

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

<b>ERNEST TAYLOR</b>	§	<b>CIVIL ACTION</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>VS.</b>	§	
	§	
<b>THE CITY OF BATON ROUGE, ET AL.</b>	§	<b>NO. 13-579-BAJ-RLB</b>
	§	
<b>Defendants.</b>	§	

**STATUS REPORT**

**A. JURISDICTION**

1. What is the basis for the jurisdiction of the Court?
  - a. Plaintiff: This Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. §§ 1331, 1343, and 1367.
  - b. Defendants: 28 U.S.C. §1331.

**B. BRIEF EXPLANATION OF THE CASE**

1. *Plaintiff claims:* This case involves the arrest of Plaintiff Ernest Taylor and the confiscation of his lawfully held firearms for the purported infraction of possessing a weapon in the parking lot of an establishment that either sells or serves alcohol. Mr. Taylor asserts that the ordinance under which the Baton Rouge Police Department arrested him and confiscated his firearms violates the United States Constitution, and numerous provisions of Louisiana law. Mr. Taylor further asserts that the City of Baton Rouge and its individual actors were aware that enforcement of the ordinance would violate long-established legal principles regarding civil liberties and individual rights, but despite this knowledge actively utilized the ordinance’s provisions to deprive citizens of their Constitutionally protected freedoms under the color of

state law. Plaintiff seeks injunctive and declaratory relief in addition to damages for physical and emotional injuries.

2. *Defendant claims:* The defendants deny that the plaintiffs' constitutional rights were violated by these defendants, and deny the specific factual allegations of the complaint against these defendants.

**C. PENDING MOTIONS**

List any pending motions, the date filed, and the basis of the motion(s).

1. **Plaintiff:** None at this time. Plaintiff anticipates filing a motion for preliminary injunction in the near future.

2. **Defendants:** None.

**D. ISSUES**

1. *Plaintiff's Statement of Issues:* The primary issue in this case is whether the City of Baton Rouge and its individual actors violated Plaintiff's civil rights through the enforcement of Section 13:95.3 of the Baton Rouge Code of Ordinances. At this point it is unknown which, if any, of Plaintiff's allegations will be disputed by the Defendants, and it is therefore unknown what issues will require resolution by the Court. Plaintiff anticipates that issues needing resolution may include: (1) a determination of whether §13:95.3 violates the U.S. Constitution, (2) whether Defendants should have been aware that enforcement of §13:95.3 was an unconstitutional exercise of power, and (3) the amount of Plaintiff's money damages.

2. *Defendants' Statement of Issues:*

a. Whether the plaintiff's constitutional and/or statutory rights were violated.

b. The damages, if any, suffered by the plaintiff.

c. Whether defendant is entitled to attorney's fees under 42 U.S.C. § 1988.

**E. DAMAGES**

1. *Plaintiff's calculation of damages:* Initially, Plaintiff seeks injunctive and declaratory relief. The amount of Plaintiff's money damages will be established through discovery and at the trial of this matter.

2. *Defendant's calculation of offset and/or plaintiff's damages:* Defendants contest the plaintiffs' claims for damages.

**F. SERVICE**

1. *Plaintiff:* Service has been waived on behalf of the following defendants: (1) The City of Baton Rouge; (2) Carl Dabadie, Jr.; (3) Mary E. Roper; (4) Lisa Freeman; (5) Patrick Wennemann; and (6) James Thomas. Currently, service has not been made upon defendant D. Dewayne White or Officer Jane Doe. Plaintiff will continue his attempts to bring defendant White within the jurisdiction of the Court, and it is believed that preliminary discovery will allow plaintiff to identify the Jane Doe defendant and properly effectuate service.

2. *Defendants:* None.

**G. DISCOVERY**

1. Have the initial disclosures required under FRCP 26(a)(1) been completed?

[ ] YES [X] NO

a. Do any parties object to initial disclosures?

[ ] YES [X] NO

b. For any party who answered *yes*, please explain your reason for objecting.

2. Briefly describe any discovery that has been completed or is in progress:

a. *By plaintiff:* Preliminary discussions have been held regarding written discovery and the depositions of Officers Thomas and Wenneman, but no formal requests have yet been made.

b. *By defendants:* Interrogatories and Requests for Production Propounded will be served on Plaintiff.

3. Please describe any protective orders or other limitations on discovery that may be required/sought during the course of discovery.

a. *By plaintiff:* None anticipated at this time.

b. *By defendants:* Unknown at this time.

4. Discovery from experts:

Identify the subject matter(s) as to which expert testimony will be offered:

*By plaintiff:* Plaintiff expects to evaluate the need for expert testimony throughout the pendency of this case, and to disclose those experts retained to provide expert testimony in accordance with Fed. R. Civ. P. 26.

*By defendants:* Defendants reserve the right to call an expert depending upon whether the plaintiff names such an expert.

## **H. PROPOSED SCHEDULING ORDER**

The following schedule is submitted in accordance with the form provided by the Court:

1. Deadline for amending the complaint, or adding new parties, claims, counterclaims, or cross claims: **April 28, 2014**

2. Deadline for completion of fact discovery: **July 31, 2014**

a. Exchanging initial disclosures required by FRCP 26(a)(1): **April 14, 2014**

b. Filing all discovery motions and completing all discovery except expert reports: **July 31, 2014**

3. Disclosure of identities and reports of expert witnesses as required by Fed. R. Civ. P. 26(a)(2):
  - a. Plaintiff: **September 1, 2014**
  - b. Defendants: **October 1, 2014**
4. Completion of discovery from experts: **November 3, 2014**
5. Filing dispositive and Daubert motions: **December 1, 2014**

**I. TRIAL**

1. Has a demand for a trial by jury been made?

YES     NO

2. Estimate the number of days trial will require.

a. *Plaintiff*: Plaintiff estimates trial could be completed in five (5) days.

b. *Defendants*: Defendants estimate a trial lasting three (3) days.

**J. OTHER MATTERS**

Are there any specific problems the parties wish to address at the scheduling conference?

YES     NO

1. If the answer is yes, please explain:

2. If the answer is no, do the parties want the court to cancel the scheduling conference and to enter a scheduling order based on the deadlines set out in this report?

YES     NO

**K. SETTLEMENT**

1. Please set forth what efforts, if any, the parties have made to settle this case to date.

This case is just beginning, and no efforts at settlement have yet been made.

2. Do the parties wish to have a settlement conference?

[ ] YES [X] NO

While the parties do not believe a settlement conference would be beneficial at this stage, they remain open to the possibility that one may be beneficial at some later time, such as after discovery has been completed.

**L. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE**

You have the right to waive your right to proceed before a United States District Judge and may instead consent to proceed before a U.S. Magistrate Judge.

Indicate whether, at this time, all parties will agree, pursuant to 28 U.S.C. § 636(c), to have a Magistrate Judge handle all the remaining pretrial aspects of this case and preside over a jury or bench trial, with appeal lying to the United States Court of Appeals for the Fifth Circuit.

All parties agree to jurisdiction by a Magistrate Judge of this court:

[ ] YES [X] NO

Report dated: March 5, 2014.

Respectfully submitted,

s/ Terrence J. Donahue, Jr.  
**TERRENCE J. DONAHUE, JR.**  
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of East Baton Rouge

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading has been filed with the Court and served on counsel for Defendants through submission to the Court's CM/ECF system on this, the 5<sup>th</sup> day of March, 2014.

s/ Terrence J. Donahue, Jr.  
Terrence J. Donahue, Jr.