

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JEFFREY F. WILEY, SHERIFF
AND EX OFFICIO TAX COLLECTOR
FOR ASCENSION PARISH

NO. 2013 CW 0845

VERSUS

TERRY CAMPBELL AND APP
GROUP, LLC, INDIVIDUALLY AND
AS CLASS REPRESENTATIVES,
AND AMITE RIVER BASIN
DRAINAGE AND WATER
CONSERVATION DISTRICT

SEP 24 2013

In Re: Terry Campbell and APP Group, LLC, individually and as class representatives, applying for supervisory writs, 23rd Judicial District Court, Parish of Ascension, No. 105,689.

BEFORE: PARRO, GUIDRY, McCLENDON, CRAIN, AND DRAKE, JJ.

WRIT GRANTED. The trial court erred in overruling the relators' declinatory exception of *lis pendens*. The plaintiff's claims involve the handling of disputed taxes that are the subject of the previously filed proceeding between the same parties in the same capacities in the matter captioned "Terry Campbell, et al v. Board of Commissioners for the Amite River Basin Drainage District, et al," pending in the 19th Judicial District Court, East Baton Rouge Parish. The claims, thus, arise out of the same transaction or occurrence and should be asserted through a compulsory reconventional demand in the previously filed proceeding. See La. Code of Civ. Pro. arts. 531 and 1061B; *Long v. Minton*, 01-1361 (La. App. 3 Cir. 3/6/02), 809 So.2d 1242. We, therefore, reverse the judgment of the trial court in this regard. We sustain the dilatory exception of *lis pendens*. **It is ordered** that Civil Action No. 105,689, entitled "Jeffrey Wiley, Sheriff and Ex Officio Tax Collector for Ascension Parish v. Terry Campbell, et al," 23rd Judicial District Court, Parish of Ascension, be and is hereby dismissed without prejudice. Request for assessment of costs is denied.

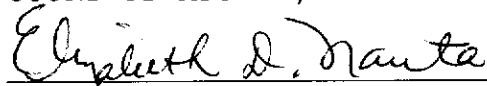
RHP
WJC

McClendon, J., concurs.

Drake, J., concurs in part and dissents in part. I agree that the 23rd Judicial District lacks jurisdiction over this matter. I conclude, however, that the trial court erred in overruling the relators' declinatory exception of improper venue. I would reverse the judgment of the trial court in this regard and would sustain the dilatory exception of improper venue. Accordingly, I disagree with the majority insofar as it sustains the declinatory exception of *lis pendens*. I agree that the Request for assessment of costs should be denied.

Guidry, J., dissents. I would grant *certiorari* in this matter.

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT