

**40th JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST
STATE OF LOUISIANA**

The Descendants Project, Jocynthia Banner,
and Joyceia Banner,

Civil Action: 77305

Plaintiffs,

v.

Division C

St John the Baptist Parish, *et al,*

Defendants.

**PLAINTIFFS' OPPOSITION TO DEFENDANT'S REQUEST FOR STAY
OF PROCEEDINGS PENDING ITS APPLICATION FOR SUPERVISORY WRIT**

NOW INTO COURT, through undersigned counsel, come Plaintiffs, who object to the request by Defendant-Intervenor Greenfield Louisiana, LLC, to stay proceedings in the trial court pending its application for a supervisory writ with regard to this Court's May 10, 2022, ruling denying Defendant's Exceptions.

Defendant's motion is dilatory and prejudicial. Even though this Court scheduled this proceeding nearly two weeks ago, on May 20, 2022, and even though the Court denied Defendant's Exceptions on April 28, 2022, and issued its Judgment and Written Reasons therefore on May 10, 2022, Defendant chose to wait until two days before the hearing on a preliminary injunction and after Plaintiffs have expended efforts to subpoena witnesses, documents, and prepare for the hearing. Defendant's new-found urgency to appeal this Court's prior ruling is curious. The Court should not reward Defendant's dilatory behavior, particularly since Plaintiffs continue to face irreparable harm from Defendant's anticipated construction on ancestral burial grounds.

The hearing on the Preliminary Injunction sought by Plaintiffs is scheduled for Friday, June 3, 2022, at 10 a.m. This hearing was originally requested on an emergency basis on May 18, 2022, to protect burial grounds of people enslaved on the plantations that once operated on the property after Plaintiffs learned that the Defendant was planning to undertake ground-penetrating pre-construction activity beginning as early as May 19, 2022. Plaintiffs sought a temporary restraining order and preliminary injunction pending the outcome of the underlying litigation as to the proper zoning. On May 20, 2022, Plaintiffs supplemented their motion with a news article published that day about allegations that the company hired by Defendant to do the

archaeological investigation of the site had deleted the findings by a whistleblower and a co-author that the project would have adverse impacts on historical sites. At a status conference that same day, counsel for Defendant advised the Court that pre-construction activity was not scheduled to begin until June 6, 2022. The Court advised the parties it was denying the request for a temporary restraining order but set the matter for a hearing on the preliminary injunction for June 3, 2022.

In the interim, Plaintiffs have issued subpoenas and/or subpoenas duces tecum for testimony from archaeological experts, witnesses Greenfield has indicated it will call to testify, as well as to employees of the company reported to have altered the report submitted by the archaeological investigation firm to the Louisiana Division of Archaeology.

These are not just any proceedings that flow in the normal course of litigation. This stemmed from an emergency filing to prevent imminent and irreparable harm to graves on property that experts, even the state's chief archaeologist, believe exist on the tract of land at issue. Plaintiffs are seeking to protect their constitutional and legal rights in preserving what exists of burial sites of enslaved ancestors. Given the Court's ruling denying Greenfield's exceptions, including an exception of no cause of action, along with the proof that already exists of the basis for those claims, Plaintiffs are likely to prevail in their claim for declaratory relief, which would result in the prohibition of Greenfield's planned heavy industrial facility and construction activity on the site in connection therewith. Defendant would be within its rights to appeal in the ordinary course, after a final judgment in the matter and without imposing prejudice on Plaintiffs.

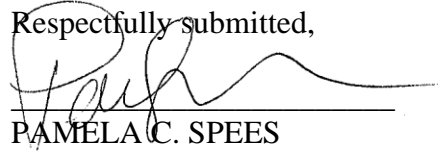
Defendant should not be allowed to use its writ application to avoid a hearing sought to prevent serious and irreparable harm, and to continue with its activity as though these concerns and this litigation are of no import. If Defendant wishes to show this a good faith effort to reach an expedited resolution of the underlying claims and not to delay or avoid a hearing on the preliminary injunction, Greenfield could agree that it will not undertake the pile-testing it has planned.

WHEREFORE, in light of the foregoing, Plaintiffs respectfully request this Court exercise its discretion under R. 4-4 of the Uniform Rules of the Courts of Appeal to deny Defendant's request for a stay of the hearing on the Preliminary Injunction, unless Defendant

affirms to the Court that it will not undertake the pre-construction activity pending the resolution of the claims in the underlying litigation.

June 1, 2022

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all known counsel of record by electronic mail.

Woodside, New York, this 1st day of June 2022.



PAMELA C. SPEES