

**STATE OF NEW MEXICO  
COUNTY OF LEA,  
FIFTH JUDICIAL DISTRICT COURT**

**REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY JENNINGS,  
DINAH VARGAS, MANUEL GONZALES, JR.,  
BOBBY AND DEE ANN KIMBRO, and  
PEARL GARCIA,**

**Plaintiffs,**

**v.**

**No. D-506-CV-2022-00041**

**MAGGIE TOULOUSE OLIVER in her official  
capacity as New Mexico Secretary of State,  
MICHELLE LUJAN GRISHAM in her official  
capacity as Governor of New Mexico, HOWIE  
MORALES in his official capacity as New Mexico  
Lieutenant Governor and President of the New Mexico  
Senate, MIMI STEWART in her official capacity  
as President Pro Tempore of the New Mexico  
Senate, and BRIAN EGOLF in his official capacity  
as Speaker of the New Mexico House of  
Representatives,**

**Defendants.**

**EXECUTIVE DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT**

Come now Defendants Governor Michelle Lujan Grisham and Lieutenant Governor Howie Morales (collectively, "Executive Defendants" or "Defendants"), by and through their counsel of record in this matter, and in answer to Plaintiffs' complaint (the "Complaint") state as follows:

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint and therefore deny them.
2. With respect to the allegations in Paragraph 2 of the Complaint, Defendants admit that Plaintiff David Gallegos is an elected State Senator from Senate District 4. Defendants are

without knowledge or information sufficient to form a belief as to the remaining allegations contained in Paragraph 2 of the Complaint and therefore deny them.

3. With respect to Paragraph 3 of the Complaint, Defendants admit Plaintiff Timothy Jennings was a State Senator from 1978-2012, representing Senate District 32. Defendants admit that Plaintiff Timothy Jennings served as Senate President Pro Tempore from 2008-2012. Defendants are without knowledge or information sufficient to form a belief as to all remaining allegations contained in Paragraph 3 and therefore deny them.

4. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 and therefore deny them.

5. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 and therefore deny them.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 6 and therefore deny them.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 and therefore deny them.

8. Defendants admit the allegations in Paragraph 8 of the Complaint.

9. Defendants admit the allegations in Paragraph 9 of the Complaint.

10. Defendants admit the allegations in Paragraph 10 of the Complaint.

11. Defendants admit the allegations in Paragraph 11 of the Complaint.

12. Defendants admit the allegations in Paragraph 12 of the Complaint.

13. Paragraph 13 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 13 can be construed to make factual allegations, Defendants deny them.

14. Paragraph 14 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 14 can be construed to make factual allegations, Defendants deny them.

**GENERAL ALLEGATIONS**

15. Defendants deny the allegations in Paragraph 15 of the Complaint.

16. Defendants deny the allegations in Paragraph 16 of the Complaint.

17. Paragraph 17 of the Complaint states a prayer for relief to which no response is required. To the extent that Paragraph 17 can be construed to make factual allegations, Defendants deny them.

18. Paragraph 18 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 18 can be construed to make factual allegations, Defendants deny them. Defendants affirmatively state the New Mexico and United States Constitutions speak for themselves.

19. Paragraph 19 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 19 can be construed to make factual allegations, Defendants deny them.

20. Paragraph 20 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 20 can be construed to make factual allegations, Defendants deny them.

21. Paragraph 21 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 21 can be construed to make factual allegations, Defendants deny them.

22. Paragraph 22 of the Complaint states a legal conclusion to which no response is

required. To the extent that Paragraph 22 makes factual allegations, Defendants deny them.

23. Paragraph 23 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 23 makes factual allegations, Defendants deny them. Defendants deny that the Legislative Council's guidelines from 2011 were adopted by the Legislature this decennial.

24. Defendants deny the allegations in the first sentence of Paragraph 24 of the Complaint. The remainder of Paragraph 24 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 24 makes factual allegations, Defendants deny them.

25. Paragraph 25 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 25 makes factual allegations, Defendants deny them. Defendants affirmatively state that the cases cited in Paragraph 25 speak for themselves.

26. Paragraph 26 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 26 makes factual allegations, Defendants deny them. Defendants affirmatively state that the cases cited in Paragraph 26 speak for themselves.

27. Paragraph 27 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 27 makes factual allegations, Defendants deny them. Defendants affirmatively state that the cases cited in Paragraph 27 speak for themselves.

28. Paragraph 28 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 28 makes factual allegations, Defendants deny them. Defendants affirmatively state that the cases cited in Paragraph 28 speak for themselves.

29. Paragraph 29 of the Complaint states legal conclusions to which no response is required. To the extent Paragraph 29 makes factual allegations, Defendants deny them.

30. With respect to Paragraph 30 of the Complaint, Defendants admit that there is history of redistricting litigation in New Mexico. Defendants deny all remaining allegations in Paragraph 30 of the Complaint.

31. Defendants admit the allegations in Paragraph 31 of the Complaint.

32. Paragraph 32 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 32 makes factual allegations, defendants deny them.

33. Paragraph 33 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 33 makes factual allegations, Defendants deny them.

34. With respect to Paragraph 34 of the Complaint, Defendants affirmatively state that the Guidelines speak for themselves.

35. Paragraph 35 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 35 makes factual allegations, Defendants deny them.

36. Paragraph 36 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 36 makes factual allegations, Defendants deny them.

37. Paragraph 37 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 37 makes factual allegations, Defendants deny them.

38. Paragraph 38 of the Complaint states legal conclusions to which no response is required. To the extent that Paragraph 38 makes factual allegations, Defendants deny them.

39. With respect to Paragraph 39 of the Complaint, Defendants admit that in April 2021, the State Legislature adopted the Redistricting Act of 2021 (“Redistricting Act”), Laws 2021, ch. 29, § 2 and that this legislation is codified as NMSA 1978, Section 1-3A-1, *et. seq* (2021). Defendants deny the remaining allegations in Paragraph 39 of the Complaint.

40. With respect to the allegations in Paragraph 40 of the Complaint, Defendants state

that the Redistricting Act speaks for itself.

41. With respect to the allegations in Paragraph 41 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

42. With respect to the allegations in Paragraph 42 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

43. With respect to the allegations in Paragraph 43 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

44. With respect to the allegations in Paragraph 44 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

45. With respect to the allegations in Paragraph 45 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

46. With respect to the allegations in Paragraph 46 of the Complaint, Defendants state that the Redistricting Act speaks for itself.

47. Paragraph 47 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 47 makes factual allegations, Defendants deny them. Defendants affirmatively state that Section 1-3A-7(A) speaks for itself.

48. Paragraph 48 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 48 makes factual allegations, Defendants deny them. Defendants affirmatively state that Section 1-3A-7(C) speaks for itself.

49. Paragraph 49 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 49 makes factual allegations, Defendants deny them. Defendants affirmatively state that Section 1-3A-8 speaks for itself.

50. Defendants admit the allegations in Paragraph 50 of the Complaint.

51. Defendants admit the allegations in Paragraph 51 of the Complaint.
52. Defendants admit the allegations in Paragraph 52 of the Complaint.
53. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Complaint and therefore deny them.
54. Defendants admit the allegations in Paragraph 54 of the Complaint.
55. Defendants admit the allegations in Paragraph 55 of the Complaint.
56. Defendants admit the allegations in Paragraph 56 of the Complaint.
57. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57 of the Complaint and therefore deny them.
58. Defendants admit the allegations in Paragraph 58 of the Complaint.
59. Paragraph 59 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 59 makes factual allegations, Defendants deny them.
60. With respect to the allegations in Paragraph 60 of the Complaint, Defendants admit that Concept A is as presented and described in the Citizen Redistricting Committee's materials. Defendants deny all allegations inconsistent with the same.
61. With respect to the allegations in Paragraph 61 of the Complaint, Defendants admit that Concept E is as presented and described in the Citizen Redistricting Committee's materials. Defendants deny all allegations inconsistent with the same.
62. With respect to the allegations in Paragraph 62 of the Complaint, Defendants admit that Concept E is as presented and described in the Citizen Redistricting Committee's materials. Defendants deny all allegations inconsistent with the same.
63. With respect to the allegations in Paragraph 63 of the Complaint, Defendants admit that Concept E is as presented and described in the Citizen Redistricting Committee's

materials. Defendants deny all allegations inconsistent with the same.

64. Defendants admit the allegations in Paragraph 64 of the Complaint.

65. Defendants admit the allegations in Paragraph 65 of the Complaint.

66. With respect to the allegations in Paragraph 66 of the Complaint, Defendants admit that Concept H is as presented and described in the Citizen Redistricting Committee's materials. Defendants deny all allegations inconsistent with the same.

67. With respect to the allegations in Paragraph 67 of the Complaint, Defendants affirmatively state that the Citizen Redistricting Committee's public comments speak for themselves. Defendants deny all remaining allegations inconsistent with the same.

68. With respect to the allegations in Paragraph 68 of the Complaint, Defendants affirmatively state that the Citizen Redistricting Committee and the public comments received speaks for themselves. Defendants deny all remaining allegations inconsistent with the same.

69. With respect to the allegations in Paragraph 69 of the Complaint, Defendants affirmatively state that the Citizen Redistricting Committee's public comments speak for themselves. Defendants deny all remaining allegations inconsistent with the same.

70. Paragraph 70 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 70 makes factual allegations, Defendants affirmatively state that Concept H is as presented and described in the Citizen Redistricting Committee's materials and deny any allegations in Paragraph 70 which are inconsistent with the same.

71. Defendants admit the allegations in Paragraph 71 of the Complaint.

72. Defendants admit the allegations in Paragraph 72 of the Complaint.

73. Defendants admit the allegations in Paragraph 73 of the Complaint.

74. Paragraph 74 of the Complaint states a legal conclusion to which no response is



required. To the extent that Paragraph 74 makes factual allegations, Defendants deny them. Defendants admit that Senate Bill 1 is as drawn and presented in the statute. Defendants deny all allegations inconsistent with the same.

75. Defendants deny the allegations in Paragraph 75 of the Complaint.

76. Defendants deny the allegations in Paragraph 76 of the Complaint.

77. In response to Paragraph 77, Defendants re-allege and incorporate by reference herein all answers, responses, and denials of all preceding paragraphs of the Complaint.

78. Paragraph 78 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 78 makes factual allegations, Defendants deny them.

79. Paragraph 79 of the Complaint states a legal conclusion to which no response is required. To the extent that Paragraph 79 makes factual allegations, Defendants deny them.

80. With respect to the allegations in Paragraph 80 of the Complaint, Defendants affirmatively state that Section 1-3A-7 speaks for itself as it applies to the Citizen Redistricting Committee process. Defendants deny all allegations inconsistent with the same.

81. Paragraph 81 states a legal conclusion to which no response is required. To the extent that Paragraph 81 makes factual allegations, Defendants deny them.

82. Paragraph 82 states a legal conclusion to which no response is required. To the extent that Paragraph 82 makes factual allegations, Defendants deny them.

83. Paragraph 83 states a legal conclusion to which no response is required. To the extent that Paragraph 83 makes factual allegations, Defendants deny them.

84. Paragraph 84 states legal conclusions to which no response is required. To the extent that Paragraph 84 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants admit the judiciary has drawn

the maps for the last two redistricting cycles.

85. Paragraph 85 states a legal conclusion to which no response is required. To the extent that Paragraph 85 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them.

86. Paragraph 86 states a legal conclusion to which no response is required. To the extent that Paragraph 86 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them.

87. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87 of the Complaint and therefore deny them.

88. Paragraph 88 states a legal conclusion to which no response is required. To the extent that Paragraph 88 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them.

89. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 89 of the Complaint and therefore deny them.

90. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90 of the Complaint and therefore deny them

91. Paragraph 91 states legal conclusions and arguments to which no response is required. To the extent that Paragraph 91 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants admit that a Republican has held CD2 for all but one term since 2012.

92. Paragraph 92 states legal conclusions and arguments to which no response is required. To the extent that Paragraph 92 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants

affirmatively state that SB 1 speaks for itself.

93. Paragraph 93 states legal conclusions and arguments to which no response is required. To the extent that Paragraph 93 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants affirmatively state that SB 1 speaks for itself.

94. Paragraph 94 states legal conclusions and arguments to which no response is required. To the extent that Paragraph 94 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants affirmatively state that editorial speaks for itself.

95. Paragraph 95 states legal conclusions and arguments to which no response is required. To the extent that Paragraph 95 makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them.

a. Subsection a of Paragraph 95 states a legal conclusion to which no response is required. To the extent that Paragraph 95(a) makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants admit that SB 1 redrew congressional district lines in many areas of the State and affirmatively state that it speaks for itself.

b. Subsection b of Paragraph 95 states a legal conclusion to which no response is required. To the extent that Paragraph 95(b) makes factual allegations, Defendants are without sufficient information to admit or deny the allegations and therefore deny them. Defendants admit that SB 1 redrew congressional district lines in many areas of the State and affirmatively state that it speaks for itself.

c. Defendants admit the allegation in subsection c of Paragraph 95 of the

Complaint.

96. Paragraph 96 states a legal conclusion to which no response is required. To the extent that Paragraph 97 makes factual allegations, are without sufficient information to admit or deny the allegations and therefore deny them.

97. Paragraph 97 states a legal conclusion and argument to which no response is required. To the extent that Paragraph 97 makes factual allegations, are without sufficient information to admit or deny the allegations and therefore deny them. Defendants affirmatively state that the editorial speaks for itself.

98. Defendants deny the allegations in Paragraph 98 of the Complaint.

99. Defendants deny that Plaintiffs are entitled to any of the relief sought in their Prayer for Relief on page 27 of the Complaint.

100. Defendants deny all allegations in the Complaint that have not been expressly admitted herein.

#### **AFFIRMATIVE DEFENSES**

**First Affirmative Defense:** Plaintiffs' complaint fails to state a claim upon which relief may be granted.

**Second Affirmative Defense:** Plaintiff's complaint presents a nonjusticiable political question.

**Third Affirmative Defense:** Redistricting is constitutionally a legislative task, and to provide the relief being sought would violate the separation of powers doctrine.

**Fourth Affirmative Defense:** Plaintiffs' claims in this action are barred by the doctrine of laches.

**Fifth Affirmative Defense:** Plaintiffs' claims in this action are barred by the doctrine of estoppel.

**Sixth Affirmative Defense:** Plaintiffs' claims in this action are barred by the doctrine of unclean hands.

**Seventh Affirmative Defense:** The legislation that is the subject of Plaintiffs' complaint has a rational relationship to a legitimate state interest.

Respectfully submitted,

/s/ Holly Agajanian  
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*Counsel for Governor Michelle Lujan Grisham and  
Lieutenant Governor Howie Morales*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 25, 2022, I filed the foregoing through the New Mexico Electronic Filing System, which caused all counsel of record to be served by electronic means.

Respectfully submitted,

/s/ Holly Agajanian  
Holly Agajanian