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VIA Email

The Honorable Helena Moreno
Mayor, City of New Orleans
1300 Perdido Street, 2nd Floor East
New Orleans, Louisiana 70112

Dear Mayor Moreno:

Your May 8 letter and the New Orleans City Council's resulting actions now trigger serious consequences under Louisiana's usurper statutes, including the possible forfeiture of your own office. In that letter, you urged the Council to take "immediate council action" to appoint an interim clerk of court of Orleans Parish on the erroneous premise that Act 15 created a "new position of Orleans clerk of court" and that "a newly created office is vacant by default." The Council then adopted that mistaken theory in resolutions purporting to appoint retired Judge Calvin Johnson as interim clerk and to call a special election.

That theory is wrong, as my May 8 letter explained. Act 15 did not create a new or vacant office. It abolished the former criminal clerk's office, transferred that office's authority, duties, records, and funds to the former civil clerk's office, and renamed that continuing office the clerk of court for the parish of Orleans. Chelsey Richard Napoleon is the clerk of court for the parish of Orleans. There is no vacancy for the Council to fill and no special election for it to call.

Your letter and the Council's actions now implicate Louisiana's usurper statutes. *See* La. R.S. 42:71 *et seq.* If Judge Johnson attempts to assume the office without lawful authority, I will be required to seek expedited judicial relief. *See* La. R.S. 42:74. Judge Johnson—who appears to be an innocent bystander to the Council's *ultra vires* action—

would face personal exposure for fines or imprisonment, La. R.S. 42:71, damages, La. R.S. 42:82, and litigation costs, La. R.S. 42:84. More fundamentally, you, the District Attorney, and five Council members have put your own offices in jeopardy as “public officer[s] who g[a]ve[] adherence to, or in any manner recognize[d] the authority of any usurper.” La. R.S. 42:72. For the consequence of that under Louisiana law is “forfeit[ure of] his office.” *Id.* And the Governor has the authority to fill any vacancies created by those forfeitures. La. R.S. 42:73, 75.

To avoid further litigation and the statutory consequences described above, you should officially retract your support for this usurpation of Chelsey Richard Napoleon’s office and take no further action supporting or recognizing the fictional new office or Judge Johnson’s appointment to it. This dispute is already before the Louisiana Supreme Court, which stayed a related preliminary injunction Sunday night and should soon confirm that Act 15 created no vacancy and Chelsey Richard Napoleon remains the clerk of court for Orleans Parish. Until that Court rules, no public official should attempt to displace her or give effect to a competing claim to her office.

Sincerely,



Liz Murrill
Attorney General

cc: District Attorney Jason Williams
Judge Calvin Johnson
Council President J.P. Morrell
Council Vice President Matthew Willard
Council Member Aimee McCarron
Council Member Freddie King III
Council Member Jason Hughes

