

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

ASSOCIATION OF COMMUNITY ORGANIZATIONS)
FOR REFORM NOW AND DIONNE O'NEAL)
)
Plaintiffs,) Case No. 08-4084-CV-C-NKL
)
v.)
)
DEBORAH E. SCOTT, et al)
)
Defendants.

ANSWER OF DEFENDANTS JACKSON COUNTY BOARD OF ELECTION
COMMISSIONERS, TAMMY L. BROWN, WILLIAM J. BAKER,
MICHAEL K. WHITEHEAD, CHARLES E. DUMSKY, CHARLENE DAVIS AND
ROBERT C. NICHOLS, JR.

Defendants Jackson County Board of Election
Commissioners, and Tammy L. Brown, William J. Baker, Michael K.
Whitehead, Charles E. Dumsky, Charlene Davis and Robert C. Nichols,
Jr., as commissioners and directors of the Jackson County Board of
Election Commissioners (jointly referred to as the "Jackson County
Election Board"), and for their Answer to Plaintiffs' Complaint,
state as follows:

Introduction

1. The Jackson County Election Board admits paragraph 1
of Plaintiffs' Complaint seeks declaratory and injunctive relief,
and denies that the Jackson County Election Board has violated the
NVRA.

2. Paragraph 2 of Plaintiffs' Complaint states legal
conclusions which do not require a response from the Jackson County

Election Board. In the event any of the statements contained in paragraph 2 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA speaks for itself.

3. Paragraph 3 of Plaintiffs' Complaint states legal conclusions which do not require a response from the Jackson County Election Board. In the event any of the statements contained in paragraph 3 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA speaks for itself.

4. Paragraph 4 of Plaintiffs' Complaint states legal conclusions which do not require a response from the Jackson County Election Board. In the event any of the statements contained in paragraph 4 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA speaks for itself.

5. Paragraph 5 of Plaintiffs' Complaint states legal conclusions which do not require a response from the Jackson County Election Board. In the event any of the statements contained in paragraph 5 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA and the NVRA Conference Report speak for themselves.

6. The Jackson County Election Board is without sufficient knowledge or information to form a belief as to the

truth of the allegations contained in paragraph 6 of Plaintiffs' Complaint and, therefore, denies the same.

7. The Jackson County Election Board admits that it is a local election authority and that they are Commissioners and Directors of the Jackson County Election Board. The Jackson County Election Board denies all remaining allegations contained in paragraph 7 of Plaintiffs' Complaint.

8. The Jackson County Election Board denies the allegations contained in paragraph 8 of Plaintiffs' Complaint.

9. The Jackson County Election Board is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiffs' Complaint and, therefore, denies the same.

10. The Jackson County Election Board is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiffs' Complaint and, therefore, denies the same.

Parties

11. The Jackson County Election Board admits that plaintiff ACORN claims that it is a not-for-profit organization. By way of further answer, the Jackson County Election Board is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 11 of Plaintiffs' Complaint and, therefore, denies the same.

12. The Jackson County Election Board admits that plaintiff O'Neal claims to be a St. Louis resident. By way of further answer, the Jackson County Election Board states that they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 12 of Plaintiffs' Complaint and, therefore, denies the same.

13. The Jackson County Election Board admits that Defendant Scott is the Director of Missouri Department of Social Services ("DSS") and that the DSS is the state agency responsible for administration of public assistance programs in Missouri. By way of further answer, the Jackson County Election Board states that they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 13 of Plaintiffs' Complaint and, therefore, denies the same.

14. The Jackson County Election Board admits that Defendant Luck is the Director of the Family Support Division of the Missouri DSS. By way of further answer, the Jackson County Election Board states that they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 14 of Plaintiffs' Complaint and, therefore, denies the same.

15. The Jackson County Election Board admits that the Kansas City Board of Election Commissioners is the designated

election authority for the jurisdiction of the City of Kansas City, within Jackson County, Missouri. The Jackson County Election Board states that the duties of the election boards are established by Missouri law and deny all other allegations contained in paragraph 15 of Plaintiff's Complaint which are inconsistent with Missouri law.

16. The Jackson County Election Board admits the allegations contained in paragraph 16 of Plaintiffs' Complaint.

17. The Jackson County Election Board admits that Jackson County Board of Election Commissioners is the designated election authority for the jurisdiction of Jackson County outside the City of Kansas City, Missouri. The Jackson County Election Board states that its duties are established by Missouri law and deny all other allegations contained in paragraph 17 of Plaintiffs' Complaint which are inconsistent with Missouri law.

18. The Jackson County Election Board admits the allegations contained in paragraph 18 of Plaintiffs' Complaint.

19. The Jackson County Election Board admits that St. Louis Board of Election Commissioners is the designated election authority for the jurisdiction of St. Louis, Missouri. The Jackson County Election Board states that the duties of the election boards are established by Missouri law and deny all other allegations contained in paragraph 19 of Plaintiffs' Complaint which are inconsistent with Missouri law.

20. The Jackson County Election Board admits the allegations contained in paragraph 20 of Plaintiffs' Complaint.

Jurisdiction and Venue

21. The Jackson County Election Board admits the allegations contained in paragraph 21 of Plaintiff's Complaint.

22. The Jackson County Election Board admits the allegations contained in paragraph 22 of Plaintiff's Complaint.

23. The Jackson County Election Board admits the allegations contained in paragraph 23 of Plaintiff's Complaint.

24. The Jackson County Election Board admits the allegations contained in paragraph 24 of Plaintiff's Complaint.

Factual Allegations

25. The Jackson County Election Board states that the statements contained in paragraph 25 are legal conclusions which no responsive answer is necessary. To the extent the statements in paragraph 25 are construed as allegations against these Defendants, NVRA speaks for itself and any interpretation which is inconsistent with the NVRA is hereby denied.

26. The Jackson County Election Board admits that the DSS is a mandatory voter registration agency. By way of further answer, the Jackson County Election Board states that the NVRA speaks for itself and any interpretation which is inconsistent with the NVRA is hereby denied.

27. Paragraph 27 of Plaintiffs' Complaint states legal conclusions which do not require a response from these Defendants. In the event any of the statements contained in paragraph 27 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA speaks for itself and any interpretation which is inconsistent with the NVRA is hereby denied.

28. Paragraph 28 of Plaintiffs' Complaint states legal conclusions which do not require a response from these Defendants. In the event any of the statements contained in paragraph 28 are construed to make an allegation against the Jackson County Election Board, the Jackson County Election Board states that the NVRA speaks for itself and any interpretation which is inconsistent with the NVRA is hereby denied.

**Missouri's Failure to Offer Voter Registration to
Public Assistance Clients**

29. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 29 of Plaintiffs' Complaint and, therefore, denies the same.

30. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 30 of Plaintiffs' Complaint and, therefore, denies the same.

31. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 31 of Plaintiffs' Complaint and, therefore, denies the same.

32. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 32 of Plaintiffs' Complaint and, therefore, denies the same.

33. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 33 of Plaintiffs' Complaint and, therefore, denies the same.

34. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 34 of Plaintiffs' Complaint and, therefore, denies the same.

35. The Jackson County Election Board states that the report speaks for itself and denies all remaining allegations contained in paragraph 35 of Plaintiffs' Complaint.

36. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 36 of Plaintiffs' Complaint and, therefore, denies the same.

37. The Jackson County Election Board states they are

without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 37 of Plaintiffs' Complaint and, therefore, denies the same.

38. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 38 of Plaintiffs' Complaint and, therefore, denies the same.

39. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 39 of Plaintiffs' Complaint and, therefore, denies the same.

40. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 40 of Plaintiffs' Complaint and, therefore, denies the same.

41. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 41 of Plaintiffs' Complaint and, therefore, denies the same.

42. The Jackson County Election Board admits that Plaintiff is not currently registered to vote. By way of further answer, the Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 42 of

Plaintiffs' Complaint and, therefore, denies the same.

43. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 43 of Plaintiffs' Complaint and, therefore, denies the same.

44. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 44 of Plaintiffs' Complaint and, therefore, denies the same.

45. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 45 of Plaintiffs' Complaint and, therefore, denies the same.

46. The Jackson County Election Board denies the allegations contained in paragraph 46 of Plaintiffs' Complaint.

47. The Jackson County Election Board denies the allegations contained in paragraph 47 of Plaintiffs' Complaint.

**How Defendants' Lack of Compliance
Impacts ACORN's Voter Registration Efforts**

48. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 48 of Plaintiffs' Complaint and, therefore, denies the same.

49. The Jackson County Election Board states they are

without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 49 of Plaintiffs' Complaint and, therefore, denies the same.

50. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 50 of Plaintiffs' Complaint and, therefore, denies the same.

51. The Jackson County Election Board states they are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 51 of Plaintiffs' Complaint and, therefore, denies the same.

52. The Jackson County Election Board denies the allegations contained in paragraph 52 of Plaintiffs' Complaint.

53. The Jackson County Election Board denies the allegations contained in paragraph 53 of Plaintiffs' Complaint.

**Claim for Relief
(Violation of Section 7 of the National Voter
Registration Act of 1993)**

54. The Jackson County Election Board hereby incorporates its responses to paragraphs 1-53 as if set forth fully herein.

55. The Jackson County Election Board denies the allegations contained in paragraph 55 of Plaintiffs' Complaint.

56. The Jackson County Election Board denies the allegations contained in paragraph 56 of Plaintiffs' Complaint.

Further Answer as to All Counts

The Jackson County Election Board specifically denies each and every allegation contained in Plaintiffs' Complaint not specifically admitted herein, including those contained in Plaintiffs' prayer for relief.

Joint Affirmative Defenses of The Jackson County Election Board

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted against Defendants Jackson County Board of Election Commissioners, Tammy L. Brown, William J. Baker, Michael K. Whitehead, Charles E. Dumsky, Charlene Davis and Robert C. Nichols, Jr.

2. Plaintiffs' Complaint is barred because the Jackson County Election Board has no obligation to oversee the DSS's compliance with Section 7 of the NVRA, has absolutely no control over DSS employees, and has no ability to enforce DSS's compliance with Section 7 of the NVRA.

3. The Jackson County Election Board lacks sufficient knowledge or information at this time from which to form a belief as to whether or not they may have additional defenses. The Jackson County Election Board reserves the right to assert additional defenses which become available as this matter proceeds.

/s/Bradley A. Constance

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CERTIFICATE OF SERVICE

I hereby certify that an original of the foregoing Answer of Defendants Jackson County Board of Election Commissioners, Tammy L. Brown, William J. Baker, Michael K. Whitehead, Charles E. Dumsky, Charlene Davis and Robert C. Nichols, Jr., were served by email transmission on the 17th day of July, 2008, to:

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