

CV-20-454

IN THE ARKANSAS SUPREME COURT

**BONNIE MILLER, individually and on behalf of  
ARKANSAS VOTERS FIRST and  
OPEN PRIMARIES ARKANSAS,  
BALLOT QUESTION COMMITTEES** **PETITIONERS**

V. **CASE NO. CV 20-454**

**JOHN THURSTON, in his capacity as  
Arkansas Secretary of State** **RESPONDENT**

**ARKANSANS FOR TRANSPARENCY,  
A BALLOT QUESTION COMMITTEE, and  
JONELLE FULMER, individually and on behalf of  
ARKANSANS FOR TRANSPARENCY** **INTERVENORS**

**INTERVENORS' RESPONSE TO PETITIONERS' MOTION TO  
EXPEDITE AND TO REFER ADDITIONAL MATTERS TO THE  
SPECIAL MASTER**

Come now Intervenors Arkansans for Transparency, a ballot question committee, and Jonelle Fulmer, individually and on behalf of Arkansans for Transparency, by and through their undersigned counsel, and for their Response to Petitioners' Motion to Expedite and to Refer Additional Matters to the Special Master, state as follows:

Intervenors generally object to referring Count 2 to Judge Fogleman *for inclusion in the current briefing schedule* set by the Court in its Per Curiam Order of July 24, 2020. The Secretary of State culled signatures on Open Primaries/Ranked

Choice pursuant to Arkansas Code Annotated § 7-9-126. Issues involving canvassers and signatures are not ripe for consideration by the Special Master at this juncture. The evidence needed on these issues is still being obtained from the Secretary of State, who, in turn, is still provisionally verifying signatures per the Court's Order. Given the August 3, 2020 report deadline, Judge Fogleman has set a hearing to begin tomorrow July 28, 2020. Respectfully, the issue before Judge Fogleman at that hearing should be limited to factual disputes concerning the certification-language only, and a separate briefing schedule should be set for issues related to signatures, canvassers, and anything else that may arise. Intervenors will likely file cross claims raising issues related to signatures and canvassers on both petitions. Judicial economy is better served by addressing these issues together on a separate schedule.

1. Intervenors deny that Arkansas Voters First (AVF) submitted timely, valid initiative petitions with the requisite accompanying signatures to the Secretary of State on July 6, 2020.

2. Intervenors state that the letters from the Secretary of State dated July 14, 2020 to AVF and attached as Exhibits 5 and 6 to Petitioners' Second Amended Complaint speak for themselves, and Intervenors deny an allegations inconsistent with the content of those letters.

3. Intervenors admit that AVF filed this action on July 17, 2020. Any remaining allegations in paragraph 3 are denied.

4. Intervenors admit that an amended original action petition was filed on July 21, 2020. Any remaining allegations in paragraph 4 are denied.

5. Intervenors state that the letter from the Secretary of State dated July 21, 2020 to AVF and attached as Exhibit 7 to Petitioners' Second Amended Complaint speaks for itself, and Intervenors deny an allegations inconsistent with the content of the letter.

6. Intervenors state that the letter from the Secretary of State dated July 21, 2020 to AVF and attached as Exhibit 7 to Petitioners' Second Amended Complaint speaks for itself, and Intervenors deny an allegations inconsistent with the content of the letter.

7. On information and belief, Intervenors admit that the State Board refused to certify the sufficiency of the ballot title and popular name for open primaries/ranked choice.

8. Intervenors admit the allegations in paragraph 8.

9. Intervenors admit that Petitioners have filed a Second Amended Complaint and that it includes counts related to the Secretary's culling of signatures from the open primaries petition and the State Board's rejection of the ballot title for the open primaries petition. Intervenors incorporate by reference their Response to the Second Amended Complaint filed contemporaneously herewith. Any remaining allegations in paragraph 9 are denied.

10. Intervenors admit that Count 1 of Petitioners' Second Amended Complaint contains factual allegations previously raised in the First Amended Complaint. Intervenors incorporate by reference their Responses to the First and Second Amended Complaints, the latter of which is being filed contemporaneously herewith. Any remaining allegations in paragraph 10 are denied.

11. Intervenors admit that Count 2 of the Second Amended Complaint includes allegations related to the Secretary's culling of signatures from the open primaries petition. Intervenors incorporate by reference their Response to the Second Amended Complaint filed contemporaneously herewith. Any remaining allegations in paragraph 11 are denied.

12. Intervenors deny and disagree to the inclusion of Count 2 within the confines of the current schedule set by the Court for reasons previously stated.

13. Intervenors deny that the Court should refer the matters alleged in Intervenors admit and agree to bifurcating the Count 3 dealing with the sufficiency of the ballot title and popular name and setting a briefing schedule.

14. Intervenors admit the allegations in paragraph 14.

15. Intervenors admit to expedited consideration of Petitioners' Motion, but for reasons stated herein, they deny and disagree that Count 2 of Petitioners' Second Amended Petition should be considered within the confines of the current briefing schedule set by the Court.

Respectfully submitted,

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By: /s/ Kevin A. Crass  
KEVIN A. CRASS

*Attorneys for Arkansans for Transparency  
and Jonelle Fulmer, individually and on  
behalf of Arkansans for Transparency*

## CERTIFICATE OF SERVICE

I, Kevin A. Crass, hereby certify that on this 27th day of July, 2020, I electronically filed this pleading using the Court's electronic filing system, which shall send notification of such filing to the following counsel of record:

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