

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

RUTH JOHNSON, TERRI LYNN LAND, and  
MARIAN SHERIDAN,

Plaintiffs,

v.

JOCELYN BENSON, Secretary of the State of  
Michigan, in her official capacity,

Defendant,

MICHIGAN ALLIANCE FOR RETIRED  
AMERICANS, DETROIT/DOWNRIVER  
CHAPTER OF THE A. PHILIP RANDOLPH  
INSTITUTE, CHARLES ROBINSON, GERARD  
MCMURRAN, and JIM PEDERSEN'S

Proposed-Intervenor  
Defendants.

Case No. 1:20-CV-00948

MICHIGAN ALLIANCE FOR  
RETIRED AMERICANS,  
DETROIT/DOWNRIVER CHAPTER  
OF THE A. PHILIP RANDOLPH  
INSTITUTE, CHARLES ROBINSON,  
GERARD MCMURRAN, AND JIM  
PEDERSEN'S PROPOSED ANSWER

Pursuant to MCR 2.209(C)(2), the Michigan Alliance for Retired Americans, Detroit/Downriver Chapter of the A. Philip Randolph Institute, Charles Robinson, Gerard McMurrans, and Jim Pedersen (collectively "Proposed Intervenor") through their counsel, submit the following Answer to Plaintiffs' Verified Complaint for Declaratory Relief.

**INTRODUCTION**

1. Paragraph 1 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

2. Paragraph 2 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

3. Paragraph 3 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

### **JURISDICTION**

4. Paragraph 4 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

5. Paragraph 5 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

### **PARTIES**

6. Proposed Intervenors admit that Senator Ruth Johnson represents the 14th District of Michigan in the Michigan Senate and served as the Secretary of State of Michigan from 2011 to 2019. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 6 and therefore deny the same.

7. Proposed Intervenors admit that Terri Land served as the Secretary of State of Michigan from 2003 to 2011. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 7 and therefore deny the same.

8. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 8 and therefore deny the same.

9. Proposed Intervenors admit that Jocelyn Benson (“the Secretary”) is the Secretary of State of Michigan. Paragraph 9 also contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

### **FACTUAL ALLEGATIONS**

10. Paragraph 10 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

11. Paragraph 11 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

12. Paragraph 12 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

13. Paragraph 13 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

14. Paragraph 14 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

15. Paragraph 15 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

16. Paragraph 16 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

17. Paragraph 17 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

18. Paragraph 18 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

19. Proposed Intervenor admit the allegations in Paragraph 19.

20. Paragraph 20 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

21. Paragraph 21 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

22. Paragraph 22 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

23. Paragraph 23 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

24. Paragraph 24 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

25. Paragraph 25 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

26. Paragraph 26 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

27. Paragraph 27 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

28. Paragraph 28 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

29. Paragraph 29 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

30. Paragraph 30 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

31. Paragraph 31 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

32. Paragraph 32 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

33. Paragraph 33 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

34. Paragraph 34 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

35. Paragraph 35 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

36. Paragraph 36 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

37. Paragraph 37 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

38. Paragraph 38 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

39. Paragraph 39 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

40. Paragraph 40 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

41. Proposed Intervenors admit that the Secretary has promulgated rules establishing election procedures. Proposed Intervenors also admit that the Secretary publishes an Election Officials' Manual with 18 chapters. The rules, Manual, and website speak for themselves, and Proposed Intervenors deny each other or different allegation. Paragraph 41 also contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

42. Paragraph 42 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

43. The record in *League of Women Voters of Michigan v. Secretary of State*, filed May 22, 2020 in the Michigan Court of Appeals, case number 353654, (“*League of Women Voters*”), speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 43.

44. The record in *League of Women Voters* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 44.

45. The record in *League of Women Voters* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 45.

46. The record in *League of Women Voters* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 46.

47. The record in *Michigan Alliance for Retired Americans, et al. v. Benson, et al.*, filed on June 2, 2020 in the Michigan Court of Claims, case number 20-000108-MM, (“*Michigan Alliance*”), speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 47.

48. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 48.

49. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 49.

50. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 50.

51. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 51.

52. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 52.



53. The record in *Michigan Alliance* speaks for itself, and Proposed Intervenors deny each other or different allegation in Paragraph 53.

54. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 54 and therefore deny the same.

55. Proposed Intervenors admit that Attorney General Nessel and the Secretary have determined not to appeal *Michigan Alliance*, and deny each other or different allegation. Paragraph 55 also contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

56. Paragraph 56 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

57. Paragraph 57 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

58. Paragraph 58 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

59. Paragraph 59 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenors deny the allegations.

60. Proposed Intervenors deny the allegations in Paragraph 60.

61. In response to the first sentence of Paragraph 61, Proposed Intervenors state the law speaks for itself, and deny each other or difference allegation. Proposed Intervenors deny the second sentence of Paragraph 61.

62. Proposed Intervenors deny the allegations in Paragraph 62.

63. Proposed Intervenors deny the allegations in Paragraph 63.

64. Proposed Intervenors deny the allegations in Paragraph 64.

65. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 65 and therefore deny the same.

66. Proposed Intervenors deny that the Court of Claims' order in *Michigan Alliance* will result in the Secretary counting ballots that are cast invalidly. Proposed Intervenors also deny the remaining allegations in Paragraph 66.

67. Proposed Intervenors deny the allegations in Paragraph 67.

68. Proposed Intervenors deny the allegations in Paragraph 68.

69. Proposed Intervenors deny the allegations in Paragraph 69.

70. Proposed Intervenors deny the allegations in Paragraph 70.

71. Proposed Intervenors deny the allegations in Paragraph 71.

72. Proposed Intervenors deny the allegations in Paragraph 72.

#### **COUNT I**

73. Proposed Intervenors incorporate by reference all of their responses in the preceding and ensuing paragraphs as if fully set forth herein.

74. Paragraph 74 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

75. Paragraph 75 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

76. Proposed Intervenor deny the allegations in Paragraph 76.

77. Proposed Intervenor deny the allegations in Paragraph 77.

78. Proposed Intervenor deny the allegations in Paragraph 78.

79. Proposed Intervenor deny the allegations in Paragraph 79.

80. Proposed Intervenor deny the allegations in Paragraph 80.

81. Proposed Intervenor deny the allegations in Paragraph 81.

## **COUNT II**

82. Proposed Intervenor incorporate by reference all of their responses in the preceding and ensuing paragraphs as if fully set forth herein.

83. Paragraph 83 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

84. Paragraph 84 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required and the allegations misstate the law, Proposed Intervenor deny the allegations.

85. Proposed Intervenors are without sufficient information or knowledge with which to form a belief as to the truth or falsity of the remaining allegations in Paragraph 85 and therefore deny the same.

86. Proposed Intervenors deny the allegations in Paragraph 86.

87. Proposed Intervenors deny the allegations in Paragraph 87

88. Proposed Intervenors deny the allegations in Paragraph 88.

### **AFFIRMATIVE DEFENSES**

Proposed Intervenors set forth their affirmative defenses without assuming the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiffs. Moreover, nothing stated here is intended or shall be construed as an admission that any particular issue or subject matter is relevant to the allegations in the Complaint. Proposed Intervenors reserve the right to amend or supplement their affirmative defenses as additional facts concerning defenses become known.

As separate and distinct affirmative defenses, Proposed Intervenors allege as follows:

This Court lacks subject-matter jurisdiction to adjudicate Plaintiffs' claims;

Plaintiffs lack standing to assert their claims;

Plaintiffs fail to state a claim on which relief can be granted;

This Court lacks jurisdiction to grant Plaintiffs the relief they seek;

This Court must abstain under *Brillhart v. Excess Ins. Co. of Am.*, 316 U.S. 491 (1942); *Wilton v. Seven Falls Co.*, 515 U.S. 277 (1995); *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1 (1987); and *Younger v. Harris*, 401 U.S. 37 (1971); and Plaintiffs have failed to join required parties under Federal Rule of Civil Procedure 19.

### **PRAYER FOR RELIEF**

WHEREFORE, Proposed Intervenors respectfully that this Court:

A. Deny that Plaintiffs are entitled to any relief;

- B. Dismiss the complaint in its entirety, with prejudice; and
- C. Grant such other and further relief as the Court may deem just and proper.

Dated: October 2, 2020

Respectfully submitted,

*s/Sarah Prescott*

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*\*Admission to W.D. Mich. forthcoming*