

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

EBONY ROBERTS, ROZZIE SCOTT,
LATASHA COOK and ROBERT LEVI,

Plaintiffs,

v.

ROBERT J. BLACK, in his individual and
official capacities, and BOGALUSA CITY
COURT,

Defendants.

Case No.

COMPLAINT

CLASS ACTION

PRELIMINARY STATEMENT

1.

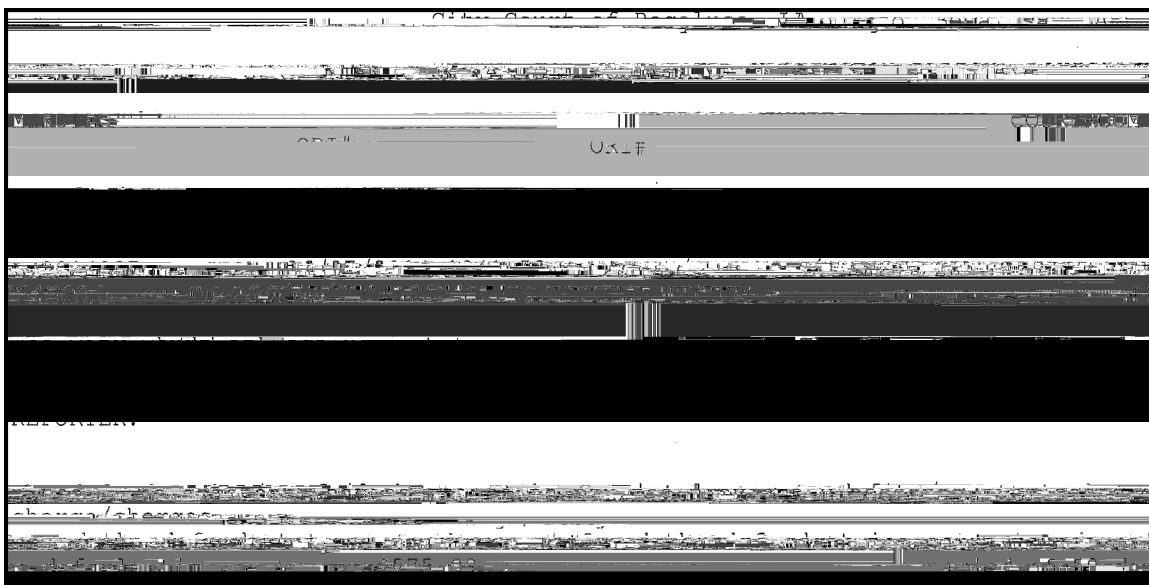
the City Court.

19. Defendant Black possesses administrative, executive, and judicial powers

phone calls to family and friends to try to arrange for payment while court remains in session. A marshal escorts out of the courtroom those individuals permitted to make phone calls to arrange for payment. The marshal stands by the individual while he or she attempts to contact family, friends, or co-workers to explain that he or she will be arrested and jailed if the fines and court costs are not paid by the end of the court session. If family, friends, or co-workers bring money to pay the fines and court costs to the courthouse before the end of the court session, the individual is allowed to pay and to leave.

31. At the end of the court session, the marshal walks those who could not pay down the courthouse steps and to the jail in an adjacent building, and books them into the City jail. Sometimes the marshal does this by handcuffing persons together.

32. The City Court clerk's minute entries record when a person is sent to jail for non-payment, noting that the person has failed to pay and is ordered to serve time in jail or to remain in jail until a certain amount is paid. To illustrate, in the sample minutes below, Defendant Black orders an individual to either serve "50 days default time" or pay \$575.00 for not having proof of insurance or a license plate:



33. Any individual arrested for non-payment can be released from jail if the fine and court costs are paid in full or if the individual serves the default time.

34. The City's jail logs document the amount of money an individual must pay or the

[her] sentence of 15 days”:

C The Bogalusa City Court Sustainably Relies on Court Costs and Fees to Fund its Court Operations

38. The State of Louisiana does not have a unified funding system for the State’s courts and does not oversee the budgets of city courts. Instead, as the Louisiana Supreme Court reported to the Legislature in 2014, self-generated and local funds—not state funds—represent the largest sources of revenue in the majority of courts. As the Louisiana House of Representatives has noted, city courts are funded through the use of court costs and fees that are imposed on those persons appearing before the City Court.

39. The City Court’s operating expenses are paid through four sources of revenue: the State of Louisiana, the Washington Parish Government, the City of Bogalusa, and the City Court itself through assessments of certain costs and fees.

40. The funds the City of Bogalusa, Washington Parish, and the State of Louisiana provide for the City Court, however, are insufficient to cover the City Court’s operating expenses. The following table illustrates the City Court’s total revenue from the City, Parish, and State (“Total Governmental Funding”); its total expenditures; its shortfall; and the shortfall as a percentage of total expenditures, for 2009 to 2014:

Bogalusa City Court Governmental Revenues and Expenditures		
2009-2014		
Year	Total Governmental Funding	Total Expenditures
2009		
2010		
2011		
2012		
2013		
2014		

2011	\$210,049	\$280,043	\$69,994	25%
2012	\$212,910	\$293,024	\$80,114	27.3%
2013	\$253,641	\$364,000	\$110,359	30.3%
2014	\$280,357	\$386,934	\$106,577	27.5%

41. The remainder of the City Court's operating expenses not funded by the contributions of the State, Parish, and City are funded through court costs and fees collected in criminal cases; court fees collected in civil cases; and reserves of these same fees collected in prior years.

42. Defendant Black is authorized under multiple state statutes to assess a variety of court costs in criminal cases. Although most of these court costs are disbursed to other entities, Defendant Black is also authorized to assess up to \$30 under La. Stat. Ann. § 13:1899 against every defendant who is found guilty or forfeits his bond. This court cost is different than other court costs because Defendant Black is authorized by state statute to keep and spend the money generated under La. Stat. Ann. § 13:1899 to support the City Court's operations.

43. As the top official of the City Court, Defendant Black, in his administrative and

has ordered the Clerk of Court to create a “judicial expense” account for the City Court and instructed the clerks to deposit the statutory court costs under La. Stat. Ann. § 13:1899 into that account. In addition to these costs, the judicial expense account consists of money collected from extension fees and contempt fees for non-payment and failure to appear. No other sources fund the City Court’s judicial expense account.

47. Costs assessed against criminal defendants comprise a substantial portion of the City Court’s yearly operating budget. For example, the City Court generated nearly \$57,000 for its “judicial expense” account in 2014 through court costs assessed under La. Stat. Ann. § 13:1899, extension fees, and contempt fees for non-payment—an amount that represented approximately 15% of the City Court’s operating budget. In 2015, the City Court generated even more court-controlled revenue—at least \$64,000 in judicial expense funds from court costs and fees and at least \$5,000 in extension fees—an amount that represented about 20% of the City Court’s revenues and expenditures in its proposed operating budget.²

48. Defendant Black controls the judicial expense account in his executive and administrative capacity for the City Court and has sole discretion under state law to determine how these funds are allocated to pay for the City Court’s operating expenses.

49. If a person is unable to pay, Defendant Black possesses alternative tools to serve the City Court’s peneological interests, including remitting some of the fines and court costs assessed (including the court cost retained by the City Court pursuant to La. Stat. Ann. § 13:1899); collecting the fines and costs as a money judgment in a civil case rather than by using

² The City Court’s final operating budget—showing both proposed and actual income and expenditures—is reflected in an annual audit report created by the Legislative Auditor’s office; for fiscal year 2015 that audit report will likely be published in late July 2016.

56. If a person is not able to pay the illegal \$50 extension fee before the end of court, she is processed into the jail. But if she obtains it shortly after being jailed, she may be permitted to be released, as reflected in the jail records. For example, in the below jail log excerpt, the person was jailed at 2:52pm and was released 19 minutes later, after paying the extension fee:



57. The money collected as an extension fee is not credited toward an individual's fines or court costs. Instead, it is treated as a separate and additional fee.

58. In 2015, the City Court collected the extension fee from at least 100 individuals, netting at least \$5,000 to pay for the City Court's operating expenses.

E Plaintiffs Ebony Roberts and Rozzie Scott, et al. v. Defendant Upcoming Court Dates and Have Been Subjected to Unconstitutionally Imposed and Practices in the Past

∴ **Plaintiff Rozzie Scott**

59. Plaintiff Rozzie Scott appeared in front of Defendant Black on May 12, 2016, and was found guilty of stealing \$5 worth of food from a local store to feed his family.

60. Defendant Black ordered Mr. Scott to pay a \$450 fine plus costs on or before June 13, 2016.

61. Mr. Scott returned to the City Court on June 13, 2016, but did not have the money to pay his fine and court costs. After telling Defendant Black that he could not pay, Defendant Black asked him if he had \$50 for an extension of time to pay the fine and costs.

62. After Mr. Scott told Defendant Black that he did not have \$50, Defendant Black

70. Ms. Roberts returned to the City Court on April 25, 2016, but did not have the money to pay her fines and court costs. Defendant Black did not ask Ms. Roberts whether she was working or why she could not pay. He did not offer her a payment plan or community service. He told Ms. Roberts she had to pay the fines and costs or she would go to jail for not paying her traffic tickets.

71. After Ms. Roberts paid the \$50, she was ordered to return to the City Court on June 13, 2016, to pay the fines and court costs on her two traffic tickets.

72. Ms. Roberts returned to the City Court on June 13, 2016, and paid \$262.50 on her ticket for driving without a license after borrowing the money from her family. However, she did not have the money to pay her fine or court costs on the speeding ticket. Defendant Black did not give Ms. Roberts an opportunity to tell him that she did not have any money and was just trying to do her best to take care of her two-year-old daughter.

73. Before Ms. Roberts could say anything, Defendant Black told her “this was [her] last extension.” A court employee then escorted her out of the courtroom to pay an additional \$50. There were so many people standing in line to pay the extension fee that there were even a couple of people that could not fit in the courthouse and had to stand outside.

74. After Ms. Roberts told a court employee that she could not pay \$50, he told Ms. Roberts that she could not leave the City Court and would go to jail if she did not pay the money. He ordered Ms. Roberts to go back into the courtroom where several other people were also facing arrest for non-payment.

75. Ms. Roberts’s boyfriend left the City Court to get \$50 as fast as he could to purchase Ms. Roberts’s freedom. She now has until July 25, 2016, to pay the \$367.50 she owes the City Court or she will go to jail for not paying her traffic ticket.

76. Ms. Roberts faces an imminent threat that she will be jailed because she cannot afford to pay the \$367.50 that she owes the City Court on or before July 25, 2016.

77. Ms. Roberts's right to an impartial judge will be violated if she is forced to appear in the City Court on July 25, 2016. The City Court's unconstitutional funding structure creates an appearance that Defendant Black cannot impartially adjudicate whether Ms. Roberts willfully failed to pay because Defendant Black has a financial interest in extorting money from her to pay for the City Court's continued operation.

Plaintiff L t sh Cook and Robert Lev P d n Heg l \$ Extension ee n
The C s n l C ses e e Judge with n Unconst tut on l Conf t ct e
nt e est

Plaintiff L t sh Cook

78. Plaintiff Cook appeared in front of Defendant Black on June 1, 2015 and pleaded guilty to disturbing the peace.

79. Defendant Black sentenced Ms. Cook to a suspended sentence of 90 days in jail with the condition that she pay a \$300 fine plus court costs and complete substance abuse treatment.

80. Ms. Cook returned to the City Court on July 13, 2015, but did not have the money to pay the fine and court costs because she was unemployed and her only source of income at the time was the disability check she received each month.

81. Defendant Black did not ask Ms. Cook why she did not have the money to pay her fine and court costs. Instead, Ms. Cook paid the City Court the \$50 extension fee to receive additional time to pay the fine and court costs.

82. Ms. Cook has previously gone to jail because she did not have the money to pay her fine and court costs. Judge Black asked Ms. Cook on that date whether she had \$50 to pay

for a new court date. Because she did not have \$50 in her pocket, a marshal handcuffed Ms. Cook and booked her into the City jail.

Plaintiff Robert Levi

83. Plaintiff Levi appeared in front of Defendant Black in November 2015 and pleaded guilty to running a stop sign and driving with expired insurance.

84. Defendant Black sentenced Mr. Levi to pay a \$100 fine plus court costs and 30 days default time for driving with expired insurance and a \$50 fine plus court costs and 15 days default time for running a stop sign.

85. Mr. Levi returned to the City Court in January 2016, but did not have the money to pay his fine and court costs. Judge Black did not ask him why he did not have the money at

his January 2016 court date. Instead, Judge Black sentenced Mr. Levi to pay a \$100 fine plus court costs and 30 days default time for driving with expired insurance and a \$50 fine plus court costs and 15 days default time for running a stop sign.

89.

misdemeanor cases filed in the Bogalusa City Court per year. The Pay Date Equitable Subclass is forward-looking and consists of persons who may be subjected to paying an illegal extension fee or being put in jail for non-payment; in the past year this occurred to more than 40 persons. The Extension Fee Damages Class consists of persons who paid the extension fee in the last year, which occurred at least 100 times. Many classes and most subclasses are comprised of low-income individuals who will likely lack independent resources to bring an independent action or to be joined in this action. Joinder of every member of the class and the subclass would be impracticable.

95. Rule 23(a)(2), Commonality: Plaintiffs raise claims based on questions of law and fact that are common to, and typical of, the putative class members they seek to represent.

a. Questions of law and fact common to the Structural Bias Equitable Class include:

i. Whether the City Court has a policy of assessing either \$30 or \$29.50 in court costs according to a fee schedule;

ii. Whether court costs are imposed when individuals in the City Court are adjudicated guilty but not when they are adjudicated not guilty;

iii. Whether Defendant Black conducts an inquiry into ability to pay before ordering an individual to jail for non-payment of fines and court costs;

iv. Whether judicial expense funds are used to pay for the City Court's operating and other expenses;

v. What percentage of the City Court's total budget is derived from judicial expense funds;

vi. Whether Defendant Black has control over the allocation of

judicial expense funds in his executive capacity for the City Court;

vii. Whether court costs, extension fees, and contempt fees are deposited into the judicial expense account;

viii. Whether the City Court created a \$50 “extension fee;”

ix. Whether the City Court permitted Defendant Black to offer to some defendants the option of paying a \$50 extension fee to buy their freedom and additional time to pay their monetary penalties;

x. Whether Defendant Black has a policy or practice of sentencing an individual to serve 15 days in jail or to pay a \$250 contempt fee if the individual fails to appear to pay her fines and court costs;

xi. Whether the City Court’s funding structure creates a structural conflict of interest that violates due process; and

xii. Whether injunctive and declaratory relief is appropriate and if so, what the terms of such relief should be.

b. Questions of law and fact common to the Pay Date Equitable Subclass include:

i. Whether Defendant Black appoints counsel at pay date proceedings or provides alternative safeguards;

ii. Whether Defendant Black assesses a person’s ability to pay prior to their jailing for non-payment;

iii. Whether Defendant Black assesses alternatives to incarceration prior to jailing persons for non-payment who were unable to pay;

iv. Whether the City Court has a policy or practice of authorizing

Defendant Black to offer to some defendants the option of paying a \$50 extension fee to buy their freedom and additional time to pay their monetary penalties;

v.

110.

policymaker for the City Court, established a policy, practice, or custom of creating an

THE CLAIM OR RELIEF
fourteenth Amendment to the U.S. Constitution
Extension Fee Procedure Due Process
Plaintiffs Roberts, Scott, Cook, Levi, and the Extension Fee Damages Class versus
Defendants Bogalusa City Court and Defendant Black in his Official Capacity

127. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

128. Defendant Black, in his executive and administrative role, and as the final policymaker for the City Court, established a policy, practice, or custom of creating an “extension fee” that persons could pay in order to avoid going to jail. This policy, practice, or custom is the moving force behind the violations of Plaintiffs’ constitutional rights.

129.

Defendant Bogalusa City Court and Defendant Black, sued in his official capacity, by charging Plaintiffs the illegal extension fee.

SIXTH CLAIM FOR RELIEF
Fourteenth Amendment to the U.S. Constitution
Extension Fee Procedure and Due Process
Plaintiffs Roberts, Scott, and the Pay Date Equitable Subclass versus
Defendant Black in his Individual and Official Capacities

134.

payment of an illegal fee, in the future if Defendant's policies, practices, and customs are not declared to be unconstitutional.

140.

DATED this 21st day of June, 2016.

Respectfully submitted,

/s/ Ivy Wang

Ivy Wang

On Behalf of Plaintiffs' Counsel

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**application for pro hac vice pending*

Attorneys • Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that arrangements have been made to, on this date, deliver a true and correct copy of the foregoing by hand delivery to the following parties, at the below addresses:

Robert J. Black
302 Louisiana Ave
Bogalusa LA, 70427

Bogalusa City Court