

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.

CV 2022-1849

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

ORDER

Comes now the matter of the Plaintiff's Motion to Compel Defendants to File an Answer and for Entry of an Order Setting a Scheduling Conference, and based on a review of the materials submitted to the Court, the files and records of the case, and all other matters considered, the Court DOTH FIND.

Plaintiffs filed their Complaint for Injunctive Relief and a Declaratory Judgment against the Defendants with the Pulaski County Clerk on March 21, 2022. On April 22, 2022, Defendants removed the case to the United States District Court for the Eastern District, where the case was docketed as 4:22-cv-00368-KGB. On July 14, 2022, that Court remanded the case back to this Division of Circuit Court, finding that the Defendants had not met their burden in showing that the federal Court had subject matter jurisdiction over the case.

At the time of removal, Defendants had not filed an Answer to the Plaintiffs' Complaint. On August 18, 2022, Plaintiffs filed the Instant Motion, praying that this Court enter an expedited order to compel the Defendants to file an Answer and set a scheduling conference in the case. Defendants have filed no reply yet, but Plaintiffs have contacted the Court seeking a ruling on the Motion.

As Plaintiffs point out, there is no entitlement to a Default Judgment under Rule 55 in a case such as this. Also, as injunctive and declaratory relief are traditionally equitable remedies, the parties are not entitled to a jury trial. Plaintiffs' Motion presents no authority that would require this Court to order the Defendants to file a responsive pleading. Plaintiffs' Motion also indicates that Defendants' counsel has indicated that their Motion to Dismiss in Federal Court "remains pending," and that is why Defendants have not filed such a pleading in the instant case.

A review of the Federal District Court's exhaustive Opinion remanding this case back to this Court clearly shows that there are no issues remaining for the District Court to hear. That Opinion explicitly and fully disposes of any issues remaining to be heard. The Court has communicated with the federal District Court to confirm that that Court does not consider any motions in that docket to be outstanding. While this Court will not direct Defendants to file an Answer, Defendants fail to plead at their own peril.

The case is hereby scheduled for a bench trial on Monday November 7, 2022, at 9:00AM. The parties will proceed with all deliberate speed in completing discovery pursuant to the Arkansas Rules of Civil Procedure. If the parties require guidance beyond that directive, they may petition the Court via a specific pleading pointing out a discovery issue.

IT IS SO ORDERED.


HERBERT T. WRIGHT, JR. – CIRCUIT JUDGE

8-25-22

DATE