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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION

RYAN VIZENA

:

VERSUS

: CIVIL ACTION NO.: 6:10-CV-00158 **Lead**  
CIVIL ACTION NO.: 6:10-CV-00159 **Member**

THE TOWN OF BASILE AND ALLEN  
IVORY, JR., INDIVIDUALLY AND IN  
HIS CAPACITY AS THE TOWN OF  
BASILE CHIEF OF POLICE

: JUDGE HAIK, MAG. JUDGE HILL

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**CONSENT JUDGMENT**

By agreement of counsel and considering the **Motion to Strike Penalty, Punitive, and Exemplary Damages** previously filed on behalf of the TOWN OF BASILE and CHIEF ALAN IVORY, JR., INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS CHIEF OF POLICE OF THE TOWN OF BASILE [Court Doc. #5] in both the Lead Case and the Member Case;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the **Motion to Strike Penalty, Punitive, and Exemplary Damages** filed on behalf of the TOWN OF BASILE and CHIEF ALAN IVORY, JR., INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS CHIEF OF POLICE OF THE TOWN OF BASILE be and it is hereby **GRANTED IN PART**, as there is no Louisiana state statute that allows for the recovery of punitive or exemplary damages in this matter, and that pursuant to *City of Newport v. Fact Concerts, Inc.*, 101 S.Ct. 2748 (1981), punitive damages cannot be recovered from the TOWN OF BASILE and CHIEF ALAN IVORY, JR., IN HIS OFFICIAL CAPACITY AS CHIEF OF POLICE OF THE TOWN OF

BASILE and that Plaintiff's claims against them for punitive damages be stricken from the record of these proceedings. Otherwise, defendants' motion is **DENIED**, insofar as plaintiff may be able to recover penalty, punitive or exemplary damages against CHIEF ALAN IVORY, JR. in his individual capacity only, should plaintiff ultimately prevail on his federal law claims under 42 U.S.C.A. §1983, or other federal law claims allowing such damages. Mr. Melvin A. Eiden has given Mr. John F. Wilkes, III the authority to submit this proposed Consent Judgment with his electronic signature.

THUS DONE AND SIGNED this 23<sup>rd</sup> day of April, 2010, at  
Lafayette, Louisiana.

  
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MAGISTRATE JUDGE  
DISTRICT JUDGE