

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

ROY FERRAND, LUTHER SCOTT, JR.,
and LOUISIANA STATE CONFERENCE
OF THE NAACP, for themselves and all
other persons similarly situated,

CIVIL ACTION NO. 2:11-00926
JTM - JCW

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,

OPPOSITION OF DEFENDANT SCHEDLER TO “PLAINTIFFS’
MOTION TO AMEND CAPTION” (DOC 423)

MAY IT PLEASE THE COURT:

Defendant, Tom Schedler in his official capacity as Louisiana Secretary of State, opposes Plaintiffs’ Motion To Amend Case Caption (Doc 423) and can locate no authority in law for changing a case caption other than for misnomers and such in the designation of the original parties to the lawsuit. Fed.R.Civ.P. 10(a) only applies to the original filing at the time suit was filed. There is no authority or procedure for changing a case when a party who was properly and correctly named was dismissed from the suit, or when a party changes a theory, or fails to have a class certified. Imagine the numerous times a case caption would

have to be changed in most suits if that were the case.

The only authority located for changing a caption is Fed.R.Civ.P. 15(a), which does not seem to apply. A case providing a good discussion of the limited circumstances justifying a change of caption is *United States v. United Federation of Teachers Education Foundation, Inc.*, 241 F.R.D. 146 (E.D. N.Y. 2007). However, in that case, the parties were ordered to file an amended pleading in order to be able to effectuate a change of case caption.

Inasmuch as no authority exists for the relief requested by plaintiffs here, the Secretary of State submits that the motion to change the caption should be denied.

Respectfully Submitted:

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*Attorneys for Defendant, Tom Schedler in his
official capacity as Louisiana Secretary of State*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing “Opposition of Defendant Schedler to ‘Plaintiffs’ Motion To Amend Caption’ (Doc 423)” was sent electronically via the Court electronic filing system to the following:

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Counsel for Plaintiffs

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Baton Rouge, Louisiana, this 20th of November, 2012.

s/Celia R. Cangelosi
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