

IN THE ARKANSAS SUPREME COURT

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

v. **No. CV-20-454**

**JOHN THURSTON, in his capacity as
Arkansas Secretary of State; and
The State Board of Election Commissioners** **RESPONDENTS**

**ARKANSANS FOR TRANSPARENCY,
a ballot question committee; and
JONELLE FULMER,
individually and on behalf of
ARKANSANS FOR TRANSPARENCY** **INTERVENORS**

**RESPONSE TO
SUPPLEMENT TO THE
THIRD AMENDED ORIGINAL ACTION COMPLAINT**

For his Response to Supplement to the Third Amended Original
Action Complaint, Secretary of State John Thurston states:

1. The Secretary admits that on August 18, 2020, he
communicated to Arkansas Voters First that its open primaries
petition did not have enough signatures from registered
Arkansas Voters to qualify for a cure period. The Secretary
denies that the new facts are in question.

2. The Secretary states that Exhibit 1 speaks for itself.
3. The Secretary is without knowledge to admit or deny the allegations in paragraph 3, therefore denies same.
4. The Secretary denies that the proposed amendment for open primaries has the requisite number of valid signatures.
5. The Secretary admits that Petitioners requested a list of all registered voters that the Secretary of State's Office verified signed the petition and a list of those signatures that were deemed invalid. The Secretary is without knowledge to admit or deny the remaining allegations in paragraph 5, therefore denies same.
6. The Secretary denies that any signatures were improperly or erroneously determined to be invalid.
7. The Secretary admits that the Special Master recommended that some signatures should be "thrown-back" to be counted and that he has not verified whether or not those signatures are from registered Arkansas voters. Affirmatively, this Court has not ordered the Secretary to review those signatures. The Secretary admits that the issue is currently before this Court in

Counts 1 and 2. The Secretary is without knowledge to admit or deny the remaining allegations in paragraph 7, therefore denies same.

8. The Secretary is without knowledge to admit or deny the allegations in paragraph 8, therefore denies same.

9. The Secretary states that Exhibit 1 speaks for itself.

Affirmatively, the Secretary has treated this, and all, petitions according to the statutes and the constitution. Further, the Secretary has, and will continue to, obey the orders of this Court.

10. The Secretary denies the allegations in paragraph 10.

Affirmatively, the proposed redistricting commission amendment petition had in excess of 89,151 facially valid signatures which triggered the verification stage to determine if at least 75% of the signatures were from registered Arkansas voters. The proposed open primaries petition amendment petition did not even have 89,151 facially valid signatures.

11. The Secretary denies that his actions are a calculated attempt to avoid his obligations pursuant to Ark. Code Ann. §

7-5-204(c)(1). The Secretary denies that Petitioners are entitled to the emergency relief that they seek. The Secretary incorporates and adopts by reference his Response to Petitioners' Emergency Motion for Preliminary Injunction.

12. The Secretary incorporates and adopts by reference his earlier filed Response to Motion to Expedite, for a Preliminary Injunction, and to Refer Additional Matters to the Special Master, as well as his Motion to Dismiss Third Amended Complaint. The Secretary denies that the Petitioners would suffer irreparable harm from anything but their own failure to obtain the requisite number of signatures from registered Arkansas voters for their petition. The Secretary denies that he has refused to perform his duties. The Secretary denies that a temporary restraining order is warranted. The Secretary admits that expedited consideration is appropriate. Affirmatively, the Secretary has treated this, and all, petitions according to the statutes and the constitution. Further, the Secretary has, and will continue to, obey the orders of this Court.

13. The Secretary denies each and every material allegation in the Supplement that is not specifically admitted herein.

14. The Secretary denies that the Petitioners are entitled to the relief requested in the WHEREFORE clause of their Supplement.

WHEREFORE, Secretary of State John Thurston prays that the Third Amended Original Action Complaint, as supplemented, be dismissed; and for all other proper relief.

Respectfully submitted,

JOHN THURSTON
Arkansas Secretary of State

By: /s/ Gary L. Sullivan
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CERTIFICATE OF SERVICE

I, Gary L. Sullivan, hereby certify that on August 24, 2020, I electronically filed the foregoing with the Clerk of the Court using the eFlex filing system, which shall serve all counsel of record:

/s/ Gary L. Sullivan