

United States District Court
Southern District Of Indiana
Indianapolis Division

INDIANA DEMOCRATIC PARTY, and)
MARION COUNTY DEMOCRATIC)
CENTRAL COMMITTEE,)
)
Plaintiffs,)
v.)
)
TODD ROKITA, *et al.*)
)
Defendants.)

1:05-CV-00634-SEB-VSS

WILLIAM CRAWFORD, *et al.*)
)
Plaintiffs,)
v.)
)
MARION COUNTY ELECTION BOARD,)
)
Defendant.)

**INTERVENOR DEFENDANT STATE OF INDIANA'S
ANSWER AND AFFIRMATIVE DEFENSES**

Intervenor Defendant State of Indiana ("State"), by counsel, answers Plaintiffs' Complaint, as follows:

Admissions and Denials

1. State denies the allegations contained in paragraph 1 of Plaintiffs' Complaint.
2. State admits the allegations contained in paragraph 2 of Plaintiffs' Complaint.
3. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of Plaintiffs' Complaint.

4. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiffs' Complaint.

5. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of Plaintiffs' Complaint.

6. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Plaintiffs' Complaint.

7. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiffs' Complaint.

8. State admits the allegations contained in paragraph 8 of Plaintiffs' Complaint.

9. State asserts that Indiana Code §3-6-5-1, *et seq.*, and Ind. Code § 3-6-5-14 speak for themselves and that the remaining allegations contained in paragraph 9 of Plaintiffs' Complaint are legal conclusions that require no response.

10. State asserts that Ind. Code §3-7-13-1 speaks for itself and that the remaining allegations contained in paragraph 10 of Plaintiffs' Complaint are legal conclusions that require no response.

11. State asserts that Ind. Code §3-7-13-4 speaks for itself and that the remaining allegations contained in paragraph 11 of Plaintiffs' Complaint are legal conclusions that require no response.

12. State asserts that Senate Enrolled Act No. 483, sections 2-4, adding Ind. Code § 3-10-1-7.2, 3-11-8-25, 3-11-8-25.1 (effective July 1, 2005) speak for themselves and that the remaining allegations contained in paragraph 12 of Plaintiffs' Complaint are legal conclusions that require no response.

13. State asserts that Senate Enrolled Act No. 483, Section 1, adding Ind. Code § 3-5-2-40.5 (eff. July 1, 2005) speaks for itself and that the remaining allegations contained in paragraph 13 of Plaintiffs' Complaint are legal conclusions that require no response.

14. State asserts that Ind. Code § 3-11-8-25.1, and Ind. Code §§ 3-11-8-20 through 3-11-8-23 speak for themselves and that the remaining allegations contained in paragraph 14 of Plaintiffs' Complaint are legal conclusions that require no response.

15. State asserts that Senate Enrolled Act No. 483, sections 2, 3, 4, adding or amending Ind. Code §§ 3-5-2-40.5, 3-10-1-7.2, 3-11-8-25, speak for themselves and that the remaining allegations contained in paragraph 15 of Plaintiffs' Complaint are legal conclusions that require no response.

16. State asserts that Senate Enrolled Act No. 483, Section 13, adding Ind. Code § 3-11.7-5-2.5 (eff. July 1, 2005) speaks for itself and that the remaining allegations contained in paragraph 16 of Plaintiffs' Complaint are legal conclusions that require no response.

17. State asserts that Senate Enrolled Act No. 483, Section 13, adding Ind. Code § 3-11.7-5-2.5 (eff. July 1, 2005) speaks for itself and that the remaining allegations contained in paragraph 17 of Plaintiffs' Complaint are legal conclusions that require no response.

18. State asserts that Senate Enrolled Act No. 483, Section 15, amending Ind. Code § 9-24-16-10 (eff. July 1, 2005) speaks for itself and that the remaining allegations contained in paragraph 18 of Plaintiffs' Complaint are legal conclusions that require no response.

19. State asserts that Senate Enrolled Act No. 483, adding Ind. Code § 3-11-10-1.2 (eff. July 1, 2005) and Ind. Code §§ 3-11-10-1 and 3-11-10-26 speak for themselves and that the remaining allegations contained in paragraph 19 of Plaintiffs' Complaint are legal conclusions that require no response.

20. State asserts that Senate Enrolled Act No. 483, Sections 2-4, adding or amending Ind. Code §§ 3-5-2-40.5, 3-10-1-7.2, 3-11-8-25, 3-11-8-25.1 (eff. July 1, 2005) speak for themselves and that the remaining allegations contained in paragraph 20 of Plaintiffs' Complaint are legal conclusions that require no response.

21. State asserts that Attachment 2 speaks for itself and that the remaining allegations contained in paragraph 21 of Plaintiffs' Complaint are legal conclusions that require no response.

22. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of Plaintiffs' Complaint.

23. State asserts that Attachment 2 speaks for itself and that the remaining allegations contained in paragraph 23 of Plaintiffs' Complaint are legal conclusions that require no response.

24. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of Plaintiffs' Complaint.

25. State asserts that Attachment 2 speaks for itself and that the remaining allegations contained in paragraph 25 of Plaintiffs' Complaint are legal conclusions that require no response.

26. State denies the allegations contained in paragraph 26 of Plaintiffs' Complaint.

27. State admits the allegations contained in paragraph 27 of Plaintiffs' Complaint.

28. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of Plaintiffs' Complaint.

29. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of Plaintiffs' Complaint.

30. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of Plaintiffs' Complaint.

31. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of Plaintiffs' Complaint.

32. State denies the allegations contained in paragraph 32 of Plaintiffs' Complaint.

33. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of Plaintiffs' Complaint.

34. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of Plaintiffs' Complaint.

35. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of Plaintiffs' Complaint.

36. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of Plaintiffs' Complaint.

37. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of Plaintiffs' Complaint.

38. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of Plaintiffs' Complaint.

39. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of Plaintiffs' Complaint.

40. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of Plaintiffs' Complaint.

41. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of Plaintiffs' Complaint.

42. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of Plaintiffs' Complaint.

43. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of Plaintiffs' Complaint.

44. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of Plaintiffs' Complaint.

45. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of Plaintiffs' Complaint.

46. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of Plaintiffs' Complaint.

47. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of Plaintiffs' Complaint.

48. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of Plaintiffs' Complaint.

49. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of Plaintiffs' Complaint.

50. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of Plaintiffs' Complaint.

51. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of Plaintiffs' Complaint.

52. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of Plaintiffs' Complaint.

53. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of Plaintiffs' Complaint.

54. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of Plaintiffs' Complaint.

55. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of Plaintiffs' Complaint.

56. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of Plaintiffs' Complaint.

57. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of Plaintiffs' Complaint.

58. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of Plaintiffs' Complaint.

59. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of Plaintiffs' Complaint.

60. State denies the allegations contained in paragraph 60 of Plaintiffs' Complaint.

61. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of Plaintiffs' Complaint.

62. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of Plaintiffs' Complaint.

63. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of Plaintiffs' Complaint.

64. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of Plaintiffs' Complaint.

65. State denies the allegations contained in paragraph 65 of Plaintiffs' Complaint.

66. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of Plaintiffs' Complaint.

67. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of Plaintiffs' Complaint.

68. State denies the allegations contained in paragraph 68 of Plaintiffs' Complaint.

69. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of Plaintiffs' Complaint.

70. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of Plaintiffs' Complaint.

71. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of Plaintiffs' Complaint.

72. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of Plaintiffs' Complaint.

73. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of Plaintiffs' Complaint.

74. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of Plaintiffs' Complaint.

75. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of Plaintiffs' Complaint.

76. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of Plaintiffs' Complaint.

77. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of Plaintiffs' Complaint.

78. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of Plaintiffs' Complaint.

79. State admits the allegations contained in paragraph 79 of Plaintiffs' Complaint.

80. State admits the allegations contained in paragraph 80 of Plaintiffs' Complaint.

81. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of Plaintiffs' Complaint.

82. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of Plaintiffs' Complaint.

83. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of Plaintiffs' Complaint.

84. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of Plaintiffs' Complaint.

85. State is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of Plaintiffs' Complaint.

86. State denies the allegations contained in paragraph 86 of Plaintiffs' Complaint.

87. State asserts that Ind. Code § 3-6-5-14 speaks for itself and its interpretation in paragraph 87 is a legal conclusion that does not require a response. State is without knowledge or information sufficient to admit or deny the remaining allegation in paragraph 87 of Plaintiffs' complaint regarding Defendant Marion County Election Board's intention to enforce the statute at issue.

88. State denies the allegations contained in paragraph 88 of Plaintiffs' Complaint.

89. State admits the allegations contained in paragraph 89 of Plaintiffs' Complaint.

90. State denies the allegations contained in paragraph 90 of Plaintiffs' Complaint.

91. State denies the allegations contained in paragraph 91 of Plaintiffs' Complaint.

92. State denies the allegations contained in paragraph 92 of Plaintiffs' Complaint.

93. State denies the allegations contained in paragraph 93 of Plaintiffs' Complaint.

94. State denies the allegations contained in paragraph 94 of Plaintiffs' Complaint.

Affirmative Defenses

First Defense

42 U.S.C. § 1972 does not empower plaintiffs to seek direct relief from a violation.

Second Defense

Plaintiffs lack standing to bring suit under Article III of the United States Constitution and under 42 U.S.C. § 1983.

Third Defense

Plaintiffs do not present a real dispute which demonstrates a genuine need for judicial resolution at this time.

Fourth Defense

Plaintiffs' action is barred in whole or in part by the Eleventh Amendment of the United States Constitution.

WHEREFORE, State requests that the Court grant judgment in its favor, that Plaintiffs take nothing by way of their Complaint and grant all other relief just and proper in the premises.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By: /s/ Thomas M. Fisher.
Thomas M. Fisher
Special Counsel
Atty. No. 17949-49

Doug Webber
Deputy Attorney General
Atty. No. 1015-49

CERTIFICATE OF SERVICE

I hereby certify that on July 18th, 2005, a copy of the foregoing Intervenor/Defendant State of Indiana's Answer and Affirmative Defenses was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

William R. Groth
Fillenwarth Dennerline Groth & Towe
wgroth@fdgtlaborlaw.com

Geoffrey S. Lohman
Fillenwarth Dennerline Groth &
Towe
glohman@fdgtlaborlaw.com

Barry A. Macey
Macey Swanson & Allman
bmacey@maceylaw.com

James B. Osborn
Office of Corporation Counsel
josborn@indygov.org

Kenneth Falk
Indiana Civil Liberties Union
ken.falk@iclu.org

s/ Thomas M. Fisher
Thomas M. Fisher
Special Counsel

OFFICE OF ATTORNEY GENERAL
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204
Telephone: (317) 232-6255
Fax: (317) 232-7979
tfisher@atg.state.in.us