

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

CYNTHIA PARHAM, ET AL.

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:20-cv-572-DPJ-FKB

**MICHAEL D. WATSON, JR., in his official
Capacity as Secretary of State of Mississippi, ET AL.**

DEFENDANTS

DEFENDANTS' ANSWER AND DEFENSES TO PLAINTIFFS' COMPLAINT

Defendants Michael D. Watson, Jr., in his official capacity as Secretary of State of Mississippi, and Lynn Fitch, in her official capacity as Attorney General of the State of Mississippi (collectively "defendants"), file this their Answer and Defenses to plaintiffs' complaint ("complaint") [Dkt. 1] and state:

ANSWER

Defendants respond to the allegations in the complaint, paragraph by paragraph, as follows:

INTRODUCTION

- 1. Denied**
- 2. Denied as stated. Defendants admit only that SARS-CoV-2 is the virus that causes the infectious disease COVID-19 which has created public health risks, and the current official data regarding COVID-19 infections and deaths in Mississippi speaks for itself. Any remaining allegations in paragraph 2 are denied.**

3 Denied as stated Defendants admit only that the statements of public health officials and experts referenced in paragraph 3 speak for themselves. Any remaining allegations in paragraph 3 are denied

4 Denied as stated Defendants admit only that any statements of public health experts and public health guidelines referenced in paragraph 4 speak for themselves. Any remaining allegations in paragraph 4 are denied

5 Denied as stated Defendants admit only that COVID-19 has created public health risks. Any remaining allegations in paragraph 5 are denied

6 Denied as stated Defendants admit only that Mississippi state laws establishing who is eligible to vote by absentee ballot speak for themselves. Any remaining allegations in paragraph 6 are denied

7 Denied

8 Denied

9 Denied

10 Denied as stated Defendants admit only that the statute quoted in paragraph 10 speaks for itself. Any remaining allegations in paragraph 10 are denied

11 Denied as stated Defendants admit only that the public statements made by the Governor of Mississippi referenced in paragraph 11 speak for themselves. Any remaining allegations in paragraph 11 are denied

12 Denied

13 Denied

14 Denied as stated Defendants admit only that the statutes referenced in paragraph 14 speak for themselves. Any remaining allegations in paragraph 14 are denied

15 Denied as stated Defendants admit only that the statute referenced in paragraph 15 speaks for itself. Any remaining allegations in paragraph 15 are denied

16 Denied

JURISDICTION AND VENUE

17 Denied as stated Defendants admit only that the statutes referenced in paragraph 17 speak for themselves. Any remaining allegations in paragraph 17 are denied

18 Denied as stated Defendants admit only that the statutes referenced in paragraph 18 speak for themselves. Any remaining allegations in paragraph 18 are denied

19 Denied as stated Defendants admit only that the statutes referenced in paragraph 19 speak for themselves. Any remaining allegations in paragraph 19 are denied

20 Denied as stated Defendants admit only that the Court has personal jurisdiction over the defendants and that they have been sued in their official capacities only. Any remaining allegations in paragraph 20 are denied

21 Denied as stated Defendants admit only that the statute referenced in paragraph 21 speaks for itself. Any remaining allegations in paragraph 21 are denied

PLAINTIFFS

22 Denied as stated Defendants admit only, upon information and belief, that plaintiff Cynthia Parham is a 61 year old resident of Oxford, Mississippi, and a U.S. citizen and registered Mississippi voter. Defendants are without sufficient information to admit or deny the truth of the remaining allegations in paragraph 22, therefore those allegations are denied

23 Denied as stated Defendants admit only, upon information and belief, that plaintiff Jed Oppenheim is a 40 year old resident of Jackson, Mississippi, a U.S. citizen and registered Mississippi voter; and the husband of Harriett Oppenheim Defendants are without sufficient information to admit or deny the truth of the remaining allegations in paragraph 23, therefore those allegations are denied

24 Denied as stated Defendants admit only, upon information and belief, that plaintiff Cheryl Goggin is a 72 year old resident of Hattiesburg Mississippi, and a U.S. citizen and registered Mississippi voter. Defendants are without sufficient information to admit or deny the truth of the remaining allegations in paragraph 24, therefore those allegations are denied

25 Denied as stated Defendants admit only, upon information and belief, that plaintiff League of Women Voters of Mississippi is the Mississippi affiliate of the national League of Women Voters, and is a 501(c)(4) organization. Defendants are without sufficient information to admit or deny the truth of the remaining allegations in paragraph 25, therefore those allegations are denied

26 Defendants are without sufficient information to admit or deny the truth of the allegations in paragraph 26, therefore those allegations are denied

27. Denied as stated Defendants admit only that the state laws governing absentee voting speak for themselves. Defendants are without sufficient

voter guide, therefore those allegations are denied. Any remaining allegations in paragraph 32 are denied.

33 Denied as stated. Defendants are without sufficient information to admit or deny the truth as to plaintiff League of Women Voters' alleged plans to conduct voter education, therefore those allegations are denied. Any remaining allegations in paragraph 33 are denied.

34 Denied as stated. Defendants are without sufficient information to admit or deny the truth as to plaintiff League of Women Voters' alleged plan to conduct poll worker recruitment programs, therefore those allegations are denied. Any remaining allegations in paragraph 34 are denied.

35 Denied as stated. Defendants admit only, upon information and belief, that plaintiff Mississippi State Conference of the NAACP is a nonprofit membership organization headquartered in Jackson, Mississippi. Defendants are without sufficient information to admit or deny the truth of the remaining allegations in paragraph 35, therefore those allegations are denied.

36 Defendants are without sufficient information to admit or deny the truth of the allegations in paragraph 36, therefore those allegations are denied.

37 Denied as stated. Defendants are without sufficient information to admit or deny the truth as to plaintiff Mississippi State Conference of the NAACP's alleged beliefs regarding in-person voting, therefore those allegations are denied. Any remaining allegations in paragraph 37 are denied.

38 Denied as stated Defendants are without sufficient information to admit or deny the truth as to plaintiff Mississippi State Conference of the NAACP's alleged voter education campaigns, therefore those allegations are denied Any remaining allegations in paragraph 38 are denied

39 Defendants are without sufficient information to admit or deny the truth of the allegations in paragraph 39, therefore those allegations are denied

40 Denied as stated Defendants are without sufficient information to admit or deny the truth as to plaintiff Mississippi State Conference of the NAACP's alleged voter education campaigns, therefore those allegations are denied Any remaining allegations in paragraph 40 are denied

41 Defendants are without sufficient information to admit or deny the truth of the allegations in paragraph 41, therefore those allegations are denied

42 Denied as stated Defendants are without sufficient information to admit or deny the truth as to plaintiff Mississippi State Conference of the NAACP's alleged community education conversations and programs, therefore those allegations are denied Any remaining allegations in paragraph 42 are denied

43 Denied as stated Defendants are without sufficient information to admit or deny the truth as to plaintiff Mississippi State Conference of the NAACP's alleged voter education plans, therefore those allegations are denied Any remaining allegations in paragraph 43 are denied

DEFENDANTS

44 Denied as stated Defendants admit only that Secretary of State Watson is the duly elected Secretary of State of Mississippi, his duties and authority are defined by law; the Governor of Mississippi's duties and authorities are defined by

49 Denied as stated Defendants admit only that the academic journal and newspaper article referenced in paragraph 49 speak for themselves. Any remaining allegations in paragraph 49 are denied

50 Denied as stated Defendants admit only that the internet material cited in paragraph 50 speaks for itself. A

63 Denied as stated Defendants admit only that the statute referenced in paragraph 63 speaks for itself. Any remaining allegations in paragraph 63 are denied

64 Denied as stated Defendants admit only that the legislation referenced in paragraph 64 speaks for itself. Any remaining allegations in paragraph 64 are denied

65 Denied as stated Defendants admit only that the statutes referenced in paragraph 65 speak for themselves. Any remaining allegations in paragraph 65 are denied

66 Denied as stated Defendants admit only that the statute referenced in paragraph 66 speaks for itself. Any remaining allegations in paragraph 66 are denied

67 Denied as stated Defendants admit only that the statute referenced in paragraph 67 speaks for itself. Any remaining allegations in paragraph 67 are denied

68 Denied as stated Defendants admit only that the statute referenced in paragraph 68 speaks for itself. Any remaining allegations in paragraph 68 are denied

69 Denied as stated Defendants admit only that the statutes referenced in paragraph 69 speak for themselves. Any remaining allegations in paragraph 69 are denied

70 Denied as stated Defendants admit only that the statutes referenced in paragraph 70 speak for themselves. Any remaining allegations in paragraph 70 are denied

The allegations in heading B on page 28 are denied

71 Denied as stated Defendants admit only that the state laws governing elections and Centers for Disease Control ("CDC") guidelines referenced in paragraph 71 speak for themselves. Any remaining allegations in paragraph 71 are denied

72 Denied as stated Defendants admit only that in person voting is required for persons are

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76 Defendants are without sufficient information to admit or deny the truth as to the allegations in paragraph 76 therefore those allegations are denied

77.

91 Denied as stated Defendants admit only, upon information and belief, that plaintiff Goggin is over age 65 Defendants are without sufficient information to admit or deny the truth of the allegation that many members of the organizational plaintiffs are over age 65, therefore those allegations are denied Any remaining allegations in paragraph 91 are denied

92 Denied as stated Defendants admit only that the internet material referenced in paragraph 92 speaks for itself. Any remaining allegations in paragraph 92 are denied

93 Denied as stated Defendants admit only that the CDC guidelines and internet material referenced and/or quoted in paragraph 93 speak for themselves.

98 Denied

99 Denied as stated Defendants admit only that the state laws governing absentee voting referenced in paragraph 99 speak for themselves. Any remaining allegations in paragraph 99 are denied

The allegations in heading C. on page 39 are denied

100 Denied as stated Defendants admit only that the internet material referenced in paragraph 100 speaks for itself. Any remaining allegations in paragraph 100 are denied

101. Denied as stated Defendants admit only that the statute and legislation referenced in paragraph 101 speak for themselves. Any remaining allegations in paragraph 101 are denied

102 Denied as stated Defendants admit only that the legislator statements and statute referenced in paragraph 102 speak for themselves. Any remaining allegations in paragraph 102 are denied

103 Denied as stated Defendants admit only that the legislation and internet material referenced in paragraph 103 speak for themselves. Any remaining allegations in paragraph 103 are denied

104 Denied as stated Defendants admit only that the internet material referenced and/or quoted in paragraph 104 speaks for itself. Any remaining allegations in paragraph 104 are denied

105 Denied as stated Defendants admit only that the statute, internet material, and other documents referenced in paragraph 105 speak for themselves. Any remaining allegations in paragraph 105 are denied

106 Denied

107 Denied as stated Defendants admit only that the complaint document referenced in paragraph 107 speaks for itself. Any remaining allegations in paragraph 107 are denied

108 Denied

The allegations in heading D, on page 42 are denied

109 Denied as stated Defendants admit only that the statutes referenced in paragraph 109 speak for themselves. Any remaining allegations in paragraph 109 are denied

110 Denied as stated Defendants admit only that the executive order referenced in paragraph 110 speaks for itself. Any remaining allegations in paragraph 110 are denied

111 Denied as stated Defendants admit only that the executive order referenced in paragraph 111 speaks for itself. Any remaining allegations in paragraph 111 are denied

112 Denied

113 Denied as stated Defendants admit only that the internet material referenced in paragraph 113 speaks for itself. Any remaining allegations in paragraph 113 are denied

114 Denied as stated Defendants admit only that the judicial opinion referenced and/or quoted in paragraph 114 speaks for itself. Any remaining allegations in paragraph 114 are denied

115 Denied

116 Denied as stated Defendants admit only that the CDC guidelines referenced in paragraph 116 speak for themselves. Any remaining allegations in paragraph 116 are denied

117. Denied

118 Denied as stated Defendants admit only that state laws regarding the absentee voting process speak for themselves. Any remaining allegations in paragraph 118 are denied

The allegations in heading E. on page 45 are denied

119 Denied as stated Defendants admit only that the statutes referenced and/or quoted in paragraph 119 speak for themselves. Any remaining allegations in paragraph 119 are denied

120 Denied

121. Denied as stated Defendants admit only that the statutes, documents and internet material referenced and/or quoted in paragraph 121 speak for themselves. Any remaining allegations in paragraph 121 are denied

122 Denied as stated Defendants admit only that the document referenced in paragraph 122 speaks for itself. Any remaining allegations in paragraph 122 are denied

123 Denied as stated Defendants admit only that the statute referenced in paragraph 123 speaks for itself. Any remaining allegations in paragraph 123 are denied

124 Denied

The allegations in heading "Court 1" on page 48 are denied

125 Defendants incorporate their responses to the prior s rpon ied

138 Denied

139 Denied as stated Defendants admit only that the judicial opinions referenced and/or quoted in paragraph 139 speak for themselves. Any remaining allegations in paragraph 139 are denied

140 Denied as stated Defendants admit only that the statute referenced in paragraph 140 speaks for itself. Any remaining allegations in paragraph 140 are denied

141 Denied

142 Denied

143 Denied

144 Denied

145 Denied

146 Denied

147 Denied

The allegations in heading "Count 4" on page 52 are denied

148 Defendants incorporate their responses to the prior paragraphs.

149 Denied

150 Denied

151 Defendants incorporate their responses to the prior paragraphs

152 Denied as stated Defendants admit only that the judicial opinions referenced in paragraph 152 speak for themselves. Any remaining allegations in paragraph 152 are denied

153 Denied

154 Denied

155 Denied as stated Defendants admit only that the statutes referenced in paragraph 155 speak for themselves. Any remaining allegations in paragraph 155 are denied

156 Denied

The allegations in heading “Court 6” on page 54 are denied

157. Defendants incorporate their responses to the prior paragraphs.

158 Denied

159 Denied

160 Denied

161. Denied

PRAYER FOR RELIEF

Defendants deny the allegations contained in the unnumbered paragraph beginning with “Plaintiffs respectfully pray that the Court...” on page 56, including all its subparts, and specifically deny that plaintiffs are not entitled to any relief whatsoever.

Any and all legal conclusions in the complaint, and any and all allegations

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NINTH DEFENSE

Plaintiffs' claims fail to state a justiciable claim for relief under 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202

TENTH DEFENSE

Defendants affirmatively assert all sovereign, common law, and/or statutory immunities to which they are entitled

ELEVENTH DEFENSE

The complaint only asserts claims against defendants in their official capacities. To the extent plaintiffs may contend otherwise, some or all of plaintiffs' claims would be barred by defendants' immunity under the qualified immunity doctrine as plaintiffs have not been deprived of any constitutional or federal statutory right, much less any alleged right which was clearly established at the time of defendants' alleged violation of law. Defendants have acted at all times in good faith within their official capacities, and course and scope of their duties authorized by law, and in an objectively reasonable manner in light of then clearly established law, at all times relevant to plaintiffs' allegations.

TWELFTH DEFENSE

Some or all of plaintiffs' claims are barred by res judicata and/or collateral estoppel.

THIRTEENTH DEFENSE

Defendants affirmatively assert all defenses to which they are entitled, or may become entitled, under 42 U.S.C. § 1983 and/or any other applicable provisions of federal or state law

FOURTEENTH DEFENSE

federal rules, 28U.S.C. § 1927, 28U.S.C. § 1988, or any other applicable rule or statute

THIS the 25th day of September, 2020

Respectfully submitted,

**LYNN FITCH,
Attorney General**

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