

CV-20-454

In the Arkansas Supreme Court
An Original Action

Arkansas Voters First, a ballot question committee; Bonnie Miller, individually and on behalf of Arkansas Voters First; and Open Primaries Arkansas, a ballot question committee

Petitioners

v

CV-20-454

John Thurston, in his official capacity as Secretary of State; the State Board of Election Commissioners

Respondents

Arkansans for Transparency, a ballot question committee; and Jonelle Fulmer, individually and on behalf of Arkansas for Transparency

Intervenors

**RESPONSE TO SECOND NOTICE AND
MOTION TO VACATE**

Petitioners, for their Response to Second Notice and Motion to Vacate filed by the Secretary of State on August 18, 2020, state:

1. The allegations of Paragraph 1 are admitted.
2. The allegations of Paragraph 2 are admitted.
3. Petitioners are without information sufficient to admit or deny the allegations of Paragraph 3 and deny the same. Notwithstanding the foregoing, Exhibit A speaks for itself.

4. The Constitution of Arkansas speaks for itself. The remaining allegations of Paragraph 4 are denied.

5. The allegations of Paragraph 5 are denied.

6. Petitioners deny that the Secretary of State is entitled to the relief sought in the WHEREFORE clause.

7. All remaining allegations not herein admitted or denied are denied.

8. Because the Secretary's initial counts and incomplete validity determinations are being challenged, Arkansas law requires the Secretary to, by close of business today, "transmit the amendment or measure and the ballot title of each amendment and measure to the county election commissions to make any required posting and to place the amendment or measure on the ballot." Ark. Code Ann. § 7-5-204(c)(1).

9. For those reasons articulated in Petitioners' Third Amended Consolidated Original Action Complaint, and the Supplement to the Third Amended Consolidated Original Action Complaint filed contemporaneously with this Response, incorporated herein by reference, the Secretary of State's Second Notice and Motion to Vacate should be denied.

WHEREFORE, this Court should deny the Secretary of State's Second Notice and Motion to Vacate, and grant Petitioners all other proper relief to which they are entitled.

/s/ Alec Gaines

Ryan Owsley (2007-151)

Nate Steel (2007-186)

Alex Gray (2008-127)

Alec Gaines (2012-277)

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Certificate of Service

I certify that on 20 August 2020, a copy of the foregoing was filed with this Court's eFlex filing system, which serves all counsel of record.

/s/ Alec Gaines

Alec Gaines