

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

KELVIN LEON JONES, et al.,

Case No. 4:19cv00300-RH-MJF

Plaintiffs,

vs.

RON DESANTIS, in his official capacity
as Governor of the State of Florida, et al.

Defendants.

_____ /

**DEFENDANT MIKE HOGAN,
SUPERVISOR OF ELECTIONS FOR DUVAL COUNTY'S
ANSWER AND AFFIRMATIVE DEFENSE TO *GRUVER* COMPLAINT
FOR INJUNCTIVE AND DECLARATORY RELIEF**

Defendant Mike Hogan, Supervisor of Elections for Duval County (“Duval County Supervisor”), by and through her undersigned counsel, answers the *Gruver* Plaintiffs’ Complaint for Injunctive and Declaratory Relief (originally 4:19-cv-00302-MW-MJF, Doc. 2), and states:

PRELIMINARY STATEMENT

1. The Duval County Supervisor admits that on November 6, 2018, Amendment 4 was approved by the voters of the State of Florida. All other allegations are denied.

2. Denied.

3. The Duval County Supervisor admits that this is an action challenging SB 7066, and denies the remaining allegations.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

11. The Duval County Supervisor is without knowledge, and thus his paragraph is denied.

12. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

13. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

14. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

15. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

16. The Duval County Supervisor is without knowledge, therefore denied.

17. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

18. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

19. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

20. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

21. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

22. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

23. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

24. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

25. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

26. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

27. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

28. Denied.

29. The Duval County Supervisor is without knowledge, and thus this paragraph is denied.

30. Admitted that Lee is the Secretary of State; otherwise, the laws and duties speak for themselves.

31. Duval County Supervisor admits that the named Supervisors, including himself, hold the positions as stated. Otherwise, the statute speaks for itself and so the remaining allegations of this paragraph are denied.

JURISDICTION

32. The Duval County Supervisor admits this is an action under 42 U.S.C. §§ 1983 and 1988, and otherwise denies the remaining portions of this paragraph.

33. The Duval County Supervisor admits that this Court has jurisdiction, and otherwise denies the remaining portions of this paragraph.

34. Admitted.

35. Admitted.

36. Admitted.

STATEMENT OF FACTS

37. The Duval County Supervisor admits that on November 6, 2018, Florida voters approved Amendment 4, and the remaining allegations are denied.

38. The Florida Constitution speaks for itself and thus the allegations of this paragraph are denied.

39. The Florida Constitution and the Advisory Opinion speak for themselves and thus the allegations of this paragraph are denied.

40. The cases speak for themselves, and thus the allegations of the paragraph are denied.

41. The cases speak for themselves, and thus the allegations of the paragraph are denied.

42. Admitted.

43. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

44. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

45. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

46. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

47. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

48. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

49. Admitted.

50. The statutes and rules speak for themselves.

51. Admitted.

52. The statute speaks for itself, and thus the allegations of this paragraph are denied.

53. The statute speaks for itself, and thus the allegations of this paragraph are denied.

54. The Advisory Opinion speaks for itself, and thus the allegations of this paragraph are denied.

55. The statute speaks for itself, and thus the allegations of this paragraph are denied.

56. The statute speaks for itself, and thus the allegations of this paragraph are denied.

57. The statute speaks for itself, thus the allegations of this paragraph are denied.

58. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

59. SB 7066 speaks for itself and thus the allegations of this paragraph are denied.

60. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

61. The statute speaks for itself, and thus the allegations of this paragraph are denied.

62. The statute speaks for itself, and thus the allegations of this paragraph are denied.

63. The statute and the case speak for themselves, and thus the allegations of this paragraph are denied.

64. The statute speaks for itself, and thus the allegations of this paragraph are denied.

65. The statute speaks for itself, and thus the allegations of this paragraph are denied.

66. The statute speaks for itself, and thus the allegations of this paragraph are denied.

67. The statute speaks for itself, and thus the allegations of this paragraph are denied.

68. The Duval County Supervisor is without knowledge, and thus the allegations in this paragraph are denied.

69. The statute speaks for itself, and thus the allegations of this paragraph are denied.

70. The comments of the members of the Florida Legislature speak for themselves, and thus the allegations of this paragraph are denied.

71. The statute speaks for itself, and thus the allegations of this paragraph are denied.

72. The statute speaks for itself, and thus the allegations of this paragraph are denied.

73. The statute and the comments of the members of the Legislature speak for themselves, and thus the allegations of this paragraph are denied.

74. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

75. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

76. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

77. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

78. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

79. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

80. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

81. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

82. The Duval County Supervisor is without knowledge as to the hearings, and the case speaks for itself, and thus the allegations of this paragraph are denied.

83. The Duval County Supervisor is without knowledge as to the knowledge of the members of the Legislature, and the case speaks for itself, and thus the allegations of this paragraph are denied.

84. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

85. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

86. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

87. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

88. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

89. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

90. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

CLAIMS FOR RELIEF

COUNT ONE

Fourteenth Amendment to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Violation of Fundamental Fairness

91. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

92. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

93. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

94. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

95. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

96. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

97. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

98. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT TWO

Fourteenth Amendment to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Unconstitutional Discrimination in Violation of Equal Protection

99. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

100. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

101. The cases speak for themselves, and thus the allegations in this paragraph are denied.

102. The cases speak for themselves, and thus the allegations in this paragraph are denied.

103. The cases speak for themselves, and thus the allegations in this paragraph are denied.

104. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

105. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

106. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

107. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

108. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

109. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

110. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

111. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

COUNT THREE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Burden on the Fundamental Right to Vote**

112. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

113. The cases speak for themselves, and thus the allegations in this paragraph are denied.

114. The cases speak for themselves, and thus the allegations in this paragraph are denied.

115. The Duval County Supervisor is without knowledge, therefore the allegations in this paragraph are denied.

116. The Duval County Supervisor is without knowledge, therefore allegations of this paragraph are denied.

117. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

118. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

119. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

120. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

121. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

122. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

123. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

124. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

125. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

126. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

127. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

COUNT FOUR

**Twenty-Fourth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Unconstitutional Poll Tax**

128. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

129. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

130. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

131. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

132. SB 7066 and the Advisory Opinion speak for themselves, and thus the allegations of this paragraph are denied.

133. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT FIVE

**Fourteenth Amendment to the U.S. Constitution,
as enforced by 42. U.S.C. § 1983
Vagueness and Violation of Procedural Due Process**

134. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

135. The cases speak for themselves, and thus the allegations in this paragraph are denied.

136. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

137. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

138. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

139. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

140. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

141. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

142. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

143. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

144. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

145. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

146. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

147. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

148. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SIX

First and Fourteenth Amendments to the U.S. Constitution, as enforced by 42. U.S.C. §§ 1983 Burden on Core Political Speech and Associational Rights

149. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

150. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

151. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

152. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

153. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

154. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

155. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT SEVEN

Article I, § 10 of the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Retroactive Punishment in Violation of Ex Post Facto Clause

156. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

157. The U.S. Constitution speaks for itself, and thus the paragraph is denied.

158. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

159. SB 7066 speaks for itself, and thus the allegations of this paragraph are denied.

160. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

161. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

162. The Duval County Supervisor is without knowledge as to the Legislative hearings, and thus the allegations in this paragraph are denied.

163. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

164. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

165. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

COUNT EIGHT

Fourteenth and Fifteenth Amendments to the U.S. Constitution, as enforced by 42. U.S.C. § 1983 Intentional Race Discrimination

166. The Duval County Supervisor incorporates each response contained in the proceeding paragraphs.

167. The U.S. Constitution and the cases speak for themselves, and thus the allegations of the paragraph are denied.

168. The case speaks for itself, and thus the allegations of this paragraph are denied.

169. The case speaks for itself, and thus the allegations of this paragraph are denied.

170. The case speaks for itself, and thus the allegations of this paragraph are denied.

171. The Duval County Supervisor is without knowledge, and thus the allegations of this paragraph are denied.

172. This paragraph calls for a legal conclusion, and thus the allegations of this paragraph are denied.

Defendant denies that Plaintiffs are entitled to relief. Any allegation herein not specifically admitted is denied.

AFFIRMATIVE DEFENSE

As an affirmative defense, Duval County Supervisor alleges and states as follows:

1. **The Duval County Supervisor's Duties are Ministerial.** The Supervisor had no role in the enactment of SB 7066. Per section 98.015, Florida Statutes, the Duval County Supervisor is responsible for *inter alia* updating voter registration information, entering new voter registrations into the statewide voter registration system, and acting as the official custodian of documents received by the Supervisor related to the registration of electors and changes in voter registration status of electors in Duval County. § 98.015, Fla. Stat. (2018). The

Duval County Supervisor, therefore, is merely a neutral and ministerial position. *Diaz v. Lopez*, 167 So. 3d 455, 458 n.7 (Fla. 3d DCA 2015).

RESERVATION OF RIGHT TO SUPPLEMENT DEFENSES

Duval County Supervisor reserves the right to assert any and all additional Affirmative Defenses that discovery or other evidence may reveal to be appropriate. Duval County Supervisor further reserves the right to amend this Answer or otherwise plead in response to Plaintiffs' Complaint and to file other pleadings as he may deem advisable in defense of the case or as warranted by information add through disclosure.

WHEREFORE, Defendant, prays:

1. That a judgment be entered in favor of the Defendant against the Plaintiffs.
2. That Defendant be awarded the costs of its suit; including reasonable attorney fees.
3. This Court order such other and further relief in Defendant's favor as the Court may find just and proper.

Dated: August 28th, 2019.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser

Craig D. Feiser

Assistant General Counsel

Florida Bar No.: 164593

Jason R. Teal

Deputy General Counsel

Florida Bar No. 157198

117 West Duval Street, Suite 480

Jacksonville, FL 32202

Phone: (904) 255-5101

Facsimile: (904) 255-5120

cfeiser@coj.net

jteal@coj.net

Attorneys for the Defendant SOE Hogan

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on August 29, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will electronically serve all counsel for the Plaintiffs who have appeared in this case.

OFFICE OF GENERAL COUNSEL

/s/ Craig D. Feiser

Craig D. Feiser