BOARD OF TAX APPEALS
STATE OF LOUISIANA

ASHLEY SANCHEZ AND ANGELA GRUNEWALD, INDIVIDUALLY AND ON BEHALF OF OTHERS SIMILARLY SITUATED

Plaintiffs,

VERSUS DOCKET NO. 14215D

THE OFFICE OF DEBT RECOVERY, KEVIN RICHARD, IN HIS OFFICIAL CAPACITYAS SECRETARY OF THE DEPARTMENT OF REVENUE, THE OFFICE OF MOTOR VEHICLES, JAMES M. LeBLANC, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, and KAREN G. ST. GERMAIN, IN HER OFFICIAL CAPACITY AS COMMISSIONER - CUSTODIAN OF RECORDS OF THE LOUISIANA OFFICE OF MOTOR VEHICLES

Defendants

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JUDGMENT
ON MOTION TO STRIKE CLASS ALLEGATIONS
WITH WRITTEN REASONS

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On July 1, 2026, this matter came before the Board for hearing on the Motion to Strike Class Allegations filed by the State of Louisiana, through the Louisiana Department of Revenue and Richard Nelson, as successor to Kevin Richard, Secretary of the Louisiana Department of Revenue ("LDR"). Presiding at the hearing were Chairman Francis J. "Jay" Lobrano, Vice-Chair Judge Lisa Woodruff-White (Ret.), and Michael G. Gaffney. Present before the Board were J.R. Whaley and Andre LaPlace, attorneys for Ashley Sanchez ("Sanchez") and Angela Grunewald ("Grunewald"), individually, and on behalf of others similarly situated (collectively, "Plaintiffs"), and Christopher Jones, attorney for the Department. At the conclusion

of the hearing, the Board took the matter under advisement. In accordance with the attached Written Reasons, the Board now rules as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion to Strike Class Allegations BE AND IS HEREBY GRANTED.

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JUDGMENT RENDERED AND SIGNED AT BATON ROUGE, LOUISIANA, THIS 5TH DAY OF NOVEMBER, 2026.

FOR THE BOARD:



CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS

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WRITTEN REASONS FOR JUDGMENT

ON MOTION TO STRIKE CLASS ALLEGATIONS

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of the hearing, the Board took the matter under advisement. The Board now issues the following Written Reasons for ruling.

Facts and Procedural Timeline

On October 3, 2023, Plaintiffs filed a Class Action Petition ("Original Petition") with the 19th Judicial District Court ("19th JDC"). Plaintiffs allege that La. R.S. La. R.S. 47:1676(A)(1) is unconstitutional. The statute authorizes ODR to collect debts owed to the State via the remedies normally provided by law to facilitate the collection of taxes. Plaintiffs allege harm resulting from ODR's collection actions and the threat of collection actions, which include the addition of punitive collection fees and the denial of their rights to provide for themselves and their families, via the suspension of their driver's licenses and the denial of licenses to hunt and fish.

Plaintiffs pled paragraphs seventy through seventy-six of their Original Petition under the heading "Class Action." Additionally, in Sub-Paragraph Six of Paragraph 78, under the heading "Relief," Plaintiffs prayed for "an order certifying this matter as a class action." Plaintiffs named as defendants: the Secretary of the LDR; the Office of Debt Recovery ("ODR"); the Secretary of the Louisiana Department of Public Safety and Corrections ("DPSC"); the Office of Motor Vehicles ("OMV"); and the Commissioner – Custodian of Records for the OMV.

On November 3, 2023, Plaintiffs filed a request to serve their Original Petition with the 19th JDC. Plaintiffs requested service on the LDR, DPSC, and the Louisiana Attorney General's ("AG") Office. [1] LDR and DPSC were personally served on

[1] Plaintiffs did not separately request service on ODR, OMV, or the Commissioner – Custodian of Records for the OMV. In the Original Petition, under the heading "Parties," Plaintiffs alleged that ODR could be served through LDR and that OMV could be served through DPSC. Plaintiffs alleged that the Commissioner – Custodian of Records for the OMV maintained an official office at 7919 Independence Boulevard, Baton Rouge, Louisiana 70806. However, at that time, Plaintiffs requested service on DPSC at 504 Mayflower Street, Baton Rouge, Louisiana 70802.

November 20, 2023. Said service is reflected on sheriff's returns filed into the record with the 19th JDC.

On January 4, 2024, LDR filed Exceptions of Lack of Subject Matter Jurisdiction, Improper Venue, No Cause of Action, No Right of Action, Lack of Procedural Capacity, Vagueness, and Improper Use of Class Action Procedure. At that time, LDR objected to the use of class action procedure solely to preserve said objection for the future "anticipated filing of a Motion for Class Certification to argue the merits of this objection." On January 11, 2024, the 19th JDC set the Exceptions for hearing.

On January 16, 2024, DPSC filed a Motion for Extension of Time. Therein, DPSC prayed for an additional thirty days to file responsive pleadings. Notwithstanding said extension, on January 19, 2024, DPSC filed Exceptions of Lack of Subject Matter Jurisdiction and No Cause of Action. The Court set DPSC's Exceptions for hearing concurrently with LDR's Exceptions.[2]

On February 12, 2024, Plaintiffs filed an Unopposed Motion to Continue and Reset Exceptions Hearing. Therein, Plaintiffs moved the Court to "continue all briefing/filing deadlines associated with the pending Exceptions filed by" the LDR and DPSC. Plaintiffs' Motion contained no request to extend any deadlines associated with their class-action allegations. The Order granting the Motion continued the hearing to April 22, 2024, and continued "all briefing/filing deadlines associated with the pending Exceptions." Just like the Plaintiffs' Motion, the Order did not mention any deadlines associated with the class action allegations.

A service return for the AG was filed with the 19th JDC. It should be noted that the AG is not a defendant in the case. Rather, Plaintiffs requested service on the AG as required by La. C.C.P. art. 1880. That statute mandates service on the AG when a law is alleged to be unconstitutional, but does not require that the AG be made a party to the proceedings. On January 11, 2024, the AG filed a Request for Notice with the 19th JDC.

[2] The Court also granted DPSC's extension request by Order signed January 23, 2024.

On February 26, 2024, Plaintiffs filed a request to serve their Petition on the Commissioner – Custodian of Records for the OMV. The record received from the 19th JDC contains a corresponding Citation and Sheriff's Return. That Return shows a stamped statement from the Deputy Sheriff attesting to departmental service through the Louisiana State Police Headquarters on March 8, 2024. The Commissioner – Custodian of Records for the OMV responded by filing Exceptions of Lack of Subject Matter Jurisdiction and No Cause of Action. Said Exceptions were set for hearing by the 19th JDC for April 22, 2024.

On April 15, 2024, Plaintiffs filed a second Unopposed Motion to Continue Exceptions Hearing. Therein, Plaintiffs requested the hearing be continued because they expected to file an amended complaint within thirty days. The Court granted the Motion by Order signed April 19, 2024. In the Order, the Court continued the Exception hearing without date and granted Plaintiffs the requested thirty days to file an amended petition. Like Plaintiffs' first Motion to Continue, neither the second Unopposed Motion to Continue Exceptions Hearing or the resulting Order mentioned any deadlines associated with Plaintiffs' class action allegations.

Plaintiffs filed their First Amended and Restated Class Action Petition for Declaratory Judgment (1st Amended Petition) with the 19th JDC on May 16, 2024. The parties named as defendants in the 1st Amended Petition were: LDR (through its Secretary); DPSC (through its Secretary); and the Commissioner – Custodian of Records for the OMV. Plaintiffs pled paragraphs fifty-five through sixty-one of their 1st Amended Petition under the heading "Class Action." However, unlike the Original Petition, the 1st Amended Petition's Prayer for Relief did not contain a request for class certification.

On May 21, 2024, DPSC, OMV, and OMV's Commissioner – Custodian of Records filed Exceptions of Lack of Subject Matter Jurisdiction and No Cause of Action in the 19th JDC. The Court set those Exceptions for hearing for July 22, 2024.

On June 17, 2024, LDR filed Exceptions to the 1st Amended Petition. Therein, LDR raised Exceptions of Lack of Subject Matter Jurisdiction, Improper Venue, No Cause of Action, No Right of Action, Lack of Procedural Capacity, Vagueness, and Improper Use of Class Action Procedure. LDR again framed its objection to the use of class action procedure as a protective measure to preserve said objection for "the anticipated filing of a Motion for Class Certification." The Court set those Exceptions for hearing for July 22, 2024.

On July 3, 2024, Plaintiffs filed a third Unopposed Motion to Continue and Reset Exceptions Hearing. Therein, Plaintiffs moved the Court to continue and reset the Exception hearing to the next available date after August 1, 2024. Plaintiffs also moved the Court to "continue all briefing/filing deadlines associated with the pending Exceptions filed by the defendants, as stated herein." The Order granting the Motion continued the hearing to August 19, 2024. Again, neither the Motion nor the Order mentioned any deadlines associated with Plaintiffs' class-action allegations.

On August 12, 2024, Plaintiffs filed an Unopposed Motion and Order for Judgment Dismissing Defendants Without Prejudice. Therein, Plaintiffs voluntarily requested the dismissal of DPSC and OMV's Commissioner - Custodian of Records. On the same day, August 12, 2024, Plaintiffs filed a Memorandum in Response to Defendants' Exceptions. Therein, Plaintiffs acknowledged that the Board had jurisdiction over their claims and represented that they were concurrently filing a Motion to Transfer Venue. Plaintiffs noted their voluntary dismissal of DPSC and OMV's Commissioner - Custodian of Records. Additionally, Plaintiffs represented that the parties were in agreement that all remaining exceptions should be argued before the Board after transfer. Plaintiffs filed the Unopposed Motion to Transfer Venue with the 19th JDC on August 12, 2024.

Afterwards, on August 16, 2024, Plaintiffs filed a letter with the 19th JDC requesting that the August 19, 2024 hearing be removed from the docket. Again,

Plaintiffs' request for continuance made no mention of class action certification deadlines. On August 22, 2024, the Court signed two Orders. In one Order, incorporated into Plaintiff's Motion to Dismiss, the Court dismissed DPSC and OMV's Commissioner - Custodian of Records. In the second Order, the Court granted the Motion to Transfer Venue. The 19th JDC's Clerk Certificate indicates that the record was prepared and certified on October 11, 2024. A Transfer Reply Letter from the 19th JDC indicates that the record was transmitted from the Court on November 20, 2024.

On December 11, 2024, the Board received the transferred record from the 19th JDC. The matter was assigned the present docket number. On December 17, 2024, the Board issued a Notice of Outstanding Petition Filing Fee to the Plaintiffs. The Notice stated the Plaintiffs were required to remit payment of the filing fee within sixty days, or the matter would be dismissed. Plaintiffs remitted payment of the fee in full on January 29, 2025. At no time after transfer of the record did Plaintiffs ever move that the Board extend their deadline to move for class certification.

On December 16, 2024, LDR filed a Motion to Set Hearing on Exceptions of Lack of Subject Matter Jurisdiction, No Cause of Action, No Right of Action, Lack of Procedural Capacity, Vagueness and Improper Use of Class Action Procedure. On January 7, 2025, the Board signed an Order setting LDR's Exceptions for hearing. On March 20, 2025, Plaintiffs filed an Unopposed Motion to Continue Hearing with the Board. Plaintiffs attached an email correspondence with counsel for LDR confirming that the reset was not opposed. No reason was given for the continuance. Just as with all prior extension and continuances, no mention was made of deadlines associated with class certification. The Board granted the Motion and reset the hearing for April 16, 2025, by Order signed March 24, 2025.

On April 8, 2025, Plaintiffs filed an Opposition Memorandum to the Exceptions with the Board. Therein, Plaintiffs addressed the protective objection to the use of class action procedure. Plaintiffs asserted:

> While class certification is not currently before the Board, Plaintiffs likely will seek certification under Louisiana Code of Civil Procedure article 591(b)(2) because "The party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole." That overarching question seeking declaratory relief will be a determination of whether or not La. R.S. 47:1676 is constitutional. Should certification be granted, a trial on the merits, or perhaps summary judgment after discovery is concluded, will focus on that discrete issue.[3]

Furthermore, Plaintiffs noted that LDR's objection to use of class action procedure was merely protective, and stated, "Plaintiffs will not address LDR's self-described Exception here and will address the utility of class certification at the appropriate time."[4] LDR, in a Reply Memorandum filed April 14, 2025, asked that its Exception of Improper Use of Class Action Procedure either be mooted by the dismissal of the Petition based on the other Exceptions, or be deferred, "pending, and in the event that, Plaintiffs attempt to seek class certification."[5]

Before the hearing on the Exceptions the parties reached an agreement that the Exception of Lack of Procedural Capacity should be sustained as to ODR. The parties represented their stipulation to the Board during the hearing on April 16, 2025. The Board accordingly sustained that Exception. ODR's dismissal is reflected in the Board's Judgment rendered on May 8, 2025.[6]

In the May 8, 2025, Judgment, the Board denied the Exceptions of Lack of Subject Matter Jurisdiction and No Right of Action. The Board granted the Exception of No Cause of Action and ordered amendment of the Petition. The Board accordingly

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3 Plaintiffs' Opposition Memorandum filed April 8, 2025, 3.

4 *Id.* at 4.

5 LDR's Reply Memorandum in Support of Exceptions of Lack of Subject Matter Jurisdicition, Improper Venue, No Cause of Action, No Right of Action, Lack of Procedural Capacity, Vagueness and Improper Use of Class Action Procedure filed April 14, 2025, 2.

6 *Sanchez v. Office of Debt Recovery*, B.T.A. Docket No. 14215D (La. Bd. Tax App. 5/8/25); 2025 WL 2845146.

deferred ruling on the Exception of Vagueness pending amendment. The Board also deferred ruling on the Exception of Improper Use of Class Action Procedure, "pending a request to certify a class."

On June 9, 2025, the Plaintiffs filed their Second Supplemental and Amended Class Action Petition for Declaratory Judgment ("2nd Amended Petition"). In their 2nd Amended Petition, Plaintiffs clarified their claims regarding hunting and fishing licenses and prayed for refunds on moneys erroneously paid to the state treasury under La. R.S. 47:1676, which statute Plaintiffs asserted to be unconstitutional.

On July 10, 2025, the Board conducted a status conference. During the status conference, counsel indicated an agreement between the parties to extend the time for LDR to re-urge its Exceptions. Counsel for Plaintiffs also discussed when the Board might set a hearing on a motion for class certification, which counsel stated they expected to file at some point in the future. However, counsel did not mention or request any extension of time to file said motion.

On July 24, 2025, LDR filed the re-urged Exceptions. Therein, LDR argued that Plaintiffs had failed to amend their claims in conformity with the Board's Judgment and invited the Board to reconsider its prior rulings. The hearing on the re-urged Exceptions occurred on October 16, 2025, and the matter was taken under advisement. On December 4, 2025, the Board issued a second Judgment denying the Exceptions of No Cause of Action and Vagueness.[7] On or around December 18, 2025, LDR notified the Board of its intent to apply for supervisory writs with the First Circuit. On December 30, 2025, the First Circuit notified the Board of the filing of LDR's writ application.

On February 9, 2026, Plaintiffs filed a Preliminary Motion for Class Certification. Plaintiffs explained:

> It is contemplated that a more formal and comprehensive Motion for Class Certification with supporting evidence and other documentation

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[7] *Sanchez v. Office of Debt Recovery*, B.T.A. Docket No. 14215D (La. Bd. Tax App. 12/4/25); 2025 WL 3727316.

> will be filed following the completion of class discovery, which may include a slightly modified proposed Class Definition or other argument(s) and/or suggestion(s) in light of information that may be uncovered through discovery and/or based on any intervening orders, rulings or directives of the Court.[8]

Plaintiffs further stated:

> As This Board is aware, this matter has had a long procedural history to this point. And the Louisiana Department of Revenue has yet to file an Answer. Only recently has the Board made final rulings on LDR's various exceptions. Those rulings have defined the claims the Plaintiffs can pursue, thus also defining the parameters of a class-wide trial. There can be no prejudice to LDR with Plaintiffs filing a Motion to Certify now. Indeed, no hearing on such a motion could be had because the parties must "have had had a reasonable opportunity to obtain discovery on class certification issues" before such a hearing. To the extent necessary, Plaintiffs show that good cause exists for not filing a Motion to Certify before now and therefor seek relief from the 90-day requirement of Louisiana Code of Civil Procedure Article 592(1).[9]

Plaintiffs sought certification of a class "preliminarily" defined as:

> All persons (including both natural persons and entities) who are citizens of the State of Louisiana and who have had an outstanding debt referred to the Office of Debt Recovery and were made to pay fees and interest.[10]

On March 9, 2026, the First Circuit denied LDR's writ application.[11] On March 10, 2026, LDR filed its Answer. LDR incorporated affirmative defenses and exceptions. The incorporated exceptions were re-urged Exceptions of No Cause of Action and Vagueness. However, LDR did not request a new hearing on the re-urged Exceptions.

On April 17, 2026, LDR filed the Motion to Strike Class Allegations presently under discussion. Therein, LDR observed that the Petition was served on all adverse parties no later than March 8, 2024. Additionally, LDR observed that Plaintiffs did not move for class certification until February 9, 2026. La. C.C.P. art. 592(A) requires

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8 Preliminary Motion for Class Certification, 1.

9 *Id.*

10 *Id.*

11 *Sanchez v. Office of Debt Recovery*, 2025-1342 (La. App. 1 Cir. 3/9/26); 2026 WL 821020.

Plaintiffs to move for class certification within ninety days of all defendants being served. LDR further asserted that Plaintiffs could not show good cause for their delay.

On June 23, 2026, Plaintiffs filed an Opposition to Motion to Strike. Plaintiffs argued that they had good cause for not timely seeking class certification. In particular, Plaintiffs pointed to the numerous exceptions and the dispute over the subject matter jurisdiction of the 19th JDC. Plaintiffs additionally noted that even after the matter was transferred to the Board, LDR maintained most of its exceptions.

Plaintiffs also pointed to the legislature's consideration of 2025 HB 16, eventually enacted into law as 2025 Act 361. Among other things, Act 361 stripped this Board of jurisdiction over class actions against LDR. However, there is no dispute that Act 361 is not retroactive and has no effect on this case. Nevertheless, pre-enactment versions of HB 16 might have applied retroactively. It was only after senate floor amendments that the legislation was explicitly limited to prospective effect. Plaintiffs contend that their delay was in part due to their need to monitor HB 16 and weigh its potential effects on their claims.

Notably, Plaintiffs did not allege that any of the aforementioned extensions and continuances, be they in writing or in oral discussion with the Board, applied, or were intended to apply, to the deadline to move for class certification. Nor did Plaintiffs characterize the prayer for an Order certifying the class that they included in their Original Petition as a motion for class certification. Moreover, Plaintiffs made no argument that any of the exceptions, extensions, continuances, the supervisory writ application, HB 16, or anything else in any way actually prevented them from moving for class certification or requesting an extension to file such a motion.

On June 29, 2026, LDR filed a Reply Memorandum in Support of Motion to Strike Class Allegations. LDR emphasized that the Plaintiffs conceded their request for certification was untimely. LDR further cited to jurisprudence in support of the

proposition that complex litigation, including pending exceptions, does not excuse compliance with the time limit for requesting class certification.

Discussion

La. C.C.P. art. 592(A) requires a class-action plaintiff to move for class certification within ninety days of all defendants being served, stating:

> A. (1) Within ninety days after service on all adverse parties of the initial pleading demanding relief on behalf of or against a class, the proponent of the class shall file a motion to certify the action as a class action. The delay for filing the motion may be extended by stipulation of the parties or on motion for good cause shown.
>
> (2) If the proponent fails to file a motion for certification within the delay allowed by Subparagraph (1) of this Paragraph, any adverse party may file a notice of the failure to move for certification. On the filing of such a notice and after hearing thereon, the demand for class relief may be stricken. If the demand for class relief is stricken, the action may continue between the named parties alone. A demand for class relief stricken under this Subparagraph may be reinstated upon a showing of good cause by the proponent.
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> (3)(a) No motion to certify an action as a class action shall be granted prior to a hearing on the motion. Such hearing shall be held as soon as practicable, but in no event until after both of the following have occurred:
>
> (i) All named adverse parties have been served with the pleading containing the demand for class relief or have made an appearance or, with respect to unserved defendants who have not appeared, the proponent of the class has made due and diligent effort to perfect service of such pleading.
>
> (ii) The parties have had a reasonable opportunity to obtain discovery on class certification issues, on such terms and conditions as the court deems necessary, which may include expert witness testimony or evidence. The admissibility of expert witness testimony or evidence for class certification purposes shall also be governed by Article 1425(F), although the court in its discretion may change the deadlines for filing or hearing a motion as set forth in Article 1425(F) provided such deadlines are prior to or contemporaneous with the class certification hearing.
>
> (b) At the hearing on the motion to certify an action as a class action, the proponent of the class shall have the burden of proof to establish that all requirements of Article 591 have been satisfied.
>
> (c) If the court finds that the action should be maintained as a class action, it shall certify the action accordingly. If the court finds that the

> action should not be maintained as a class action, the action may continue between the named parties. In either event, the court shall give in writing its findings of fact and reasons for judgment provided a request is made not later than ten days after notice of the order or judgment. A suspensive or devolutive appeal, as provided in Article 2081 et seq., may be taken as a matter of right from an order or judgment provided for herein.
>
> (d) In the process of class certification, or at any time thereafter before a decision on the merits of the common issues, the court may alter, amend, or recall its initial ruling on certification and may enlarge, restrict, or otherwise redefine the constituency of the class or the issues to be maintained in the class action.

As stated, the deadline can be extended for "good cause shown." However, "good cause" is not defined in the statute. Nevertheless, a series of Louisiana decisions have clarified that good cause is not established by complex pre-trial litigation, including the pendency of exceptions.[12] That is critically important, here, as it is the only basis on which Plaintiffs rest their argument.

The Louisiana Supreme Court expressed the aforementioned principle in *Riley v. Keegan*, 2015-1388 (La. 7/22/15) 171 So.3d 247. In *Riley*, the Court reversed the finding below that good cause existed for an untimely motion for class certification. The Louisiana Supreme Court stated that plaintiffs had "failed to demonstrate the pending exceptions prevented them from filing their motion to certify timely or requesting an extension of time to file." *Id.* The Court continued, stating "[c]omplexity of litigation alone does not constitute good cause."

In *Crader v. Pinnacle Entertainment, Inc.*, 2006-136 (La. App. 3 Cir. 5/31/06), 931 So.2d 535, construction workers brought class action claims against two corporations, purporting to represent workers injured by mold, paint fumes, and fireproofing materials. Service of the petition occurred March 1, 2005. Defendants filed exceptions of no cause of action and vagueness on April 15, 2005. The ninety-day deadline under La. C.C.P. art. 592(A)(1) ran until May 31, 2005. The District Court heard and then granted the exceptions on August 29, 2005. The plaintiffs filed

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[12] *See* discussion of *Riley v. Keegan*, 2015-1388 (La. 7/22/15) 171 So.3d 247 and related cases, *infra*.

a supplemental and amended petition on September 8, 2005. On September 9, 2005, the defendants moved to dismiss based on the failure to timely move for class certification. On the same day, the plaintiffs filed their motion for class certification. Ultimately, the District Court found no good cause for delay in certification and dismissed the class action claims, but allowed the individual claims to proceed.

On appeal, the Third Circuit affirmed. The Court recognized the trial court's "great discretion in the handling of class action matters, particularly with regard to those matters which affect the general order of proceedings." *Crader,* 931 So.2d at 537 (citing La. C.C.P. art. 592(E)(5)); *Triche v. E.I. duPont deNemours and Co., Inc.*, 98–1019 (La. App. 5 Cir. 3/30/99), 734 So.2d 1231, *writ denied*, 99–1198 (La. 6/4/99), 744 So.2d 632; *Eugene v. Marathon Oil Co.*, 99–61 (La. App. 5 Cir. 5/19/99), 735 So.2d 933)). The Court also acknowledged that the untimely motion did not risk prejudice to the defendants and that the defendants had requested extensions to file answers and had filed exceptions that had to be resolved. Furthermore, the Court recognized the delays caused by Hurricanes Katrina and Rita. The Third Circuit even recognized that La. C.C.P. art. 592(A)(1) used permissive language in providing that class action demands "*may* be stricken," rather than mandating that said demands be stricken. *Crader,* 931 So. 2d at 537. (emphasis in original). Nevertheless, the Court did not find any of these facts or arguments sufficient to overturn the discretionary decision to dismiss the class allegations. Like in *Riley*, the Court found that the pendency of exceptions did not prevent the plaintiffs from moving for certification or seeking an extension of time to do so. *See also Eugene v. Marathon Oil Co.*, 99-61 (La. App. 5 Cir. 5/19/99), 735 So.2d 933 (holding that the possibility of consolidation with another case was not good cause for delay).

The Louisiana Fifth Circuit Court of Appeal reached the same conclusion in *Sellers v. El Paso Indus. Energy, L.P.*, 08-403 (La. App. 5 Cir. 2/10/09), 8 So.3d 723. In *Sellers*, the plaintiffs sued numerous defendants, including a Levee Board, Shell,

and certain partnerships. Plaintiffs purported to represent a class of persons whose lands were taken and who had suffered damages from pollution and borne resulting cleanup and restoration costs. Plaintiffs filed their original petition with class action claims on November 22, 2005. In January and February 2006, the matter was removed to federal court but then remanded back to state court. Later that year, the trial judge granted exceptions of vagueness and ambiguity filed by certain defendants, with leave for plaintiffs to amend. Plaintiffs filed their first supplemental and amending petition in February 2006. Three weeks later, Shell filed a motion to strike and dismiss the class allegations. Shell also sought to reset its exception of prescription and re-urged its exception of no cause of action. On June 18, 2007, plaintiffs filed a second supplemental and amending petition, adding new defendants. Then, on July 6, 2007, the plaintiffs filed a third supplemental and amended petition, adding yet more defendants. Finally, on July 24, 2007, plaintiffs filed a motion for class certification. Defendants moved to strike the class allegations, which motion the District Court ultimately granted.

On appeal, the Fifth Circuit rejected several arguments raised by the plaintiffs. The Court acknowledged that the defendants had long known of the class action nature of the allegations against them. However, the Court did not find the standard for good cause under La. C.C.P. art. 592(A)(1) to be a question of prejudice. Additionally, the Court rejected the argument that the time period for requesting certification should have been measured from the filing of the amended petitions. The Court cited to federal courts interpreting the analogous federal rule, stating:

> We first point out that pleadings that set forth class claims are distinct from the required motion for class certification. *Escoe v. State Farm Fire & Casualty Co., et. al.*, 2007 WL 2903048, *2 (E.D.La. 2007). Article 592(A)(1) clearly envisions an initial pleading that demands relief on behalf of or against a class and a subsequent and separate motion for certification of the class. *Id.* As explained by *Escoe*:
>
> [I]f a defendant's knowledge of plaintiff's intention to move to certify the class, based on class allegations in a petition or complaint, served to excuse a timely motion to that effect, the rules would be meaningless;

> no plaintiff would be required to file a motion within the time limit because a defendant would always be on notice based on allegations in the complaint.

Thus, even if the Plaintiffs in this case had argued that their original prayer for class certification should be treated as a motion for class certification, they would have been incorrect under *Sellers*.

The Court in *Sellers* also addressed and rejected the plaintiffs argument that certification was impossible until "[a]ll named adverse parties have been served with the pleading containing the demand for class relief or have made an appearance." *Sellers*, 8 So.3d at 729. Notably, the plaintiffs had added additional defendants with their amended pleadings. Additionally, plaintiffs argued that service on all defendants required service on the general partners of certain defendant partnerships. The Court disagreed, relying on *Martello v. City of Ferriday*, 04–90, p. 2 (La. App. 3 Cir. 11/3/04), 886 So.2d 645, 648, *writs denied*, 04–2964, 04–2976 (La.2/25/05), 894 So.2d 1147. In *Martello*, the Court found additional certification hearings were not required when new defendants were added after certification.

Based on *Martello*, the Court in *Sellers* reasoned that the need to serve additional defendants did not actually prevent the plaintiffs from moving for class certification. The same reasoning applies in this case. The fact that some of the original defendants were dismissed over the course of this case (*i.e.* OMV, ODR, DPSC, etc.) did not prevent plaintiffs from moving for certification or an extension. Therefore, the element of complexity owing to the change in parties is not a basis for finding that the Plaintiffs in this have shown good cause.

In sum, the Plaintiffs have argued that there were questions about the scope of the class, the jurisdiction of the 19th JDC and this Board, the propriety of the venue, and the cause and right of action asserted. Allegedly, Plaintiffs delayed moving for certification while waiting for a clear path forward. However, the key fact is that the Plaintiff's delay was their own strategic choice. Nothing prevented the Plaintiffs from

moving for certification or seeking an extension of time to file said motion. Moreover, even if the Plaintiffs had concerns about the subject matter jurisdiction of the 19th JDC, they failed to move for certification or an extension after this matter was transferred to the Board. For these reasons, the Plaintiffs have failed to show good cause for not timely moving to certify the class.

Conclusion

First, it is undisputed that Plaintiffs did not timely seek certification under La. C.C.P. art. 592(A). Second, it is also undisputed that Plaintiffs never requested an extension of time to seek certification. Third, Plaintiffs have not shown good cause for the delay. While this matter presented procedural complexity and the defendants filed numerous exceptions, such facts do not equate to an actual barrier to the motion or a request for extension. Furthermore, Plaintiffs' delay persisted even after the matter had been transferred to the Board. For the foregoing reasons, the Board's Judgment has granted LDR's Motion to Strike Class Allegations. That said, granting the Motion to Strike only forecloses the class action aspect of Plaintiffs' claims, for the time being.[13] Plaintiffs may still pursue their individual claims, which are not affected by this decision.

BATON ROUGE, LOUISIANA, THIS 5TH DAY OF NOVEMBER, 2026.

FOR THE BOARD:

CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS

[13] La. C.C.P. art. 592(A)(2) provides that a "demand for class relief stricken under this Subparagraph may be reinstated upon a showing of good cause by the proponent."

BOARD OF TAX APPEALS
STATE OF LOUISIANA

ASHLEY SANCHEZ AND ANGELA GRUNEWALD, INDIVIDUALLY AND ON BEHALF OF OTHERS SIMILARLY SITUATED

Plaintiffs,

VERSUS DOCKET NO. 14215D

THE OFFICE OF DEBT RECOVERY, KEVIN RICHARD, IN HIS OFFICIAL CAPACITYAS SECRETARY OF THE DEPARTMENT OF REVENUE, THE OFFICE OF MOTOR VEHICLES, JAMES M. LeBLANC, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, and KAREN G. ST. GERMAIN, IN HER OFFICIAL CAPACITY AS COMMISSIONER - CUSTODIAN OF RECORDS OF THE LOUISIANA OFFICE OF MOTOR VEHICLES

Defendants

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WRITTEN REASONS FOR DISSENT

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I find that the path of this case from the 19th JDC to the Board, the jurisdictional issues, the modification of parties, the amending petitions, and the multiple uncontested extensions were all intended to properly posture the case to move for class certification. In pleadings and memoranda throughout the record, the parties repeatedly acknowledged the class action nature of the Plaintiffs claims. The Department itself represented on multiple occasions that it anticipated the filing of a motion to certify the class. Each time the Department referred to the expected certification motion, it expressly preserved its exception of unauthorized use of class proceedings for future use, but never indicated that it would object to the motion to certify as untimely. There was no suggestion that the timeliness of the Motion to

Certify would be question at all until April 22, 2026, two months after the Plaintiffs filed their Motion and discovery requests on LDR.

Plaintiffs point out in their Opposition that repeated exceptions filed by LDR winnowed and crystallized their nature of their class-action claims. I agree that moving for certification while the claims were still being developed would have been a waste of judicial resources. Furthermore, I find it is clear from the record that this was also the understanding of the parties until the LDR raised the issue of timeliness.

The majority, the Plaintiffs, and LDR all acknowledge that La. C.C.P. art. 592(A)(2) uses permissive language. A court "may" strike class allegations when the motion to certify is untimely. *Id.* All sides also agree that this decision is left to the discretion of the court. Yet, the LDR and majority seem to ignore the breadth of this discretion in adhering to a perceived stricture in the jurisprudence in the interpretation of La. C.C.P. art. 592(A). The legislature intentionally used permissive language in order to give the courts the flexibility to consider the unique circumstances presented in each case. I find that an exercise of that discretion is warranted given the unique procedural history of this case.

The need for discretion in this case is further highlighted by the following observation in the Plaintiffs' Opposition in connection with the added complication of HB 416:

> Perhaps the Legislature recognized the importance of this claim. The question of the constitutionality of La. R.S. 47:1676 is an important issue that impacts on our poorest citizens. The claims, after having survived the above-described litigation and legislative onslaught, deserve to continue on a class-wide basis. Now that this Board has defined the claims that can be litigated, and the Department has finally filed an Answer, appropriate discovery can be conducted, and evidence can be presented at a hearing for this Board to make its decision on certification.

To Plaintiffs point, in our first Judgment on the Department's Exceptions already issued by the Board in this case, we held:

> The Department maintains that procedure outlined in La.R.S. 47:1676(G) supports the same distraint procedures available after the perfection of notice and assessment under La. R.S. 47:1565. However, the notice and assessment procedure affords taxpayers a meaningful opportunity for pre-deprivation and post-deprivation judicial review. By contrast, when questioned by the Board at the hearing, counsel for the Department stated that the La. R.S. 47:1676(G) process only affords debtors the option of entering into an installment agreement. That is a far cry from the process afforded to taxpayers under La. R.S. 47:1565 et. seq.[14]

For the foregoing reasons I respectfully dissent and would deny the Motion to Strike.

BATON ROUGE, LOUISIANA, NOVEMBER 5, 2026



Judge Lisa Woodruff-White (Ret.)
Vice-Chair, Louisiana Board of Tax Appeals

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[14] *Sanchez v. Office of Debt Recovery*, B.T.A. Docket No. 14215D (La. Bd. Tax App. 5/8/25); 2025 WL 2845146.