

SHREVEPORT CHAPTER #237  
OF THE UNITED DAUGHTERS  
OF THE CONFEDERACY

NUMBER

620773-B

VERSUS

FIRST JUDICIAL DISTRICT COURT

THE CADDO PARISH COMMISSION  
AND THE PARISH OF CADDO

CADDO PARISH, LOUISIANA

PERMANENT ASSIGNMENT

SECTION

PETITION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY AND PERMANENT INJUNCTIONS TO PREVENT  
DEFENDANT FROM USING ARTICLE 493 OF THE CIVIL CODE  
TO CLAIM OWNERSHIP OF PRIVATE PROPERTY WITHOUT  
PAYING JUST COMPENSATION FOR SAME

NOW INTO COURT, comes petitioner, Shreveport Chapter Number 237 of the United Daughters of the Confederacy ("UDC"); (a non-profit entity with EIN 72-6034845), which has a parent corporation entitled the Louisiana Division of the United Daughters of the Confederacy, which is a 501(c)(3) in good standing in the State of Louisiana; and a resident of Caddo Parish, Louisiana, who respectfully represents that:

1.

Made defendants herein are:

- (A) Caddo Parish Commission ("COMMISSION") the governing party of the Parish of Caddo who may be served through its Parish administrator, Dr. Woodrow Wilson, Jr., and
- (B) Parish of Caddo (PARISH) a political subdivision of the State of Louisiana and may be served through its Parish Administrator, Dr. Woodrow Wilson, Jr.

2.

This Court has jurisdiction over this proceeding pursuant to the provisions of the Louisiana Code of Civil Procedure Articles 6 and 8 and proper venue in this Court pursuant to Louisiana Code of Civil Procedure Article 42. All of the parties to this dispute are residents and citizens of the state of Louisiana and domiciled in Caddo Parish, Louisiana.

**DISCUSSION**

This dispute is grounded on the attempt by defendants to use Article 493 of the Louisiana Civil Code as a device to claim ownership of the Confederate monument which is owned by petitioner and located in front of the courthouse on Texas Street; Shreveport, Louisiana. The article

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| W/D DOC | <u>1</u> | CERT MAIL   | <u>1</u>    |      |          |
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JIM SCOTT  
DEPUTY CLERK OF COURT  
CADDO PARISH

*[Handwritten signature]*

states in pertinent part: “Art. 493. Ownership of improvements. Buildings, other constructions permanently attached to the ground, and plantings made on the land of another with his consent belong to him who made them. They belong to the owner of the ground when they are made without his consent.”

A reading of the article and its history will show that it was passed to give lessors (usually rural people) the right to claim and remove oilwell facilities which had remained on the lessors property as a result of an unsuccessful oil and gas well causing the lessee to abandon same. In over 100 years, the statute has never been used in Caddo Parish or elsewhere as a device to claim ownership of valuable personal property such as attempted here. Throughout the legal proceedings involving the parties, the Commission never once alluded to Article 493 or claimed any rights thereunder.

3.

The first notice that petitioner received was a letter from the Commission’s attorneys dated August 28, 2019 to the effect that Article 493 was being invoked to claim ownership of the monument and the right to move it as it sees fit. The right of ownership inherently includes the right to desecrate or destroy one’s property and petitioner shows that it has grave concerns that such may occur.

4.

On November 15, 2019, counsel for petitioner met with counsel for the defendants in an effort to resolve the issues, but these efforts were unsuccessful and defendants indicated they were going to proceed with the 493 proceeding.

5.

Petitioner alleges that the 90-day period will expire on November 26, 2019, and unless a temporary restraining order is issued to prevent and preclude the same, it will suffer irreparable harm in its private property being taken by a governmental entity without paying just compensation; therefore in violation of both the state and federal constitutions.

6.

As indicated earlier, no political subdivision in Louisiana has ever taken this drastic step and thus should not be allowed at the present time.

7.

The law relative to injunctive relief favors petitioner. The following points are relevant:

- a. Likelihood of success: The use and abuse of Article 493 is obvious. It cannot be used as a substitute for the constitutional obligations relating to the taking of private property without paying just compensation. It is inconceivable that at this juncture in our history that the Commission has somehow acquired a right never claimed in the past or utilized by it or others.
- b. Irreparable harm: It is obvious that if the Commission goes ahead and takes possession of the monument that it could do with it whatever its will, good bad or indifferent. Such conduct is obviously detrimental to petitioner and results in irreparable harm.
- c. Injury to defendants: The issuance of a TRO will cause no harm, damage or expense to defendants. It will simply tell them that they cannot do what they propose for the reason that such is not authorized by law.
- d. Constitutional rights: All constitutional rights and issues involved here are on the side of petitioner who are being threatened with great harm and damage by the conduct threatened by defendants. Stopping of the use of unlawful conduct by a governmental agency is in the interest of fair play, justice, and the protection of constitutional rights.

8.

Further, petitioner attaches to and makes a part hereof the following exhibits:

- Exhibit A. Resolution No. 69 of 2017 by the Caddo Parish Commission authorizing the removal "by all legal means" of the Confederate monument. This resolution did not mention Article 493 one way or the other.
- Exhibit B. August 28, 2019 letter of Parish attorney to petitioner, where for the first time, Article 493 is used as a vehicle by which defendants attempt to take ownership of the monument. It is difficult to understand how this article can be claimed after three years of litigation in which it was never alleged or referred to.
- Exhibit C. September 5, 2019 Letter from Arthur R. Carmody, Jr. to Parish attorney stating why Article 493 is inapplicable. The issues addressed in this letter have never been answered by defendants.

WHEREFORE, PETITIONER PRAYS that:

- A. This petition for a temporary restraining order and preliminary injunctive relief be filed and served upon the defendants in accordance with law and that defendants be ordered to show cause on a time and date selected by the court;
- B. That defendants be ordered and directed not to take any further action under Article 493 of the Civil Code to the end of attempting to own and control the Confederate monument situated in front of the Caddo Parish Courthouse on Texas Street, Shreveport, Louisiana; and
- C. That should defendants violate this order, they shall be subject to appropriate sanctions and such other as may be determined by the court.



SHREVEPORT CHAPTER #237 : NUMBER  
 OF THE UNITED DAUGHTERS :  
 OF THE CONFEDERACY :  
 VERSUS : FIRST JUDICIAL DISTRICT COURT  
 THE CADDO PARISH COMMISSION :  
 AND THE PARISH OF CADDO : CADDO PARISH, LOUISIANA  
 PERMANENT ASSIGNMENT : SECTION

VERIFICATION

STATE OF LOUISIANA:

PARISH OF CADDO:

BEFORE ME, the undersigned authority in and for the State and Parish aforesaid, personally came and appeared MARGARET DUPREE, who, after first being duly sworn, did depose and state that she is the President of the Shreveport Chapter #237 of The United Daughters of the Confederacy, Petitioner, in the above and foregoing Petition, and that she has read same and all of the facts and allegations contained therein are true and correct to the best of her knowledge, information and belief.

Margaret Dupree  
 MARGARET DUPREE,  
 President of the Shreveport Chapter #237  
 The United Daughters of the Confederacy

SWORN TO AND SUBSCRIBED before me, Notary, on this 20<sup>th</sup> day of November ,  
 2019.

Dick Dee 'Dave' Knadler  
 DICK DEE 'DAVE' KNADLER NOTARY PUBLIC LA BAR #27829

Notary ID # 66011

SHREVEPORT CHAPTER #237 : NUMBER  
 OF THE UNITED DAUGHTERS :  
 OF THE CONFEDERACY :

VERSUS : FIRST JUDICIAL DISTRICT COURT

THE CADDO PARISH COMMISSION :  
 AND THE PARISH OF CADDO : CADDO PARISH, LOUISIANA

PERMANENT ASSIGNMENT : SECTION

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ORDER

CONSIDERING THE ABOVE VERIFIED PETITION:

IT IS HEREBY ORDERED that:

- I. The defendants, the CADDO PARISH COMMISSION and the PARISH OF CADDO, be served with notice and citation through the Parish Administrator, Dr. Woodrow Wilson, Jr., as set forth in Paragraph 1 hereinabove; and
- II. A rule nisi be and is hereby issued herein directed unto the defendants, the CADDO PARISH COMMISSION and the PARISH OF CADDO, ordering them to show cause, if any they can, on the 13 day of JAN, ~~2020~~ at 9:30 a.m., why:
  - A. They should not be ordered and directed by this Honorable Court not to take any further action under Article 493 of the Civil Code to the end of attempting to own and control the Confederate monument situated in front of the Caddo Parish Courthouse on Texas Street; Shreveport, Louisiana; and
  - B. Defendants should not be subject to appropriate sanctions and such other as may be determined by the court should they violate this Honorable Court's order.

THUS DONE AND SIGNED in Chambers in Caddo Parish, Louisiana, on this 23 day of November, 2019.

  
 \_\_\_\_\_  
 DISTRICT JUDGE

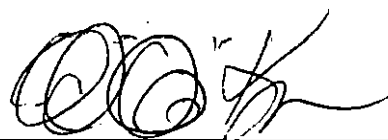
SERVICE INSTRUCTIONS:

Please serve the agent of service of process for both defendants

DR. WOODROW WILSON, JR.  
 Parish Administrator for Caddo Parish  
 Government Plaza  
 505 Texas Street, Suite 800  
 Shreveport, Louisiana 71101

CERTIFICATE

I HEREBY CERTIFY that a copy of the above and foregoing has been mailed, postage prepaid, to Donna Y. Frazier, attorney of record for the Parish of Caddo, at her office address of 505 Travis Street, Suite 810, Shreveport, Louisiana 71101, on this 21<sup>st</sup> day of November, 2019.



\_\_\_\_\_  
OF COUNSEL

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RESOLUTION NO. 69 OF 2017

BY THE CADDO PARISH COMMISSION:

A RESOLUTION RECOMMENDING THE REMOVAL OF THE CONFEDERATE MONUMENT FROM THE CADDO PARISH COURTHOUSE SQUARE, AND OTHERWISE PROVIDING WITH RESPECT THERETO

WHEREAS, the Confederate Monument currently on the lawn of the Caddo Parish Courthouse serves as an object of division and a painful reminder of racial inequities locally and nationally;

WHEREAS, although historically significant, citizens would be better served if the monument was placed in a museum or at another site dedicated to memorials, instead of the Courthouse where justice is to be administered fairly and impartially;

WHEREAS, the Caddo Parish Commission wishes to end the constant debate on the placement of this monument.

NOW, THEREFORE, BE IT RESOLVED by the Caddo Parish Commission in due, regular and legal session convened, authorizes the Parish Administrator, assisted by the Parish Legal Staff, to pursue any and all legal means to remove the monument from the Caddo Parish Courthouse Square.

BE IT FURTHER RESOLVED that if any provision or item of this resolution or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications which can be given effect without the invalid provisions, items or applications, and to this end, the provisions of this resolution are hereby declared severable.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

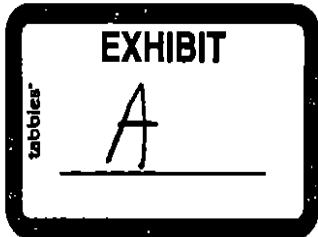
BE IT FURTHER RESOLVED that all resolutions or parts thereof in conflict herewith are hereby repealed.

Approved as to legal form:

\_\_\_\_\_  
Parish Attorney

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**THE PARISH OF CADDO**  
**OFFICE OF THE PARISH ATTORNEY**



Donna Y. Frazier  
Parish Attorney  
Henry M. Bernstein  
Assistant Parish Attorney

August 28, 2019

Telephone • 318.226.6947  
Fax • 318.226.6974

GOVERNMENT PLAZA  
505 Travis Street • Suite 810  
P.O. Box 1127  
Shreveport, Louisiana 71163-1127

**CERTIFIED MAIL RETURN RECEIPT REQUESTED:  
#7013 0600 0000 9682 6963**

Ms. Margaret Dupree, President  
Shreveport Chapter #237 of the Daughters of the Confederacy  
c/o Attorney Dick "Dave" Knadler  
3323 First Street  
Mansfield, LA. 71052

**Re: Confederate Monument at Caddo Parish  
Court House**

Dear Ms. Dupree:

Please be advised that this letter serves as the demand under Art. 493 of the Civil Code for Shreveport Chapter #237 of the Daughters of the Confederacy to remove its property which is the Confederate Monument located at Courthouse Square, 500 Texas Street, Shreveport, Louisiana 71101.

As you are aware, Caddo Parish has been in litigation with the Daughters concerning removal of the monument since October 2017, when the Parish passed Resolution 69 of 2017 authorizing the monument's removal. The Federal Fifth Circuit Court of Appeal has ruled that the Parish owns the ground beneath the monument and has the right to request its removal.

By virtue of Resolution 69, the Parish has withdrawn consent for the Confederate Monument, as your organization's property, to remain on the Courthouse Square which is the Parish's property. Under Art. 493, your organization has 90 days from the date of this written demand to remove the monument. The Parish is willing to grant the Daughters reasonable access to Courthouse Square to remove the monument and return the space it occupies to a reasonable condition.

If you have any questions or concerns, please have your counsel, Mr. Knadler, contact me to set up a meeting to discuss them.

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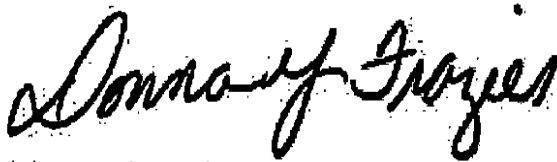
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If you have any questions or concerns, please have your counsel, Mr. me to set up a meeting to discuss them.

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Thank you.

Sincerely,



Donna Y. Frazier

cc: Caddo Parish Commission  
Dr. Woodrow Wilson, Jr.

Sent from my iPhone

**WILKINSON, CARMODY & GILLIAM**

**ATTORNEYS AND COUNSELORS AT LAW**

**ESTABLISHED 1895**

**400 TRAVIS STREET, SUITE 1700**

**SHREVEPORT, LOUISIANA 71101**

**TELEPHONE (318) 221-4186**

**TELECOPIER (318) 221-3705**

**JOHN D. WILKINSON (1867-1928)**

**W. SCOTT WILKINSON (1895-1986)**

**ARTHUR R. CARMODY, JR.  
OF COUNSEL**

**BOBBY S. GILLIAM  
MARK E. GILLIAM  
JONATHAN P. McCARTNEY  
THOMAS A. PRESSLY IV  
P. MICHAEL DAVIS, JR.**

September 5, 2019

Ms. Donna Y. Frazier  
Parish Attorney  
505 Travis Suite, Suite 810  
Shreveport, LA 71101

Re: Confederate Monument at Caddo Parish Courthouse

Dear Ms. Frazier:

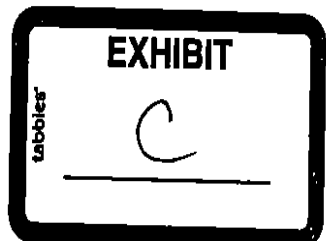
I write this letter as an independent citizen of Caddo Parish, and as one who has been a consultant working pro bono and without fee for Ms. Jackie Nichols, Chapter Registrar and spokesperson for Margaret Dupree, President of the Shreveport Chapter #237 United Daughters of the Confederacy (UDC), and Mr. Dave Knadler, the UDC's counsel of record.

It is my opinion, as one who has practiced law here for over 60 years, that the present position of the Caddo Commission is legally incorrect and its reliance on Article 493 of the Louisiana Civil Code as justification for the 90-day removal notice given to the UDC is invalid for the following reasons:

1. The article applies only to landowners who did not give consent to the improvement on the property. Here, the Caddo Parish Police Jury, the predecessor of the Caddo Parish Commission, specifically approved the location and design of the monument and actually paid a substantial part of its cost. This is evident from a reading of the police jury minutes and newspaper articles at the time in 1903, and the Commission cannot in good faith say that the monument was installed without its permission.
2. Article 493, and the cases cited under it, clearly applies to landowners in good faith and the actions of the Commission do not reflect such good faith. The use of Article 493 is one example. And the other is that the Commission has violated the provisions of the Louisiana and Federal Constitutions by attempting to take and destroy private property without the payment of just compensation. At no time has the Commission attempted to expropriate the monument or made any effort to determine just compensation, as is required by law, before there is any taking.

The only way a governmental agency, which the Commission clearly is, can take control and destroy private property is through the power of eminent domain, or

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WILKINSON, CARMODY & GILLIAM

Ms. Donna Y. Frazier  
Page Two  
September 5, 2019

expropriation as it is called in Louisiana, which has not been given to the Caddo Parish Commission to utilize in a case such as this.

3. It is unfortunate to see a governmental agency attempt to take private property through the use of an inapplicable law. It is disappointing for the Commission now to try to exercise this power through the use of a flawed article of the Civil Code.

In sum, we do not believe it equitable, legal or just for this governmental agency, after one hundred years of peaceful acceptance, to take and obliterate this substantial piece of private property, based on a totally inapplicable law.

The \$350,000 figure placed in the Commission's 2020 budget request for monument expense reflects that a substantial sum is involved and should be recognized accordingly.

We will be glad to discuss this and further issues with you as this matter develops. A good starting point might be a letter of apology to the Daughters for the expense, heartache and trouble that it has initiated.

Yours sincerely,



Arthur R. Carmody, Jr.

ARCjr/asg

# Citation

SHREVEPORT CHAPTER #237 OF THE UNITED  
DAUGHTERS OF THE CONFEDERACY  
VS  
CADDO PARISH COMMISSION, ET AL

NO. 620773- B  
STATE OF LOUISIANA  
PARISH OF CADDO  
FIRST JUDICIAL DISTRICT COURT

THE STATE OF LOUISIANA, TO: Dr WOODROW WILSON Jr  
PARISH ADMINISTRATOR FOR CADDO PARISH  
GOVERNMENT PLAZA 505 TEXAS ST STE 800  
SHREVEPORT, LA  
71101

YOU HAVE BEEN SUED.

Attached to this Citation is a certified copy of the Petition.\* The petition tells you what you are being sued for.

You must EITHER do what the petition asks, OR, within FIFTEEN (15) days after you have received these documents, you must file an answer or other legal pleadings in the Office of the Clerk of this Court at the Caddo Parish Court House, 501 Texas Street, Room 103, Shreveport, Louisiana.

If you do not do what the petition asks, or if you do not file an answer or legal pleading within FIFTEEN (15) days, a judgment may be entered against you without further notice.

This Citation was issued by the Clerk of Court for Caddo Parish, on this date November 22, 2019.

\*Also attached are the following:

**MIKE SPENCE, CLERK OF COURT**

- \_\_\_\_\_ REQUEST FOR ADMISSIONS OF FACTS
- \_\_\_\_\_ INTERROGATORIES
- \_\_\_\_\_ REQUEST FOR PRODUCTION OF DOCUMENTS
- \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
**DICK DAVE KNADLER**  
Attorney

# FILE COPY

# Rule to Show Cause

SHREVEPORT CHAPTER #237 OF THE UNITED  
DAUGHTERS OF THE CONFEDERACY  
VS  
CADDO PARISH COMMISSION, ET AL

NO. 620773 – B  
STATE OF LOUISIANA  
PARISH OF CADDO  
FIRST JUDICIAL DISTRICT COURT

TO: Dr WOODROW WILSON Jr  
PARISH ADMINISTRATOR FOR CADDO PARISH  
GOVERNMENT PLAZA 505 TEXAS ST STE 800  
SHREVEPORT, LA  
71101

GREETINGS:

YOU ARE HEREBY ORDERED, DIRECTED, AND COMMANDED, in the name of the State of Louisiana and of this Honorable Court, to show cause before this Court on **JANUARY 13, 2020, at 9:30AM**, why you should not comply with all that is contained in the certified copy of the order which accompanies this **RULE AND HEREIN FAIL NOT.**

WITNESS the Honorable Judges of our Court on this date November 22, 2019.

OTHER:

**MIKE SPENCE, CLERK OF COURT**

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
DICK DAVE KNADLER  
Attorney

# FILE COPY