

JANICE HEBERT BARBER,
JOHN H. FAIRBANKS, M.D.,
PIERCE D. NUNLEY, M.D., JOHN
LOGAN, M.D., JOHN FAULKNER,
DARRELL CORMIER, PEGGY
EDWARDS, JOAN SAVOY,
KARIN FRIERSON, AND
VANESSA ARNOLD

NUMBER: 621, 071 SEC. "C"

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA WORKFORCE
COMMISSION, LOUISIANA
OFFICE OF WORKERS'
COMPENSATION, CHRISTOPHER
RICH, M.D., WES HATAWAY AND
CURT EYSINK

STATE OF LOUISIANA

COST OK \$

**JUDGMENT ON PEREMPTORY EXCEPTIONS AND
PRELIMINARY INJUNCTION ORDERS**

JUL 14 2015

DEPUTY CLERK OF COURT

This matter came before the court on March 17-18, 2015, for a hearing on the motion for preliminary injunction filed by Plaintiffs, Janice Hebert Barber, Jennifer Valois, John H. Fairbanks, M.D., Pierce D. Nunley, M.D., John Logan, M.D., John Faulkner, Darrell Cormier, Peggy Edwards, Joan Savoy, Karin Frierson, and Vanessa Arnold; and adopted by Intervener, Pamela Vicknair, in her Petition for Intervention. 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.

Present were:

J. Arthur Smith, III, for the Plaintiffs, Janice Hebert Barber, Jennifer Valois, John H. Fairbanks, M.D., Pierce D. Nunley, M.D., John Logan, M.D., John Faulkner, Darrell Cormier, Peggy Edwards, Joan Savoy, Karin Frierson, and Vanessa Arnold;

Harry J. Phillips, Jr. and Erin Sayes for the Defendants, Louisiana Workforce Commission, Louisiana Office of Workers' Compensation, Christopher Rich, M.D., Wes Hataway and Curt Eysink; and

Gregory Johnson, for the Intervenor, Pamela Vicknair.

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, for written reasons assigned on June 24, 2015, which are expressly incorporated herein by reference, this court concludes as follows:

The court hereby **SUSTAINS** the Exception of No Right of Action as to Janice Hebert Barber and Jennifer Barber Valois, and as to Dr. John Logan, Dr. Pierce Nunley, and Dr. John Fairbanks. Thus, the claims asserted by Janice Hebert Barber, Jennifer Barber Valois, Dr. John

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Logan, Dr. Pierce Nunley, and Dr. John Fairbanks are **DISMISSED**. The court **OVERRULES** the Exception of No Right of Action as the remaining Plaintiffs.

This court also concludes that Plaintiffs have made a prima facie showing that they are entitled to the relief sought as a matter of law and that they will prevail on the merits of this case.

THEREFORE, IT IS ORDERED that Plaintiffs' Motion for a Preliminary Injunction is granted, conditioned on Plaintiffs furnishing of security in the amount of \$ 5,000.00.

IT IS FURTHER ORDERED that the Defendants are preliminarily enjoined, restrained, and prohibited from applying and/or enforcing 40 LAC § 2715(E)(2) and 40 LAC § 2715(H).

IT IS FURTHER ORDERED that the Defendants are preliminarily enjoined, restrained, and prohibited from applying and/or enforcing 40 LAC § 2715(L).

IT IS FURTHER ORDERED that Plaintiffs' motion to preliminarily enjoin, restrain and prohibit the application and/or enforcement of La. R.S. 23:1203.1(D)(5) is **DENIED**.

IT IS FURTHER ORDERED that the Defendants are preliminarily enjoined, restrained, and prohibited from applying and/or enforcing the statutes and regulations which establish the system for the administrative determinations of form 1009 claims for medical benefits for injured workers by a medical director employed by the Office of Worker's Compensation of the Louisiana Workforce Commission and administrative appeals therefrom to Office of Worker's Compensation judges. The enjoined statutes and regulations are as follows:

1. La. R.S. 23:1203.1(J)(1),(K),(M);
2. La. R.S. 23:1314 (D)-(E)(1) inclusive;
3. 40 LAC 2715(B)(3), (d), (e), (f); and
4. 40 LAC 2715(E)(2), (F), (H), (I), (J), (K) and (L).

IT IS FURTHER ORDERED that the Defendants are preliminarily enjoined, restrained, and prohibited from allowing anyone to attempt to communicate with judges of the Office of Worker's Compensation regarding worker's compensation claims by using any of the Defendants as an intermediary.

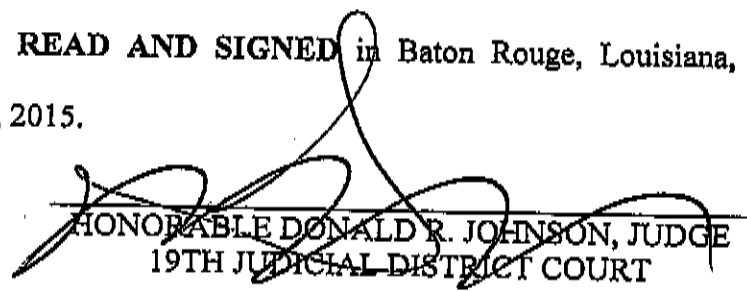
IT IS FURTHER ORDERED that the Defendants shall take all action necessary to ensure that all Office of Worker's Compensation judges and their staffs are insulated from influence from any sources other than the facts and law presented to them on the record; that the Defendants shall take all action necessary to ensure that any appearance of improper influence with respect to the Office of Worker's Compensation judges is eradicated in its entirety to the

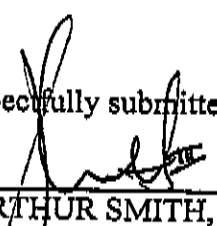
fullest extent possible; and that the Defendants will refrain from engaging in any off the record communication with party litigants or representatives of party litigants on matters concerning pending litigation, unless counsel for all parties are present. In the event the OWC receives an off the record communication regarding a matter pending before an OWC judge, the OWC shall notify the opposing counsel (or the party if he or she is self represented) and provide a copy of this communication to him or her.

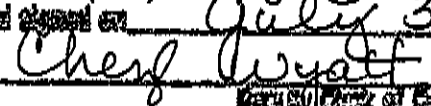
IT IS FURTHER ORDERED that the preliminary injunctions ordered here shall apply to Defendants, the Louisiana Workforce Commission; the Louisiana Office of Workers' Compensation; any person holding the office of Medical Director or Assistant Medical Director of the Office of Workers' Compensation; any person holding the Office of Director of the Office of Workers' Compensation; and any person designated as the Executive Director of the Louisiana Workforce Commission; and their officers, agents, employees, attorneys, and successors, as well as all those in active concert or participation with them pending a trial on the merits of this action, or until further order of this Court.

ORDERS RENDERED in Baton Rouge, Louisiana, on the 24th day of June, 2015.

ORDERS READ AND SIGNED in Baton Rouge, Louisiana, this 30th day of July, 2015.


HONORABLE DONALD R. JOHNSON, JUDGE
19TH JUDICIAL DISTRICT COURT

Respectfully submitted

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Attorney for Plaintiffs

I hereby certify that on this day a notice of the above judgment was mailed by me, with sufficient postage affixed, to: J. Arthur Smith, Harry Phillips, Erin Sayes, Gregory Johnson
Done and signed on July 30, 2015

Cheryl Wyatt
Clerk of Court

