

LOUISIANA STATE TROOPERS
ASSOCIATION, ET AL

VERSUS

STATE POLICE COMMISSION, ET. AL.

SUIT NO. 672,676 SEC. 24

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

MEMORANDUM IN SUPPORT OF MOTION TO SUPPLEMENT THE RECORD

NOW INTO COURT come Plaintiffs, Louisiana State Troopers Association (“LSTA”), James O’Quinn, Derek Sentino, Brett Travis, Chris Wright, Larry Badeaux, Jr., Rodney Hyatt, John Heath Miller, Hackley E. Willis, Jr., Andy Stephenson, Dale Latham, John M. Trahan, Mike Neal and Chase Huval, through undersigned counsel, who for the purposes of this litigation and for correction to the record, submit this Memorandum in Support of Motion to Supplement the Record and respectfully request that the record in this matter be supplemented as follows.

I. FACTS AND BACKGROUND

Plaintiffs filed the instant suit on August 15, 2018 seeking a declaratory judgment declaring that proposed Amendment to State Police Commission Rule 14.2 and the publication, implementation and enforcement of General Circular 191 are unconstitutional, null, void and unenforceable to the extent they prohibit Plaintiffs and any member of classified State Police service from taking an active part in the management of the LSTA should the LSTA exercise its constitutional right to engage in political activity. Defendants filed an Exception of Prematurity to Plaintiffs’ Petition which was overruled. Defendants then filed a Motion for Summary Judgment that was never heard by the Court.

Plaintiffs filed a First Supplemental and Amended Petition seeking that this Honorable Court declare that the Louisiana State Troopers Association is not subject to the Louisiana Constitution or the State Police Commission rules related to political activity of members of the classified state police service, that Louisiana State Troopers Association has a constitutionally protected right to support or oppose political candidates, parties or factions, and that membership in or management of Louisiana State Troopers Association does not violate the Louisiana Constitution or the State Police Commission rules, even when Louisiana State Troopers

Association engages in political activity as defined in Article 10 § 47(c) of the Louisiana Constitution.

Defendants filed an Exception of Lack of Subject Matter Jurisdiction to the First Supplemental and Amended Petition which was overruled.

Trial of this matter was held on November 3, 2022. The parties entered into fifty-six (56) stipulations of fact and stipulated to twenty-eight (28) exhibits at or prior to the trial of this matter. The parties also presented testimonial evidence at the trial of this matter.

Defendants presented Eulis Simien, Jr., Chairman of the State Police Commission, to give testimony in this matter. Mr. Simien gave the following testimony with respect to political contributions made by his law firm, Simien & Simien LLC, since his appointment to the State Police Commission on December 6, 2016:

Q: Okay. You are a member of a law firm; correct?

A: I am.

Q: Does your law firm make political contributions?

A: My law firm does not make political contributions since I have been a member of the Commission.

Q: And has anyone made political contributions on your behalf during your tenure as a Commissioner?

A: Of course not.

See Exhibit 4, Trial Transcript, page 155, lines 18-25.

After conclusion of the trial and after the matter had been submitted to the Court, Chairman Simien reported to undersigned counsel that he forgot about a political contribution that his law firm made during his tenure on the State Police Commission. On November 9, 2022, a letter addressed to the Court by Mr. Simien was fax-filed (see Ex. 1). The letter stated as follows:

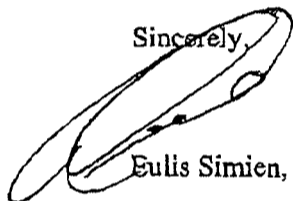
Dear Judge Johnson:

I'm writing this letter in regards to my recent testimony before you in the Louisiana State Police Commission litigation last week. As you will recall, I was a witness in that matter. I was asked a question of whether my law firm had made any political contributions since my tenure on the Commission. Based on my recollection at the time, I answered that question in the negative. However, after the trial was over, I recalled that there was an instance where my partner, Jimmy Simien, directed that a check be written from our law firm to Governor John Bel Edwards' re-election campaign. As such, that contribution was technically from my firm and, had I recalled it, I would have answered that question in the affirmative. I would have then proceeded to explain the circumstances. The contribution was made solely at Jimmy's direction. In our firm, just as I have authority to write firm checks for those things for which I choose to write them, Jimmy had the authority to write a firm check for those purposes without seeking my consent. However, it completely slipped my mind at the time of my questioning. I saw the lawyers representing the Louisiana State Police Association immediately after the trial and apologized to them for my unintentional error in testimony. However, I would not feel that this was completely put to rest until I also apologized to the Court for this error in my testimony.

That is the purpose of this letter. Please accept that apology.

With warm regards, I remain

Sincerely,



Eulis Simien, Jr.

After being notified by Mr. Simien of the errored testimony, Plaintiffs reviewed the Louisiana Ethics Board Campaign Disclosures online and found the following campaign contributions made by Simien & Simien, LLC since Mr. Simien's appointment to the State Police Commission, December 6, 2016 (see Ex. 2):

Filer Name	Source	Date	Amount
John Bel Edwards	Simien & Simien LLC	3/10/2017	\$4,917.78
Wilson Fields	Simien & Simien LLC	11/28/2018	\$500.00
Erika L. Green	Simien & Simien	2/9/2017	\$250.00

Exhibit 3 attached shows that Chairman Simien is an officer of the law firm, Simien & Simien, LLC. In addition to the contributions made by Chairman Simien's law firm during the relevant period described above, Exhibit 2 also reflects a contribution made by Tamara Simien, Chairman Simien's spouse, during the relevant time period. Mrs. Simien reportedly donated \$500.00 to Preston Castille on 9/17/2019.

It is imperative that the record in this regard be corrected due to the nature of the matter herein which requires this Court to consider and interpret existing constitutional law and State Police Commission rules regulating the political activity of classified state police employees, which such constitutional laws also apply to commissioners serving on the State Police Commission.

“A trial court has great discretion in the manner in which proceedings are conducted, and a trial court's decision to hold open or reopen a case for additional evidence will not be disturbed absent a clear abuse of discretion.” *Amitech, U.S.A., Ltd. v. Nottingham Const. Co.*, 2005-1981 (La. App. 1 Cir. 2/14/07) citing LSA-C.C.P. art. 1631 and *Fly v. Allstar Ford Lincoln Mercury, Inc.*, 95-1216, p. 9 (La.App. 1 Cir. 8/21/96), 690 So.2d 759, 764. In the *Amitech* matter, the plaintiff filed a motion to supplement the record with exhibits that were attached to pleadings and considered by the trial court in its decision but were not introduced at the hearing. The trial court granted plaintiff's motion reasoning that the documents had been filed into the record and were considered by the trial court in making its decision. *Id.* The court of appeal affirmed the trial court's decision to enlarge the record, stating:

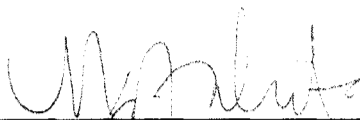
In this matter, Rockwood acknowledged that the documents were already filed in the record. Counsel for both parties referred to the documents during the argument on the motion to quash. Further, Amitech moved to have the documents made part of the hearing record before final judgment on the motion to quash was signed. We do not find an abuse of discretion by the trial court in enlarging the record under the facts and circumstances of this case. *Id.*

In the instant matter, no decision has been made by this court; thus, Exhibits 1-3 attached herein may be considered by this court in making its ruling. Further, Exhibit 1 was filed by the Defendants into the record of this matter. Lastly, final briefing has not concluded; thus the parties may address and refer to Exhibits 1-3 in their summary of the arguments, findings of fact and conclusions of law.

For the foregoing reasons, Plaintiffs respectfully request that their Motion to Supplement the Record be granted and that the attached Exhibits 1, 2, and 3 be accepted by this Court and entered as evidence on the record of this matter.

Signature page follows

Respectfully submitted by:

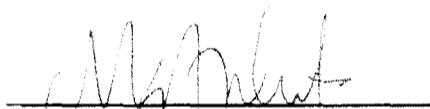


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Certificate of Service

I certify that on January 13, 2023, a copy of the foregoing Motion to Supplement the Record has been provided to all counsel of record.



Mary Ann M. White