

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.: 2022-6765

DIVISION "L"

SECTION 6

THE COUNCIL OF THE CITY OF NEW ORLEANS

VERSUS

EDWARD WISNER DONATION, THE HONORABLE MAYOR LATOYA CANTRELL, IN HER OFFICIAL CAPACITY AND AS TRUSTEE, MICHAEL PENEGUY, SENATOR EDWIN MURRAY, MAJOR CHRIS THORNHILL, AND PATRICK NORTON.

FILED: \_\_\_\_\_  
DEPUTY CLERK

**MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Pursuant to La. Code Civ. Proc. Art 3601, *et seq.*, and applicable case law, the Council of the City of New Orleans (the "City Council" or "Council") moves for consideration of the Petition's request for injunctive relief by entry of a temporary restraining order, without a hearing, followed by a preliminary injunction, restraining and enjoining:

(1) the purported Edward Wisner Donation (the "Trust"), Mayor LaToya Cantrell in her official capacity and as trustee of the purported Trust and chair of the so-called "Trust Management Board," and the remaining members of the Trust Management Board, Michael Peneguy, Senator Edwin Murray, Major Chris Thornhill, and Patrick Norton, their officers, agents, employees, and counsel, and those persons in active concert or participation with them, including those authorized to distribute proceeds and revenues of the Trust property, from distributing proceeds or revenues of the purported Trust to any purported beneficiary of the purported Trust other than the City of New Orleans; and

(2) Mayor Cantrell and any officers, agents, employees and counsel of those persons in active concert or participation with her, including those authorized to distribute proceeds and revenues of the Trust Property, from distributing, transferring, or granting any Trust revenue to any third parties, including vendors or grantees, without prior Council approval.

The following grounds, as set forth in the Petition, as verified by the affidavit of Council President Helena Moreno, and as more fully explained in the accompanying memorandum,

warrant entry of the temporary restraining order, without a hearing, followed by issuance of a preliminary injunction:

1.

First, millions of dollars in Trust revenues—revenues rightfully owned by the City—are being divested from the Council and the City of New Orleans annually in favor of hundreds of known and unknown purported beneficiaries and other unknown recipients of Trust revenues. This divestment constitutes irreparable harm, as the enormous geographic and jurisdictional diversity among the purported beneficiaries and other unknown recipients renders it functionally impossible to recoup monies once distributed.

2.

Second, the Council is likely to prevail on the merits of its case, as the Trust expired in August 2014 leaving the City, as sole principal beneficiary of the expired Trust's corpus, sole owner of the Trust property and its associated revenues, as repeatedly recognized by the Attorney General, and the Wisner heirs never objected to those conclusions and reaped substantial benefits from them. Moreover, the 2020 Modification of the Trust unilaterally executed by the Mayor is absolutely null and without legal effect.

3.

Third, though the Council can demonstrate irreparable harm, it is not required to since the 2020 Modification to the Trust triggers the unlawful conduct exception to the irreparable harm requirement. Specifically, the Modification is violative of the Louisiana State Constitution and myriad prohibitory provisions of the New Orleans Home Rule Charter, among other laws.

4.

Fourth, the Council satisfies the other requirements of the unlawful conduct exception as it is unequivocally seeking to restrain conduct as described above and more fully in the supporting memorandum. Finally, the Council has met the burden of making a *prima facie* showing entitlement to the prohibited relief sought, as established both in its Petition and in the supporting memorandum to this pleading.

5.

Notice of this request for entry of a temporary restraining order has been given to counsel of record and the City Attorney as established by the attached affidavit of notice.

6.

Accordingly, the Council requests entry of the attached Temporary Restraining Order, without a hearing, and issuance of a Rule to Show Cause setting a hearing on the Council's application for a preliminary injunction, in not less than two nor more than ten days.

Respectfully submitted,



---


Judy Y. Barrasso, 2814  
Shaun P. McFall, 37225  
Robert A. Waldrup, 37345  
BARRASSO USDIN KUPPERMAN  
FREEMAN & SARVER, L.L.C.  
909 Poydras Street, Suite 2350  
New Orleans, Louisiana 70112  
Telephone: 504-589-9700  
Facsimile: 504-589-9701  
jbarrasso@barrassousdin.com  
smcfall@barrassousdin.com  
rwaldrup@barrassousdin.com

Justin B. Schmidt (#25864)  
The Law Office of Justin B. Schmidt  
1506 Seventh Street  
New Orleans, LA 70115  
Telephone: (504) 451-6567  
Facsimile: (504) 370-9079  
Email: justinschmidtlaw@gmail.com

*Attorneys for the Council of the City of New Orleans*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served on all counsel or record and the City of New Orleans City Attorney by electronic mail, facsimile and/or by United States Mail, postage prepaid and properly addressed, this 22nd day of September, 2022. A copy was also hand-delivered to the City Attorney.

  
\_\_\_\_\_