are preliminarily enjoined and prohibited from applying 40 LAC 2715(E)(1)(e)(2)(a) and 40 LAC 2715(H). The Court is of the opinion that the aforementioned regulations are unconstitutional as they violate the Due Process Clauses of the Fourteenth Amendment to the United States Constitution and Louisiana Constitution Article I, Section 2.

As to "Treatment Not Covered by the Medical Treatment Schedule," the Court hereby **denies** the relief requested by plaintiffs finding that La. R.S. 23:1201(D)(5) is constitutional.

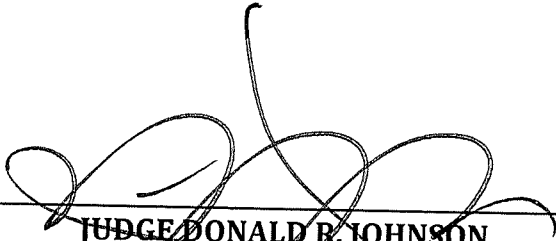
As to "Variances from the Medical Treatment Schedule," the Court hereby **grants** the relief requested by plaintiffs. Defendants are preliminarily enjoined and prohibited from applying 40 LAC §2715(L). The Court hereby finds that 40 LAC §2715(L) is unconstitutionally vague and violates the Due Process Clauses of the Federal and State Constitutions.

As to plaintiffs' argument regarding "Procedural and Substantive Due Process," the Court hereby finds that the statutory and administrative system is unconstitutional as the systems violate both substantive and procedural due process.

As to "Judicial Independence: Separation of Powers," the Court hereby finds that the workers' compensation system implemented by the OWC unconstitutionally violates the separation of powers doctrine.

I am instructing counsel for plaintiffs to prepare a judgment consistent with this ruling, circulate it in accordance with Rule 9.5, and submit to the Court for signature within 15 days. Judgment to be signed accordingly.

THUS DONE AND SIGNED, in chambers, in Baton Rouge, Louisiana, this 24th day of **June**, 2015.



JUDGE DONALD R. JOHNSON
NINETEENTH JUDICIAL DISTRICT COURT
SECTION 26

I hereby certify that on this day a notice of the above Ruling was mailed by me, with sufficient postage affixed, to Harry Phillips, Joseph Smith, Gregory Johnson, Erin Sayes, Adrienne Rachel,
Done and signed on June 24, 2015
Cheryl Wyatt
Deputy Clerk of Court

FILED

JUN 24 2015

Cheryl Wyatt 2:45pm
DEPUTY CLERK OF COURT