

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

LUTHER SCOTT, JR., and LOUISIANA
STATE CONFERENCE OF THE
NAACP,

Plaintiffs,

v.

TOM SCHEDLER in his official capacity as
the Louisiana Secretary of State, RUTH
JOHNSON, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE D.
GREENSTEIN, in his official capacity as
Secretary of the Louisiana Department of
Health & Hospitals,

Defendants.

Civil Action No. 2:11-cv-00926-JTM-JCW
Section "H"

**MOTION TO STRIKE DECLARATIONS AND DOCUMENTS
FILED BY DEFENDANTS JOHNSON AND GREENSTEIN AND FOR SANCTIONS**

Plaintiffs Luther Scott, Jr. and the Louisiana State Conference of the NAACP (collectively referred to as "Plaintiffs"), through undersigned counsel, file this Motion to Strike Declarations and Documents Filed by Defendants Johnson and Greenstein and for Sanctions (the "Motion to Strike") to exclude the following declarations and documents:

Declarations

- Shawn Banks, a Social Services Analyst II (Doc. 297-6);
- Yolanda Ash, a Social Services Analyst II (Doc. 297-7);
- Diane Martin, a Program Operations Manager, DCFS (Doc. 297-9);

- Jeannie Tarver, Medicaid Analyst (Docs. 307-8, 311-7);
- Christine Couvillon, Medicaid Analyst (Docs. 307-9, 311-8);
- Vivian Carter, Medicaid Analyst (Doc. 311-9);
- Jackie Davis, Medicaid Analyst (Doc. 311-10);
- Mary Louise Anderson, Medicaid Analyst (Doc. 311-13); and
- Todd Guillory, Medicaid Analyst (Doc. 311-13).

Documents

- Medical Vendor Administration Policy as of February 27, 2012 (Doc Nos. 307-10; 311:12);
- An application for benefits from the DCFS file of Plaintiff Luther Scott (Doc. 297-7, pgs. 4-26 — also submitted by Defendant Schedler as Doc. 309-5);
- An OFS 4APP application form for DCFS assistance, dated July 2012 (Doc. 297-10, pp. 36-50);
- Child Care Assistance Program Report of Changes Form, dated March 2012 (Doc. 297-12, pp 12-14);
- C-200/C-210 Policies, which outline the general policies, procedures and responsibilities of DHH employees with respect to the National Voter Registration Act (“NVRA”), dated March 1, 2012 (Doc. 297-14);
- A Voter Registration Declaration Statement for Change of Address and training materials for DCFS employees on its distribution, dated September 1, 2012 (Doc. 297-15);
- Interview Procedures for FITAP Applications, dated March 1, 2012 (Doc. 297-19, pp. 2-5); and,

- Interview Procedures for SNAP Applications, dated December 1, 2011 (Doc. 297-19, pp. 6-9).

As discussed more fully in the accompanying memorandum of law, these documents were in the possession, custody, and control of Defendants Greenstein and Johnson, Secretaries of the Louisiana Department of Health & Hospitals and the Louisiana Department of Children & Family Services, respectively, during the course of discovery but were not produced to Plaintiffs until long after discovery was closed, with no justification for such prejudicial delay. Moreover, the new declarants were similarly known to and have worked for Defendants for a significant amount of time prior to the close of discovery, and in most cases, before the filing of this action.

As a result, Plaintiffs were deprived of the opportunity to use or to examine these documents during the discovery period, or to depose, question, or investigate the declarants and their representations. Thus, Plaintiffs will be prejudiced if Defendants are allowed to use such belatedly-supplied information to support their oppositions against Plaintiffs' summary judgment motion. Pursuant to Federal Rule of Civil Procedure 37(c)(1), these documents and these declarants and any statements originating therefrom should, therefore, be stricken from the record and should not be allowed as evidence. In addition to excluding such evidence, this Court should sanction Defendants and levy the reasonable costs, including attorney's fees, of filing this motion to contest Defendants' clear violation of their discovery obligations, and any other relief this Court may deem just and proper.

WHEREFORE, Plaintiffs respectfully request this Honorable Court exclude the declarations and documents listed above, which were filed by Defendants Johnson and Greenstein, as described in, and for the reasons more fully set forth in, the attached Memorandum In Support Of Motion To Strike Declarations and Documents Filed by Defendants

Johnson and Greenstein, and to grant additional sanctions for reasonable expenses, including attorney's fees and costs, incurred in filing this motion, along with any other relief this Honorable Court may deem just and proper.

Dated: August 22, 2012

Respectfully submitted,

/s/Natasha M. Korgaonkar

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*MOTION FOR ADMISSION PRO HAC VICE
GRANTED

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd of August, 2012, I electronically filed the foregoing Motion to Strike Declarations and Documents Filed by Defendants Johnson and Greenstein and for Sanctions with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to persons electronically noticed. I further certify that I mailed the foregoing document and the notice of electronic filing by first class mail to any non-CM/ECF participant.

/s/Natasha M. Korgaonkar

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