

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

ANTHONY DAUNT,

Plaintiff,

v.

JOCELYN BENSON, in her official capacity as
Michigan Secretary of State; and JONATHAN
BRATER, in his official capacity as Director of the
Michigan Bureau of Elections,

Defendants.

Case No. 1:20-cv-522
Hon. Robert J. Jonker
Mag. Judge Ray S. Kent

**AMENDED ANSWER BY INTERVENORS
LEAGUE OF WOMEN VOTERS OF MICHIGAN, LEAGUE OF WOMEN VOTERS OF
GRAND TRAVERSE AREA, LEAGUE OF WOMEN VOTERS OF ANN ARBOR AREA,
LEAGUE OF WOMEN VOTERS OF LEELANAU COUNTY, LEAGUE OF WOMEN
VOTERS OF COPPER COUNTRY, AND LEAGUE OF WOMEN VOTERS OF
OAKLAND AREA**

The League of Women Voters of Michigan, League of Women Voters of Grand Traverse Area, League of Women Voters of Ann Arbor Area, League of Women Voters of Leelanau County, League of Women Voters of Copper Country, and League of Women Voters of Oakland Area (collectively, the “League” or “Intervenor-Defendants”), by and through the undersigned counsel, hereby submit this amended Answer to the amended Complaint filed by Plaintiff Anthony Daunt (“Daunt” or “Plaintiff”) on September 30, 2020.

The League also submits that Plaintiff’s Complaint is barred, *inter alia*, because it fails to state a valid claim upon which relief can be granted. Plaintiff alleges that Defendants are in violation of Section 8 of the National Voter Registration Act (“NVRA”) because Defendants allegedly have high voter registration rates, and based on unfounded accusations of potential voter fraud and unsubstantiated, unrelated allegations regarding voting by absentee ballot. But Plaintiff does not allege that Defendants’ conduct has resulted in any voter fraud, nor can he.

And high voter registration rates alone do not give rise to a violation of Section 8 of the NVRA, which only requires that Defendants make “a reasonable effort to remove the names of ineligible voters.” 52 U.S.C. 20507(a)(4). Nor do Plaintiff’s allegations relating to absentee ballot mailing have any bearing on the question of Defendants’ voter list maintenance efforts. Plaintiff fails to allege that Defendants’ list maintenance efforts are unreasonable, and thus Plaintiff’s claims fail to state a valid claim upon which relief can be granted. The League responds to the specific allegations in the Complaint as follows.

SPECIFIC ALLEGATIONS

INTRODUCTION

1. Intervenor-Defendants deny the characterization of the statute’s requirements, and refer to the cited statute for the full contents thereof.

2. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.

3. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.

4. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.

5. Paragraph 5 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

JURISDICTION AND VENUE

6. Intervenor-Defendants admit the allegations contained in paragraph 6.

7. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.

PARTIES

8. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8.

9. Upon information and belief, Intervenor-Defendants deny the allegation that Defendants do not maintain accurate voter rolls and that Plaintiff Daunt's vote is diluted, and Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the other allegations contained in paragraph 9.

10. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10.

11. Upon information and belief, Intervenor-Defendants deny the allegation that Defendants do not maintain accurate voter rolls, and Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the other allegations contained in paragraph 11.

12. Intervenor-Defendants admit the allegations contained in paragraph 12.

13. Intervenor-Defendants admit the allegations contained in the first sentence of paragraph 13. Intervenor-Defendants deny the allegations contained in the second sentence on the basis that it is only a partial quotation of the cited statute, and refer to the cited statute for the full contents thereof. Intervenor-Defendants admit the allegations contained in the last sentence.

BACKGROUND

I. Statutory Background

14. Intervenor-Defendants deny the allegations contained in paragraph 14 on the basis that it is only a partial quotation of Section 8 of the NVRA, and refer to the cited statute for the full contents thereof.

15. The first sentence of Paragraph 15 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief. Intervenor-Defendants deny the allegations in the second sentence on the basis that it is only a partial quotation from the cited case, and refer to the cited case for the full contents thereof.

16. Intervenor-Defendants deny the allegations contained in paragraph 16 on the basis that it is only a partial quotation of Section 8 of the NVRA and of the cited case, and refer to the cited statute and case for the full contents thereof.

17. Intervenor-Defendants deny the allegations contained in paragraph 17 on the basis that it is only a partial quotation of Section 8 of the NVRA, and refer to the cited statute for the full contents thereof.

18. Intervenor-Defendants deny the allegations contained in paragraph 18 on the basis that it is only a partial quotation of Section 8 of the NVRA, and refer to the cited statute for the full contents thereof.

19. Intervenor-Defendants deny the allegations contained in paragraph 19 on the basis that it is only a partial quotation of the Help America Vote Act (HAVA), and refer to the cited statute for the full contents thereof.

20. Intervenor-Defendants deny the allegations contained in paragraph 20 on the basis that it is only a partial quotation of HAVA, and refer to the cited statute for the full contents thereof.

21. Intervenor-Defendants deny the allegations contained in paragraph 21 on the basis that it is only a partial quotation of HAVA, and refer to the cited statute for the full contents thereof.

22. Intervenor-Defendants deny the allegations contained in paragraph 22 on the basis that it is only a partial quotation of the cited material and of the cited case, and refer to the cited material and case for the full contents thereof.

23. Intervenor-Defendants deny the allegations contained in paragraph 23 on the basis that they contain only partial quotations of the cited cases and refer to the cited cases for the full contents thereof.

24. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24.

25. Upon information and belief, Intervenor-Defendants deny the allegations that Defendants are not well equipped to detect fraud and have no system in place to detect when a person votes in multiple states, and Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the other allegations contained in paragraph 25.

26. Intervenor-Defendants deny the allegations contained in the first two sentences of paragraph 26 on the basis that they misrepresent the online ballot application process.

Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the third sentence of paragraph 26.

27. Intervenor-Defendants deny the allegations contained in paragraph 27 on the basis that it is only a partial quotation of Section 10 of the NVRA, and refer to the cited statute for the full contents thereof.

II. Defendants' Obligations

28. Intervenor-Defendants admit the allegations contained in paragraph 28.

29. Intervenor-Defendants deny the allegations contained in paragraph 29 on the basis that it is only a partial quotation of Section 8 of the NVRA, and refer to the cited statute for the full contents thereof.

30. Intervenor-Defendants admit the allegations contained in the first sentence of paragraph 30. Intervenor-Defendants deny the allegations contained in the second sentence on the basis that it is only a partial quotation of the cited statute, and refer to the cited statute for the full contents thereof.

31. Intervenor-Defendants admit the allegations contained in the first sentence of paragraph 31. Intervenor-Defendants deny the allegations in the second sentence on the basis that it is only a partial quotation from the cited case, and refer to the cited case for the full contents thereof.

32. Intervenor-Defendants deny the allegations contained in paragraph 32 on the basis that it is only a partial quotation from the cited cases, and refer to the cited cases for the full contents thereof.

III. Defendants' Failure to Meet Their List-Maintenance Obligations

33. Intervenor-Defendants deny the allegations in the first sentence of paragraph 33 on the basis that it is only a partial quotation from the cited case, and refer to the cited case for the full contents thereof. The last sentence purports to state conclusions of law as to which no

response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief. Intervenor-Defendants deny the other allegations contained in paragraph 33.

34. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 34.

35. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35.

36. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36.

37. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37.

38. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38.

39. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39.

40. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40.

41. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41.

42. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42.

43. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 43. The last

sentence purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

44. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44.

45. Intervenor-Defendants deny the allegations contained in paragraph 45 on the basis that it is only a partial quotation from the cited case, and refer to the cited case for the full contents thereof.

46. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46.

47. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47.

48. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48.

49. Intervenor-Defendants deny the allegations in paragraph 49. Intervenor-Defendants aver that the Public Interest Legal Foundation, Inc. (“PILF”) sued Janice M. Winfrey, in her official capacity as Detroit City Clerk, and George Azzouz, in his official capacity as Director of Elections for the City of Detroit, in December 2019 asserting claims under the NVRA. Intervenor-Defendants further aver that PILF stipulated to the dismissal of its claims with prejudice on June 30, 2020, shortly after the court granted the League of Women Voters of Michigan’s motion to intervene.

50. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50.

51. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51.

52. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52.

53. Paragraph 53 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

54. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54.

55. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55.

56. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56.

57. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57.

58. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58.

59. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59.

60. Paragraph 60 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

IV. Plaintiff's Statutory Notice

61. Intervenor-Defendants deny the allegations contained in paragraph 61 on the basis that it is only a partial quotation from the cited case, and refer to the cited case for the full contents thereof.

62. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62.

63. The first sentence of paragraph 63 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence.

64. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64.

65. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65.

66. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66.

67. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67.

68. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68.

69. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69.

70. Intervenor-Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70.

COUNT I
Violation of the NVRA

71. Intervenor-Defendants restate their answers to paragraphs 1 through 70 as if fully stated herein.

72. Paragraph 72 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

73. Paragraph 73 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

74. Paragraph 74 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

75. Paragraph 75 purports to state conclusions of law as to which no response is required; but to the extent they may be deemed to be factual allegations, Intervenor-Defendants deny them upon information and belief.

PRAYER FOR RELIEF

No response is required to the Prayer for Relief. However, to the extent a response is required, Intervenor-Defendants deny the allegations contained in the Prayer for Relief, and specifically deny that Plaintiff is entitled to the relief requested.

AFFIRMATIVE DEFENSES

Intervenor-Defendants assert the following Affirmative Defenses to the claims made in Plaintiff's Complaint:

1. Plaintiff's claims are barred for failure to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands because of Plaintiff's own careless, negligent, and/or misleading characterization of data.
3. Plaintiff lacks standing to bring or maintain some or all of the claims alleged in the Complaint.

Intervenor-Defendants reserve the right to add additional Affirmative Defenses to Plaintiff's Complaint as the existence of such defenses is discovered through the course of discovery or otherwise.

WHEREFORE, Intervenor-Defendants ask this Court to enter judgment in its favor and against Plaintiff; and to provide such other and further relief as the Court deems just and proper.

Dated: October 14, 2020

Respectfully submitted,

BUTZEL LONG

/s/ George B. Donnini
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*Attorneys for Proposed
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**Application for admission forthcoming
**Application for admission pending*

CERTIFICATE OF SERVICE

I, George B. Donnini, certify that on October 14, 2020, I caused a true and correct copy of the foregoing document to be filed and served electronically via the ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

Respectfully submitted,

BUTZEL LONG

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