

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FOURTH DIVISION**

**DEBORAH SPRINGER SUTTLAR, JUDY GREEN, FRED LOVE,
in his individual and official capacity as State Representative,
KWAMI ABDUL-BEY, CLARICE ABDUL-BEY, and
PAULA WITHERS,**

PLAINTIFFS

vs.

CASE NO. 60CV-22-1849

**JOHN THURSTON, in his official capacity
as the Secretary of State of Arkansas and in his official capacity
as the Chairman of the Arkansas State Board of Election Commissioners;
and SHARON BROOKS, BILENDA
HARRIS-RITTER, WILLIAM LUTHER,
CHARLES ROBERTS, WENDY BRANDON, JAMIE CLEMMER and
JAMES HARMON SMITH III, in their official capacities
as members of the Arkansas State Board of
Election Commissioners,**

DEFENDANTS

ANSWER TO COMPLAINT

Defendants John Thurston, in his official capacity as Secretary of State, and Sharon Brooks, Bilenda Harris-Ritter, William Luther, Charles Roberts, Wendy Brandon, Jamie Clemmer and James Harmon Smith III, in their official capacities as members of the Arkansas State Board of Election Commissioners, respond to Plaintiffs' Complaint dated March 21, 2022, as follows:

1. Defendants lack knowledge of the truth of the allegations in Paragraph 1 and accordingly deny them.
2. Defendants lack knowledge of the truth of the allegations in Paragraph 2 and accordingly deny them.
3. Defendants lack knowledge of the truth of the allegations in Paragraph 3 and accordingly deny them.

4. Defendants admit that Plaintiffs purport to challenge various Arkansas laws. Defendants deny the remaining allegations in Paragraph 4.

5. Defendants admit that Plaintiffs purport to challenge various Arkansas laws. Defendants deny the remaining allegations in Paragraph 5.

6. Defendants admit that Pulaski County is the most populous county in the State and home to the largest Black population. Defendants deny the remaining allegations in Paragraph 6.

7. Defendants admit that voter turnout increased in 2020 as compared to 2016. Defendants lack knowledge of the truth of the other allegations in Paragraph 7 and accordingly deny them.

8. Defendants admit that Governor Hutchinson refused to sign the 2021 Map. Defendants deny the remaining allegations in Paragraph 8.

9. Defendants admit that Governor Hutchinson spoke to reporters on October 6. Defendants deny the remaining allegations in Paragraph 9.

10. Defendants admit that Governor Hutchinson spoke to reporters on October 13. Defendants deny the remaining allegations in Paragraph 10.

11. Defendants state that Paragraph 11 contains legal assertions that require no response and deny any remaining allegations.

12. Defendants state that Paragraph 12 contains legal assertions that require no response and deny any remaining allegations.

13. Defendants deny that Plaintiffs are entitled to any relief requested in Paragraph 13.

14. Defendants lack knowledge of the truth of the allegations in Paragraph 14 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 14.

15. Defendants lack knowledge of the truth of the allegations in Paragraph 15 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 15.

16. Defendants admit that Fred Love is a member of the Arkansas House of Representatives. Defendants lack knowledge of the truth of the other allegations in Paragraph 16 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 16.

17. Defendants lack knowledge of the truth of the allegations in Paragraph 17 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 17.

18. Defendants lack knowledge of the truth of the allegations in Paragraph 18 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 18.

19. Defendants lack knowledge of the truth of the allegations in Paragraph 19 and accordingly deny them. Defendants deny all legal conclusions in Paragraph 19.

20. Defendants admit that John Thurston is the current Secretary of State for the State of Arkansas and chairperson and secretary of the State Board of Election Commissioners. Defendants state that Ark. Const. art 6, § 1 and Ark. Code Ann. § 7-4-101(b) speak for themselves and deny all remaining allegations in Paragraph 20.

21. Defendants admit that Sharon Brooks, Bilenda Harris-Ritter, William Luther, Jamie Clemmer, Wendy Brandon, and James Harmon Smith III are members of the Board of Election Commissioners. Defendants state that Ark. Code Ann. § 7-4-101(f) speaks for itself and deny all remaining allegations in Paragraph 21.

22. Defendants state that Paragraph 22 contains legal assertions that require no response and deny all remaining allegations.

23. Defendants admit that venue is proper under Ark. Code Ann. § 16-60-104(3)(A) and deny all remaining allegations in Paragraph 23.

24. Defendants deny the allegations in Paragraph 24.

25. Defendants deny the allegations in Paragraph 25.

26. Defendants admit that Plaintiffs purport to challenge various Arkansas laws. Defendants deny the remaining allegations in Paragraph 26.

27. Defendants admit that Plaintiffs purport to challenge various Arkansas laws. Defendants deny the remaining allegations in Paragraph 27.

28. Defendants state that Paragraph 28 contains legal assertions that require no response and deny any remaining allegations.

29. Defendants state that Paragraph 29 contains legal assertions that require no response and deny any remaining allegations.

30. Defendants admit that the Census Bureau released data from the 2020 Census to state redistricting authorities and the public. Defendants deny all remaining allegations in Paragraph 30.

31. Defendants admit that population growth impacts redistricting. Defendants deny all remaining allegations in Paragraph 31.

32. Defendants admit that population growth differed across districts. Defendants deny all remaining allegations in Paragraph 32.

33. Defendants admit that the Fourth Congressional District suffered a 5.8% population decline from 2010 to 2020. Defendants deny all remaining allegations in Paragraph 33.

34. Defendants admit that the First Congressional District suffered a 1.7% population decline from 2010 to 2020. Defendants deny all remaining allegations in Paragraph 34.

35. Defendants admit that the Second and Third Congressional Districts grew by 5.5% and 15.1% respectively. Defendants deny all remaining allegations in Paragraph 35.

36. Defendants admit that, according to the 2010 Census, Arkansas had a total population of 2,915,918, of whom 468,710 were Black. Defendants lack knowledge of the truth of all remaining allegations in Paragraph 36 and therefore deny them.

37. Defendants admit that, according to the 2020 Census, Arkansas has a total population of 3,011,524 and that this represents an increase of 95,606 from the 2010 Census. Defendants lack knowledge of the truth of all remaining allegations in Paragraph 37 and therefore deny them.

38. Defendants lack knowledge of the truth of the allegations in Paragraph 38 and therefore deny them.

39. Defendants lack knowledge of the truth of the allegations in Paragraph 39 and therefore deny them.

40. Defendants lack knowledge of the truth of the allegations in Paragraph 40 and therefore deny them.

41. Defendants lack knowledge of the truth of the allegations in Paragraph 41 and therefore deny them.

42. Defendants lack knowledge of the truth of the allegations in Paragraph 42 and therefore deny them.

43. Defendants lack knowledge of the truth of the allegations in Paragraph 43 and therefore deny them.

44. Defendants lack knowledge of the truth of the allegations in Paragraph 44 and therefore deny them.

45. Defendants admit that the General Assembly took up consideration of proposed congressional maps on September 27. Defendants deny all remaining allegations in Paragraph 45.

46. Defendants deny the allegations in Paragraph 46.

47. Defendants admit that Senator Joyce Elliott proposed a redistricting map in Senate Bill 728. Defendants deny all remaining allegations in Paragraph 47.

48. Defendants admit that Representatives Reginald Murdock and Vivian Flowers proposed redistricting maps in House Bills 1962 and 1965, respectively. Defendants admit that these proposals were rejected. Defendants deny all other allegations in Paragraph 48.

49. Defendants admit that Representative Stephen Meeks proposed a redistricting map in House Bill 1966. Defendants deny all other allegations in Paragraph 49.

50. Defendants admit that the General Assembly reconvened to consider proposals for redistricting on September 29. Defendants lack knowledge of the truth of all other allegations and thus deny them.

51. Defendants admit that Governor Hutchinson spoke to reporters on October 6. Defendants deny the remaining allegations in Paragraph 51.

52. Defendants admit that the General Assembly approved House Bill 1982 and Senate Bill 743. Defendants deny all other allegations in Paragraph 52.

53. Defendants lack knowledge of the truth of the allegations in Paragraph 53 and therefore deny them.

54. Defendants deny the allegations in Paragraph 54.

55. Defendants admit that Paragraph 55 is a map of the congressional districts spanning Pulaski County. Defendants deny all other allegations in Paragraph 55.

56. Defendants deny the allegations in Paragraph 56.

57. Defendants deny the allegations in Paragraph 57. The General Assembly moved fourteen precincts from Pulaski County, not thirteen as Plaintiffs allege. *See* 2021 Ark. Act 1116, Sec. 1 (amending Ark. Code Ann. 7-2-102(a)(2) to add precincts 47, 54, and 55 to District 1), *id.* (amending Ark. Code Ann. 7-2-105(a)(2) to add precincts 103, 104, 105, 124, 125, 126, 127, 131, 132, 133, and 135 to District 4).

58. Defendants lack knowledge of the truth of the allegations in Paragraph 58 and therefore deny them.

59. Defendants lack knowledge of the truth of the allegations in Paragraph 59 and therefore deny them.

60. Defendants deny the allegations in Paragraph 60.

61. Defendants deny the allegations in Paragraph 61.

62. Defendants lack knowledge of the truth of the allegations in Paragraph 62 and therefore deny them.

63. Defendants admit that the Arkansas Board of Apportionment publishes redistricting criteria. Defendants deny all remaining allegations in Paragraph 63.

64. Defendants admit that Representative Ladyman proposed House Bill 1960. Defendants lack knowledge of the truth of all remaining allegations in Paragraph 64 and therefore deny them.

65. Defendants deny the allegations in Paragraph 65.

66. Defendants admit that Little Rock NAACP Chapter President Dianne Curry commented on the map. Defendants deny all remaining allegations in Paragraph 66.

67. Defendants admit that Little Rock Mayor Frank Scott commented on the map. Defendants deny all remaining allegations in Paragraph 67.

68. Defendants admit that Senator Clarke Tucker commented on the map. Defendants deny all remaining allegations in Paragraph 68.

69. Defendants admit that Senator Trent Garner commented on the map. Defendants deny all remaining allegations in Paragraph 69.

70. Defendants admit that Debrah Mitchell, president of the Arkansas Democratic Black Caucus, commented on the map. Defendants deny all remaining allegations in Paragraph 70.

71. Defendants admit that Governor Hutchinson commented on the map. Defendants deny all remaining allegations in Paragraph 71.

72. Defendants admit that Governor Hutchinson neither signed nor vetoed the proposed maps. Defendants deny all remaining allegations in Paragraph 72.

73. Defendants admit that Governor Hutchinson commented on the map. Defendants deny all remaining allegations in Paragraph 73.

74. Defendants admit that Governor Hutchinson commented on the map. Defendants deny all remaining allegations in Paragraph 74.

75. Defendants admit that Governor Hutchinson commented on the map. Defendants deny all remaining allegations in Paragraph 75.

76. Defendants admit that Democratic Party of Arkansas Chairman Grant Tennille commented on the map. Defendants deny all remaining allegations in Paragraph 76.

77. Defendants admit that the General Assembly adjourned on October 15, 2021.

78. Defendants admit that House Bill 1982 and Senate Bill 743 became law. Defendants state that Ark. Const. art. 6, § 15 can speak for itself and deny all remaining allegations.

79. Defendants admit that the 2021 map became effective on January 14, 2022. Defendants state that Ark. Const. art. 5, § 1 can speak for itself and deny all remaining allegations.

80. Defendants admit that Black voters overwhelmingly support Democratic candidates. Defendants deny all remaining allegations in Paragraph 80.

81. Defendants admit that Joe Biden won approximately 60% of the vote in Pulaski County in 2020. Defendants deny all remaining allegations in Paragraph 81.

82. Defendants admit that Terri Hollingsworth was elected Pulaski County Circuit Clerk in 2018. Defendants deny all remaining allegations in Paragraph 82.

83. Defendants lack knowledge of the truth of the allegations in Paragraph 84 and accordingly deny them.

84. Defendants deny the allegations in Paragraph 84.

85. Defendants state that Paragraph 85 requires no response, but to the extent one is required, Defendants incorporate all answers to the allegations in the preceding paragraphs.

86. Defendants state that Ark. Const. art. 3, § 2 can speak for itself and deny any remaining allegations in Paragraph 86.

87. Defendants state that Paragraph 87 contains legal assertions that require no response and deny any remaining allegations.

88. Defendants state that Paragraph 88 contains legal assertions that require no response and deny any remaining allegations.

89. Defendants state that Paragraph 89 contains legal assertions that require no response and deny any remaining allegations.

90. Defendants state that Paragraph 90 contains legal assertions that require no response and deny any remaining allegations.

91. Defendants state that Paragraph 91 contains legal assertions that require no response and deny any remaining allegations.

92. Defendants state that Paragraph 92 contains legal assertions that require no response and deny any remaining allegations.

93. Defendants state that Paragraph 93 contains legal assertions that require no response and deny any remaining allegations.

94. Defendants state that Paragraph 94 contains legal assertions that require no response and deny any remaining allegations.

95. Defendants state that Paragraph 95 requires no response, but to the extent one is required, Defendants incorporate all answers to the allegations in the preceding paragraphs.

96. Defendants state that Ark. Const. art. 2, §§ 2, 3, 18 can speak for themselves. Further, Defendants state that Paragraph 96 contains legal assertions that require no response and deny any remaining allegations.

97. Defendants state that Paragraph 97 contains legal assertions that require no response and deny any remaining allegations.

98. Defendants state that Paragraph 98 contains legal assertions that require no response and deny any remaining allegations.

99. Defendants state that Paragraph 99 requires no response, but to the extent one is required deny any remaining allegations.

100. Defendants state that Paragraph 100 requires no response, but to the extent one is required deny any remaining allegations.

101. Defendants state that Paragraph 101 requires no response, but to the extent one is required deny any remaining allegations.

102. Defendants state that Paragraph 102 requires no response, but to the extent one is required deny any remaining allegations.

103. Defendant denies that Plaintiffs are entitled to any relief requested in pages 24-25 of the Complaint.

104. Defendant denies any allegations not affirmatively admitted in this answer.

AFFIRMATIVE DEFENSES

105. The Complaint fails to state a claim upon which relief can be granted and, therefore, should be dismissed under Rule 12(b)(6) of the Arkansas Rules of Civil Procedure.

106. The Complaint is barred by sovereign immunity. Ark. Const. art. 5, sec. 20.

107. The Complaint is barred by the Elections Clause of the United States Constitution. U.S. Const. art. I, sec. 4.

108. The Court lacks subject-matter jurisdiction under the Arkansas constitution to review congressional apportionment decisions by the General Assembly.

109. Defendants reserve the right to amend this Answer to assert any additional defenses he may have.

Dated: September 1, 2022

Respectfully submitted,

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