

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA**

LOUISIANA STATE CONFERENCE, OF
THE NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE; ANTHONY ALLEN; AND
STEPHANIE ANTHONY

Plaintiffs,

v.

STATE OF LOUISIANA; and R. KYLE
ARDOIN, in his capacity as Secretary of
State of Louisiana,
Defendants.

Civil Action No. 3:19-cv-00479-JWD-EWD

**ANSWER TO FIRST AMENDED COMPLAINT
OF DEFENDANT, NANCY LANDRY,
LOUISIANA SECRETARY OF STATE**

NOW INTO COURT, through undersigned counsel, comes Defendant, Nancy Landry, in her capacity as Secretary of State of Louisiana (“Secretary of State Landry”), who objects to and answers Plaintiffs’ First Amended Complaint for Declaratory and Injunctive Relief (R. Doc. 178) (“First Amended Complaint”), as follows:

FIRST DEFENSE

This case does not present a case or controversy as required by Art. III, §2, Cl. 1 of the United States Constitution and so the Court lacks jurisdiction.

SECOND DEFENSE

The First Amended Complaint fails to state a claim upon which relief can be granted as to the Secretary of State for any alleged violation.

THIRD DEFENSE

The United States District Court for the Eastern District of Louisiana has exclusive jurisdiction under the Chisom Consent Decree and plaintiffs are estopped from seeking relief in the Middle District of Louisiana.

FOURTH DEFENSE

The Plaintiffs lack standing to sue.

FIFTH DEFENSE

Venue is proper in the Eastern District of Louisiana.

SIXTH DEFENSE

Plaintiffs' claims are barred by laches.

SEVENTH DEFENSE

Plaintiffs' claims and relief are barred by the Equal Protection Clause of the 14th Amendment.

EIGHTH DEFENSE

The Voting Rights Act does not apply to the election of judges.

IN FURTHER ANSWERING the particular allegations of the First Amended Complaint:

1.

Paragraph 1 is denied as written. Further answering, Secretary of State Landry shows that La. Const. Art. 5 defines the Louisiana state courts and the jurisdictions of each court.

2.

Paragraph 2 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and this paragraph is therefore denied.

3.

Paragraph 3 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and this paragraph is therefore denied.

4.

Paragraph 4 is denied.

5.

Paragraph 5 is a request for relief requiring no answer. To the extent that an answer is required, Secretary of State Landry denies that Plaintiffs are entitled to any of the relief they seek.

6.

Secretary of State Landry admits that Plaintiffs are alleging a claim under the Voting Rights Act and that a Voting Rights claim arises under the laws of the United States but contends that the Eastern District of Louisiana should have exclusive jurisdiction over this proceeding under the Chisom Consent Decree. The claims alleged under 28 USC § 1357 and 42 USC §1983 should also be brought before the Eastern District of Louisiana.

7.

Secretary of State Landry admits that 28 U.S.C. §§2201 and 2202 authorize a court to grant declaratory and injunctive relief. Further answering, see answer to Paragraph 6 above.

8.

Secretary of State Landry admits that 42 U.S.C. §1988 and 52 U.S.C. §10301(e) authorize a court to award costs and attorneys' fees. Further answering, see answer to Paragraph 6.

9.

Paragraph 9 contains a conclusion of law and requires no answer of Secretary of State Landry.

10.

Paragraph 10 contains a conclusion of law and requires no answer of Secretary of State Landry. If answer is required, then Paragraph 10 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

11.

Paragraph 11 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this defendant to respond, and this paragraph is therefore denied. The last sentence of Paragraph 11 is denied; and the remainder of Paragraph 11 is denied for lack of sufficient information so to justify a belief.

12.

Paragraph 12 is denied.

13.

The first sentence of Paragraph 13 is denied for lack of sufficient information so as to justify a belief. The remainder of Paragraph 13 is denied.

14.

The first sentence of Paragraph 14 is denied for lack of sufficient information so as to justify a belief. The remainder of Paragraph 14 is denied.

15.

Paragraph 15 is admitted.

16.

Paragraph 16 is admitted.

17.

Paragraph 17 contains a conclusion of law and requires no answer of Secretary of State Landry. If answer is required, then Paragraph 17 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

18.

Paragraph 18 violates the pleading requirements of Fed. R. Civ. P. 8 and contains legal argument and conclusions of law that can only be addressed by legal memorandum; and is therefore denied. Further, Secretary of State Landry denies any characterization of those statutory provisions and would instead rely on the language of the statutes themselves.

19.

Paragraph 19 contains a conclusion of law and requires no answer of Secretary of State Landry. If answer is required, then Paragraph 19 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

20.

Paragraph 20 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted, and even contains a table and contains too many topics to allow defendant to respond; and this Paragraph is therefore denied. Even so, this paragraph is further denied based on lack of sufficient information to justify a belief therein.

21.

Paragraph 21 violates the pleading requirements of Fed. R. Civ. P. 8, and is so convoluted and even contains a table, covers too many topics, and makes it difficult for this defendant to respond; and this paragraph is therefore denied. Even so, this paragraph is further denied based on lack of sufficient information to justify a belief therein.

22.

Paragraph 22 is denied as written. Further answering, Secretary of State Landry responds that the jurisdiction of the Louisiana Supreme Court is set forth in La. Const. Art. V, §5. Further, Secretary of State Landry denies any characterization of those statutory provisions and would instead rely on the language of the statutes themselves.

23.

Paragraph 23 is denied as written as containing partial characterizations of various provisions of the Louisiana Constitution and not entirely accurate allegations of fact. The provisions of La. Const. Art. V, §§ 3, 4 and 6 are the best evidence of their contents. Secretary of State Landry specifically denies that Louisiana Supreme Court justices are elected in partisan elections; and admits that one chief justice and six associate justices are each elected from single member districts for terms of ten years; and represents that the chief justice is the judge oldest in point of service on the supreme court.

24.

Paragraph 24 is denied.

25.

Paragraph 25 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and addresses too many topics to allow this Defendant to respond; and this Paragraph is therefore denied. Further answering, Defendant notes that the terms “consolidated contest” and “runoff election” are not contained in the Louisiana Election Code, making it even more difficult for defendant to respond to the allegations of Paragraph 25.

26.

Paragraph 26 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and contains too many topics to allow defendant to respond; and this Paragraph is therefore denied. Further answering, Secretary of State Landry notes that it does not know what is meant by “original electoral process” to allow for response.

27.

Paragraph 27 alleges a partial characterization of a decision of the United States Supreme Court and a legal proceeding; and is therefore denied. Further answering, Secretary of State Landry responds that the cited United States Supreme Court decision would be the best evidence of its content/holding and does not constitute a statement of fact. Further, Secretary of State Landry denies any characterization of the decision and would instead rely on the language of the decision itself.

28.

Paragraph 28 alleges a partial recitation of Act 512 of 1992 and a “federal consent decree”, neither of which constitute allegations of fact, and are therefore denied as written. Further answering, Secretary of State Landry represents that the provisions of Act 512 of 1992 and of the unspecified “federal consent decree” would constitute the best evidence of their contents.

29.

Paragraph 29 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and is therefore denied. Further answering, Secretary of State Landry admits that she understands that Justice Revius Ortique was the first African American to serve on the Louisiana Supreme Court, occurring after an election was held in 1992.

30.

Paragraph 30 violates the pleading requirements of Fed. R. Civ. P. 8 and addresses too many topics to allow this Defendant to respond; and is therefore denied. Further answering, Secretary of State Landry admits that she understands that Justice Bernette Johnson is the second African American to serve on the Louisiana Supreme Court, after having been elected in 1994.

31.

Paragraph 31 is denied as written. Secretary of State Landry admits that the current apportionment of the Louisiana Supreme Court consists of seven single member districts.

32.

The allegations of Paragraph 32 are denied as written. Further answering, Secretary of State Landry admits that Justice Johnson was elected to the Louisiana Supreme Court without opposition from District 7 in both 2000 and 2010.

33.

Paragraph 33 is admitted; Justice Bernette Johnson was sworn in as Chief Justice of the Louisiana Supreme Court on February 1, 2013 and retired in December 2020.

34.

Paragraph 34 is denied as written. Secretary of State Landry admits Justice Piper Griffin is the third African American to serve on the Louisiana Supreme Court, after having been elected in 2020.

35.

Paragraph 35 is denied as written. Further answering, Secretary of State Landry admits that, since 2020, Justice Griffin has been the only African American holding an elected seat on the

Louisiana Supreme Court. Defendant further notes that there are only five elected associate justices serving on the Louisiana Supreme Court at this time, all of whom are white.

36.

Paragraph 36 is denied for lack of sufficient information so as to justify a belief as to the truth of those allegations. Further answering, Secretary of State Landry admits that she understands that Justice Griffin, Justice Johnson and Justice Ortique are the only three African Americans to have served as elected members of the Louisiana Supreme Court.

37.

Paragraph 37 violates the pleading requirement of Fed. R. Civ. P. 8 and principally contains legal argument that can only be addressed by legal memorandum; and is therefore denied.

38.

Paragraph 38 is denied.

39.

Paragraph 39 is denied.

40.

Paragraph 40 is denied.

41.

Paragraph 41 is denied.

42.

Paragraph 42 violates the pleading requirements of Fed. R. Civ. P. 8 and is convoluted and contains too many topics to allow Defendant to respond; and is therefore denied. Further answering, Paragraph 42 also contains legal argument that can only be addressed by memorandum; and is therefore denied.

43.

Paragraph 43 alleges partial characterizations of various litigation and decisions of the Middle District of Louisiana and the United States Supreme Court, and are therefore denied. These allegations as made violate the pleading requirements of Fed. R. Civ. P. 8 and are convoluted and discuss too many topics to allow this Defendant to respond; and this Paragraph is therefore denied.

44.

Paragraph 44 is denied for lack of sufficient information to justify a belief as to the truth of the allegation, which allegations violate the pleading requirement of Fed. R. Civ. P. 8 and address too many topics to allow defendant to respond; and the paragraph is therefore denied.

45.

The allegations of Paragraph 45 are denied for lack of sufficient information so as to justify a belief as to the truth of those allegations, allegations which contain a conclusion of law and require no answer of Defendant.

46.

Paragraph 46 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and addresses too many topics to allow this Defendant to respond; and the Paragraph is denied. Further answering, the decision of the federal district court in *Chisom v. Jindal*, 890 F. Supp. 2d 696 (E.D. La. 2012), would be the best evidence of its contents, although not a statement of fact.

47.

Paragraph 47 is denied. Further answering, Secretary of State Landry notes that *Scott v. Schedler*, 2018 WL 264603 (E.D. La. Jan. 23 2012) held that, as of October 15, 2012, the Louisiana Department of Health and Hospitals, Louisiana Department of Children and Family Services, and

the Louisiana Secretary of State were in compliance with the mandates of the National Voter Registration Act.

48.

The allegations of Paragraph 48 are denied. Further answering, Defendant shows that on June 29, 2020, the Fifth Circuit Court of Appeals reversed the cited decision of the Middle District of Louisiana. *See Fuselier v. Landry*, 2020 WL 3496856 (5th Cir. 6/29/2020).

49.

Paragraph 49 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and addresses too many topics to allow this Defendant to respond; and the Paragraph is denied. Further answering, the decision of the courts in *Robinson v. Ardoin*, No. 22-30333, 2023 WL 7711063 (5th Cir. Nov 10, 2023) and *Allen v. Milligan*, 599 U.S. 1, 143 S.Ct. 1487, 216 L.Ed. 60 (2023), would be the best evidence of their contents, although not a statement of fact.

50.

Paragraph 50 is denied.

51.

Paragraph 51 is denied.

52.

Paragraph 52 violates the pleading requirements of Fed. R. Civ. P. 8, and addresses too many topics to allow this Defendant to respond, and contains conclusory statements; and therefore is denied.

53.

Paragraph 53 is denied.

54.

Paragraph 54 violates the pleading requirements of Fed. R. Civ. P. 8, contains conclusions of law and conclusory statements, contains too many topics; and is therefore denied.

55.

Secretary of State Landry is without sufficient knowledge to admit or deny the allegations of Paragraph 55; if answer is required, these allegations are denied.

56.

If answer is required, the allegations of Paragraph 56 are denied as the cited American Community Survey would be the best evidence of its contents.

57.

For lack of sufficient information as to justify a belief, the allegations of Paragraph 57 are denied. Defendant is unable to determine the meaning of “for that same time period” as used in Paragraph 57.

58.

For lack of sufficient information so as to justify a belief, the allegations of Paragraph 58 are denied.

59.

For lack of sufficient information so as to justify a belief as well as for lack of a temporal period made with the allegation, the allegations of Paragraph 59 are denied.

60.

For lack of sufficient information so as to justify a belief as well as for lack of specificity, and for the use of conclusory statements and generality, the allegations of Paragraph 60 are denied.

61.

Paragraph 61 violates the pleading requirements of Fed. R. Civ. P. 8 and is so convoluted and includes too many topics, as well as conclusory statements, to allow this Defendant to respond; and is therefore denied.

62.

The conclusory and non-specific allegation of Paragraph 62 is denied.

63.

The allegations of Paragraph 63 are denied for lack of sufficient information so as to justify a belief, denied as written, and denied. Further answering, Defendant states that he is not aware of “eight statewide executive officer positions.”

64.

The allegations of Paragraph 64 are denied for lack of sufficient information so as to justify a belief as to the truth of those allegations as written. Further answering, Secretary of State Landry admits that Louisiana had an African American governor in 1872 and 1873, and understands that no African American has been elected as governor of Louisiana since that time.

65.

The allegations of Paragraph 65 are admitted.

66.

Paragraph 66 is denied.

67.

Paragraph 67 is denied.

68.

The allegation of Paragraph 68 is admitted to the extent that only one of the current six Louisiana congressmen are known to be African American. However, the significance of the percentage of 16.7% is unknown to the Secretary of State Landry and therefore denied.

69.

The allegations of Paragraph 69 are denied to the extent that the Secretary of State is unable to understand the term “nearly all”.

70.

The allegations of Paragraph 70 are denied as containing a conclusory statement of “underrepresented” without more. Further answering, Secretary of State Landry shows that the cited decision has been reversed by the Fifth Circuit Court of Appeals.

71.

The allegations of Paragraph 71 require no answer of Defendant. If required, the allegations are denied.

72.

Paragraph 72 is denied.

73.

Paragraph 73 is denied.

74.

Paragraph 74 is denied.

75.

Paragraph 75 contains a conclusion of law and requires no answer of Secretary of State Landry. If an answer is required, then Paragraph 75 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

76.

Paragraph 76 contains a conclusion of law and requires no answer of Secretary of State Landry. If an answer is required, then Paragraph 76 is denied and denied for lack of sufficient information so as to justify a belief as to the truth of those allegations.

77.

Paragraph 77 is denied.

78.

For the remainder of the First Amended Complaint constituting Plaintiffs' "Prayer for Relief," no answer is required. To the extent that an answer is required, Secretary of State Landry denies that Plaintiffs are entitled to any of the relief they seek.

79.

Each and every allegation of the First Amended Complaint not heretofore expressly admitted or denied is hereby denied.

80.

Secretary of State Landry is entitled to and requests reasonable attorney fees, including expert fees and litigation expenses, and costs associated with this proceeding under 42 U.S.C. 1988(b) and 52 U.S.C. 10310(e).

WHEREFORE, Defendant, Nancy Landry, in her official capacity as Louisiana Secretary of State, prays for judgment in Defendant's favor and for a dismissal of Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief with prejudice and at Plaintiffs' cost; and for an award of reasonable attorney fees, including expert fees, litigation expenses, and costs. Defendant further prays for all full, general and equitable relief.

Respectfully submitted:

SHOWS, CALI & WALSH, L.L.P.

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Counsel for Defendant, Nancy Landry, in her capacity as Secretary of State of Louisiana

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of January, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notice of electronic filing to all counsel of record.

/s/ Jeffrey K. Cody
Jeffrey K. Cody