

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

LINDA JANN LEWIS; MADISON LEE;  
ELLEN SWEETS; BENNY ALEXANDER;  
GEORGE MORGAN, VOTO LATINO,  
TEXAS STATE CONFERENCE OF THE  
NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE;  
and TEXAS ALLIANCE FOR RETIRED  
AMERICANS,

*Plaintiffs,*

v.

RUTH HUGHS, in her official capacity as  
the Texas Secretary of State,

*Defendant.*

CIVIL ACTION NO. 5:20-cv-00577-OLG

**THE TEXAS SECRETARY OF STATE'S ANSWER AND DEFENSES TO PLAINTIFFS'  
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendant Ruth Hughs, in her official capacity as the Texas Secretary of State (hereinafter "Secretary" or "Defendant"), respectfully files this Answer to Plaintiffs' Complaint for Declaratory and Injunctive Relief ("Complaint").

The Secretary files this answer in an abundance of caution, subject to her objections that this Court lacks jurisdiction to hear the claims against her. On August 7, 2020, the Secretary filed a Notice of Interlocutory Appeal of the Court's denial of her motion to dismiss that specifically rejected her arguments as to sovereign immunity. ECF No 32. The Secretary's filing of her Notice of Appeal transferred jurisdiction to the Fifth Circuit and thus divested this Court of jurisdiction to proceed against the Secretary pending resolution of the appeal. Following the filing of her Notice of Appeal, opposing counsel indicated that they disagree that the notice divested this Court of jurisdiction. Because of that disagreement, the Secretary filed her Advisory, which respectfully advised the Court

of her position that the pending appeal has served to stay all proceedings in this matter and that the entirety of this matter is now before the Fifth Circuit for review. The Advisory also requested that the Court issue an order making clear that it lacks jurisdiction of the matter while the matter is pending on appeal. ECF 32, 33. As the Court has not yet provided that clarification, and considering the impending deadline, this answer is filed prophylactically with full reservation of Defendant's sovereign immunity from suit and of all rights to seek any relief necessary to prevent Defendant from being subject to the burdens of ongoing litigation while her appeal is pending.

Pursuant to Federal Rule of Civil Procedure 8(b), Defendant denies each and every allegation contained in the Complaint except for those expressly admitted herein. The headings and numbered paragraphs below directly correlate to the sections and numbered paragraphs of the Complaint. Those titles and headings are reproduced in this Answer for organizational purposes only, and Defendant does not admit to any matter contained therein.

Defendant responds to the specific numbered allegations of the Complaint as follows:

#### **NATURE OF THE CASE**

1. Paragraph 1 contains assertions of law, conclusory statements, and/or argument to which no response is required. Defendant denies the allegations in Paragraph 1 in their entirety.
2. Defendant admits that SARS-Cov-2, referred to herein as "COVID-19" is a disease that has spread in the United States and Texas. Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis denies these allegations in their entirety.
3. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this Paragraph, and on that basis denies these allegations in their entirety.
4. Defendant denies that the "Texas Director of Elections ordered counties to postpone

any local elections on April 2, 2020, to avoid subjecting voters to the risk of contracting or spreading COVID-19.” Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this Paragraph, and on that basis denies these allegations in their entirety.

5. Paragraph 5 contains assertions of law, conclusory statements, and/or argument to which no response is required. Defendant denies that the “Attorney General has repeatedly publicly threatened voters with criminal prosecution, should they apply for a mail-in ballot because of fears about contracting or spreading COVID-19.” Defendant denies the remaining allegations in their entirety.

6. Defendant admits that Plaintiffs in this suit challenge Sections 86.002, 86.007, 87.027, and 86.006 of the Texas Election Code (hereinafter, “Challenged Provisions”). The remaining allegations in Paragraph 5 contain assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

7. Defendant admits that Plaintiffs seek preliminary relief in this matter. Defendant denies that Plaintiffs are entitled to the relief they request. Defendant denies the remaining allegations in this Paragraph.

### **JURISDICTION AND VENUE**

8. Paragraph 8 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant admits that Plaintiffs purport to bring their claims under 42 U.S.C. § 1983 and 42 U.S.C. § 1988. Defendant denies that any violation of law has occurred or that Plaintiffs have otherwise demonstrated this Court’s subject matter jurisdiction over any claims asserted in this action.

9. Paragraph 9 contains assertions of law, conclusory statements, and/or argument to

which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant admits that, as a general matter, 28 U.S.C. § 1343(a)(3) grants this Court original jurisdiction to hear a civil action seeking to “redress the deprivation, under color of any State law . . . of any right, privilege or immunity secured by” the United States Constitution or federal law “providing for equal rights of citizens or of all persons within the jurisdiction of the United States,” and that 28 U.S.C. § 1331 grants this Court original jurisdiction to hear civil actions arising under federal law. Defendant denies that any violation of law has occurred or that Plaintiffs have otherwise demonstrated this Court’s subject matter jurisdiction over any claims asserted in this action.

10. Paragraph 10 contains assertions of law, conclusory statements, and/or argument to which no response is required. Defendant denies that any violation of law has occurred.

11. Paragraph 11 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant admits that, as a general matter, 28 U.S.C. § 1391(b) addresses the appropriate venue for cases over which this Court may have jurisdiction, including that “[a] civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.” Defendant denies that any violation of law has occurred.

12. Paragraph 12 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant admits that 28 U.S.C. § 2201 provides, in relevant part, “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought”; and Defendant further admits that 28 U.S.C. § 2202 provides, “[f]urther necessary or proper relief based on a declaratory judgment or

decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.” Defendant denies that any violation of law has occurred or that Plaintiffs have otherwise demonstrated this Court’s subject matter jurisdiction over any claims asserted in this action.

### **PARTIES**

13. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 13, and on that basis denies these allegations in their entirety.

14. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 14, and on that basis denies these allegations in their entirety.

15. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 15, and on that basis denies these allegations in their entirety.

16. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 16, and on that basis denies these allegations in their entirety.

17. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 17, and on that basis denies these allegations in their entirety.

18. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 18, and on that basis denies these allegations in their entirety.

19. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 19, and on that basis denies these allegations in their entirety.

20. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 20, and on that basis denies these allegations in their entirety.

21. Defendant denies that the Challenged Provisions disadvantage Latinx voters in Texas. Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in Paragraph 21, and on that basis denies these allegations in their entirety.

22. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 22, and on that basis denies these allegations in their entirety.

23. Defendant denies that the Challenged Provisions disadvantage African-American voters in Texas. Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in Paragraph 23, and on that basis denies these allegations in their entirety.

24. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 24, and on that basis denies these allegations in their entirety.

25. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 25, and on that basis denies these allegations in their entirety.

26. Defendant admits that Ruth Hughs is the Texas Secretary of State and that she is named in this suit in her official capacity. Defendant admits that Tex. Elec. Code § 31.001(a) provides that the “secretary of state is the chief election officer of the state.” The remaining allegations in Paragraph 26 contain assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any remaining allegations requiring a response, Defendant denies these allegations in their entirety.

### **FACTUAL ALLEGATIONS**

27. Defendant admits that it is currently uncertain how many voters will apply to vote by mail for the November general election, given that the deadline to apply to vote by mail has not yet passed. Defendant denies the remaining allegations in Paragraph 27 of the Complaint.

#### **A. COVID-19’s Impact on In-Person Voting**

28. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 28, and on that basis denies these allegations in their entirety.

29. Defendant lacks sufficient knowledge or information to form a belief about the truth

of the allegations contained in Paragraph 29, and on that basis denies these allegations in their entirety.

30. Defendant denies the allegations in Paragraph 30 of the Complaint.

31. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 31, and on that basis denies these allegations in their entirety.

32. Defendant admits that Plaintiffs have selectively quoted a statement attributed to Governor Abbott. Defendant denies the remaining allegations in Paragraph 32 of the Complaint.

33. Defendant denies the allegations in Paragraph 33 of the Complaint.

34. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 34, and on that basis denies these allegations in their entirety.

35. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 35, and on that basis denies these allegations in their entirety.

36. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 36, and on that basis denies these allegations in their entirety.

37. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 37, and on that basis denies these allegations in their entirety.

38. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 38, and on that basis denies these allegations in their entirety.

39. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 39, and on that basis denies these allegations in their entirety.

40. Defendant denies the allegations in Paragraph 40 of the Complaint.

41. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 41, and on that basis denies these allegations in their entirety.

42. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 42, and on that basis denies these allegations in their entirety.

43. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 43, and on that basis denies these allegations in their entirety.

44. Defendant denies the allegations in Paragraph 44 of the Complaint.

45. Defendant admits that data published by Bexar County reflects that 131,705 voters voted on election day for the general election in 2018. Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in Paragraph 45, and on that basis denies these allegations in their entirety.

46. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 46, and on that basis denies these allegations in their entirety.

47. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 47, and on that basis denies these allegations in their entirety.

48. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 48, and on that basis denies these allegations in their entirety.

**B. Vote by Mail in Texas**

49. Paragraph 49 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

50. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 50, and on that basis denies these allegations in their entirety.

51. Paragraph 51 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant admits that different states may have different laws regarding eligibility to vote by mail. Defendant denies the remaining allegations in Paragraph 51 of the Complaint.

52. Defendant admits that the cited provisions contain some of the eligibility requirements



of who is eligible to vote by mail in Texas, but Defendant denies that those are the only provisions regarding who it eligible to vote by mail in Texas. *See, e.g.*, Tex. Elec. Code chs. 102 & 103.

53. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 53, and on that basis denies these allegations in their entirety.

54. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 54, and on that basis denies these allegations in their entirety.

55. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 55, and on that basis denies these allegations in their entirety.

56. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 56, and on that basis denies these allegations in their entirety.

57. Paragraph 57 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

58. Defendant admits that in 2020, two lawsuits were filed, one in state court and one in federal court, with respect to provisions of the Texas Election Code pertaining to vote-by-mail ballots.

59. Defendant admits that the 201st Judicial District in Travis County issued a temporary injunction on April 17, 2020. Defendant denies the remaining allegations in Paragraph 59 of the Complaint.

60. Defendant admits that Intervenor State of Texas appealed from the order granting a temporary injunction. Defendant denies the remaining allegations in Paragraph 60 of the Complaint.

**C. Vote by Mail Restrictions in Light of COVID-19**

61. Defendant denies the allegations in Paragraph 61 in their entirety.

62. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 62, and on that basis denies these allegations in their

entirety.

63. Paragraph 63 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

64. Defendant denies the allegations in Paragraph 64 of the Complaint.

65. Paragraph 65 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

#### **Postage Tax**

66. Defendant denies the allegations in Paragraph 66 of the Complaint.

67. Defendant denies the allegations in Paragraph 67 of the Complaint.

68. Defendant denies the allegations in Paragraph 68 of the Complaint.

69. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 69, and on that basis denies these allegations in their entirety.

70. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 70, and on that basis denies these allegations in their entirety.

71. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 71, and on that basis denies these allegations in their entirety.

72. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 72, and on that basis denies these allegations in their entirety.

73. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 73, and on that basis denies these allegations in their entirety.

74. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 74, and on that basis denies these allegations in their entirety.

75. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 75, and on that basis denies these allegations in their entirety.

76. Paragraph 76 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

**Ballot Receipt Deadline**

77. Defendant admits that Tex. Elec. Code § 86.007 provides deadlines by which “a marked ballot voted by mail must arrive at the address on the carrier envelope.” Defendant denies the remaining allegations in Paragraph 77 of the Complaint.

78. Defendant denies that Tex. Elec. Code § 86.007 is misleading. Defendant lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in Paragraph 78, and on that basis denies these allegations in their entirety.

79. Defendant denies the allegations in Paragraph 79 of the Complaint.

80. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 80, and on that basis denies these allegations in their entirety.

81. Defendant lacks sufficient knowledge or information to form a belief about the truth

of the allegations contained in Paragraph 81, and on that basis denies these allegations in their entirety.

82. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 82, and on that basis denies these allegations in their entirety.

83. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 83, and on that basis denies these allegations in their entirety.

84. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 84, and on that basis denies these allegations in their entirety.

85. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 85, and on that basis denies these allegations in their entirety.

86. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 86, and on that basis denies these allegations in their entirety.

87. Defendant denies the allegations in Paragraph 87 of the Complaint.

88. Defendant denies the allegations in Paragraph 88 of the Complaint.

89. Defendant denies the allegations in Paragraph 89 of the Complaint.

90. Paragraph 90 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

91. Paragraph 91 contains assertions of law, conclusory statements, and/or argument to

which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

92. Defendant denies the allegations in Paragraph 92 of the Complaint.

93. Defendant admits that the Secretary of State, Elections Division, provided advice regarding early voting by mail in November 2018. Defendant denies that Plaintiffs accurately describe the guidance provided and denies the remaining allegations in Paragraph 93 of the Complaint.

94. Defendant denies the allegations in Paragraph 94 of the Complaint.

95. Paragraph 95 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

#### **Signature Match Requirement**

96. Paragraph 96 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

97. Defendant denies the allegations in Paragraph 97 of the Complaint.

98. Defendant admits that the Office of the Texas Secretary of State, Elections Division, has provided guidance providing, in part, that “As part of the Signature Verification Committee their duty is to compare signatures, however we understand that the SVC are not handwriting experts. With that said it is at the discretion of the committee members to use their best judgment and to verify if these signatures are the same.” Defendant further admits that the Office of the Texas Secretary of State, Elections Division, has provided guidance providing, in part, that “Even if unsure the [Signature Verification Committee] must make a decision whether to accept or reject a signature.” Defendant denies the remaining allegations in Paragraph 98 of the Complaint.

99. Defendant denies the allegations in Paragraph 99 of the Complaint.

100. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraph 100, and on that basis denies these allegations in their entirety.

101. Defendant denies the allegations in Paragraph 101 of the Complaint.

102. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation that “[r]ecent studies also suggest that there are differential patterns of rejected mail in ballots across racial and ethnic groups, which causes a disparate impact on non-White voters’ ability to have their mail-in ballots counted.” On that basis, Defendant denies this allegation in its entirety. Defendant denies the remaining allegations in Paragraph 102 of the Complaint.

103. Defendant admits that Tex. Elec. Code § 87.0431 provides, in part, that “[n]ot later than the 10th day after election day, the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter at the residence address on the ballot application.” Defendant denies the remaining allegations in Paragraph 103 of the Complaint.

104. Defendant denies the allegations in Paragraph 104 of the Complaint.

#### **Voter Assistance Ban**

105. Defendant denies that Plaintiffs have accurately described Tex. Elec. Code § 86.006 and denies the remaining allegations in Paragraph 105 of the Complaint.

106. Defendant denies the allegations in Paragraph 106 of the Complaint.

107. Defendant denies the allegations in Paragraph 107 of the Complaint.

108. Defendant denies the allegations in Paragraph 108 of the Complaint.

109. Defendant denies the allegations in Paragraph 109 of the Complaint.

110. Paragraph 110 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a

response, Defendant denies these allegations in their entirety.

111. Defendant denies the allegations in Paragraph 111 of the Complaint.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

#### **Violations of First and Fourteenth Amendments: Undue Burden on the Right to Vote (All Vote by Mail Requirements) U.S. Const. amends. 1, 14; 42 U.S.C. § 1983:**

112. Defendant repeats and reaffirms her answers to each and every allegation contained in the paragraphs above and incorporate the same herein as though fully set forth.

113. Paragraph 113 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

114. Paragraph 114 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

115. Paragraph 115 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

116. Paragraph 116 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

117. Paragraph 117 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

118. Defendant denies the allegations in Paragraph 118 of the Complaint.

119. Paragraph 119 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

120. Paragraph 120 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

121. Paragraph 121 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

## **SECOND CLAIM FOR RELIEF**

### **VIOLATION OF FOURTEENTH AMENDMENT: Equal Protection (Ballot Receipt Deadline and Signature Match Requirement)**

122. Defendant repeats and reaffirms her answers to each and every allegation contained in the paragraphs above and incorporate the same herein as though fully set forth.

123. Paragraph 123 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

124. Paragraph 124 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

## **THIRD CLAIM FOR RELIEF**

### **VIOLATION OF FOURTEENTH AMENDMENT: Procedural Due Process (Signature Match Requirement and Voter Assistance Ban) U.S. Const. amend. 14; 42 U.S.C. § 1983**

125. Defendant repeats and reaffirms her answers to each and every allegation contained in



the paragraphs above and incorporate the same herein as though fully set forth.

126. Paragraph 126 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

127. Paragraph 127 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

#### **FOURTH CLAIM FOR RELIEF**

##### **VIOLATIONS OF FOURTEENTH AND TWENTY-FOURTH AMENDMENTS:**

##### **Prohibition on Poll Tax**

##### **(Postage Tax)**

##### **U.S. Const. amends. 14, 24; 42 U.S.C. § 1983**

128. Defendant repeats and reaffirms her answers to each and every allegation contained in the paragraphs above and incorporate the same herein as though fully set forth.

129. Paragraph 129 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

130. Paragraph 130 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

131. Paragraph 131 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a response, Defendant denies these allegations in their entirety.

132. Defendant denies the allegations in Paragraph 132 of the Complaint.

133. Paragraph 133 contains assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that this Paragraph contains any allegations requiring a

response, Defendant denies these allegations in their entirety.

### **PRAYER FOR RELIEF**

Paragraphs (A)-(F) of this section contain Plaintiffs' recitation of the relief sought in this action, assertions of law, conclusory statements, and/or argument to which no response is required. To the extent that Paragraphs (A)-(F) contain any allegations requiring a response, Defendant denies those allegations in their entirety. Defendant further denies that Plaintiffs are entitled to any relief from this Court.

### **DEFENSES AND AFFIRMATIVE DEFENSES**

1. Defendant asserts the defense of Eleventh Amendment immunity to all claims.
2. Defendant asserts that the Court lacks subject-matter jurisdiction over Plaintiffs' claims.
3. Defendant asserts that Plaintiffs lack standing (Article III, statutory, and prudential) to pursue any of the claims asserted in this action.
4. Defendant asserts that Plaintiffs have failed to state a claim upon which relief can be granted.
5. Defendant asserts that Plaintiffs lack a private cause of action to bring their claims.
6. Defendant asserts that laches bars Plaintiffs' request for relief because Plaintiffs inexcusably waited to file suit and seek relief. This inexcusable delay has prejudiced Defendant, the State of Texas, and Texans.
7. Defendant reserves the right to amend these defenses or raise additional defenses as they become known to Defendant during the development of this case.

### **DEFENDANT'S PRAYER**

For the foregoing reasons, Defendant asks the Court to enter judgment that Plaintiffs take nothing, dismiss Plaintiffs' suit with prejudice, assess costs against Plaintiffs, and award Defendant all other relief the Court deems appropriate.

Date: August 11, 2020

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

RYAN L. BANGERT  
Deputy First Assistant Attorney General

Respectfully submitted.

/s/ Patrick K. Sweeten  
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**COUNSEL FOR TEXAS SECRETARY OF  
STATE**

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 11, 2020, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten  
PATRICK K. SWEETEN