

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**PEOPLE FIRST OF ALABAMA, ET AL,  
PLAINTIFFS,**

**v.**

**JOHN MERRILL, ET AL,  
DEFENDANTS.**

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**CASE NUMBER: 2:20-cv-00619-AKK**

**ANSWER OF DEFENDANT JUDGE DON DAVIS**

COMES NOW, Defendant Judge Don Davis, and answers the First Amended Complaint against him, as follows:

1. Defendant Judge Don Davis (“Defendant Davis”) admits that the purported, listed plaintiffs have filed an amended complaint against the purported, listed Defendants. Defendant Davis denies the remaining material allegations of paragraph 1 of the First Amended Complaint as pled, as they pertain to him, and demands strict proof thereof.

2. Defendant Davis admits that the Governor of Alabama and the President of the United States declared states of emergency on or about March 13, 2020 related to the COVID-19 viral outbreak. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 2 of the First Amended Complaint as pled and, therefore, denies the remaining material allegations of paragraph 2 of the First Amended Complaint as pled, and demands strict proof thereof.

3. Defendant Davis admits that Governor Kay Ivey’s public health orders speak for themselves. Defendant Davis admits that ADPH and the CDC have issued guidelines related to the COVID-19 viral outbreak. Defendant Davis denies any remaining material allegations of paragraph 3 of the First Amended Complaint as pled, and demands strict proof thereof.

4. Defendant Davis admits that Governor Kay Ivey's public health orders speak for themselves. Defendant Davis denies any remaining material allegations of paragraph 4 of the First Amended Complaint as pled, and demands strict proof thereof.

5. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 5 of the First Amended Complaint, as pled, and demands strict proof thereof.

6. Defendant Davis admits that Secretary Merrill issued an emergency order related to the excuse requirement for absentee voters, which speaks for itself. Defendant Davis denies that Secretary Merrill has failed to take similar action for any other 2020 election. Defendant Davis denies any remaining material allegations of paragraph 6 of the First Amended Complaint, as pled, and demands strict proof thereof.

7. Defendant Davis denies the material allegations of paragraph 7 of the First Amended Complaint, as pled, and demands strict proof thereof.

8. Defendant Davis denies the material allegations of paragraph 8 of the First Amended Complaint, as pled, and in light of Secretary Merrill's emergency orders, and demands strict proof thereof.

9. Defendant Davis admits that a voter's signature on an absentee ballot must be notarized or two witnesses must sign, as required by State law. Defendant Davis denies any remaining material allegations of paragraph 9 of the First Amended Complaint, as pled, and demands strict proof thereof.

10. Defendant Davis denies the material allegations of paragraph 10 of the First Amended Complaint, as pled, and demands strict proof thereof.

11. Defendant Davis denies the material allegations of paragraph 11 of the First

Amended Complaint, as pled, and demands strict proof thereof.

12. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations related to statistics stated in paragraph 12 of the First Amended Complaint, and therefore denies the statistical information stated in paragraph 12 of the First Amended Complaint. Defendant Davis denies the remaining material allegations of paragraph 12 of the First Amended Complaint, as pled, and demands strict proof thereof.

13. Defendant Davis admits that the provisions of Alabama law safeguard the integrity of absentee voting. Defendant Davis is without sufficient information or knowledge to admit or deny the statistical information stated in paragraph 13 of the First Amended Complaint, and therefore denies the statistical information stated in paragraph 13 of the First Amended Complaint. Defendant Davis denies any remaining material allegations of paragraph 13 of the First Amended Complaint, as pled, and demands strict proof thereof.

14. Defendant Davis admits that the Excuse and Witness Requirement advance valid state interests. Defendant Davis denies the remaining material allegations of paragraph 14 of the First Amended Complaint, as pled, and demands strict proof thereof.

15. Defendant Davis denies the material allegations of paragraph 15 of the First Amended Complaint, as pled, and demands strict proof thereof.

16. Defendant Davis admits that curbside voting, as described in paragraph 16 of the First Amended Complaint, is not authorized by Alabama law. Defendant Davis understands that Secretary Merrill also maintains that curbside voting is not authorized by Alabama law. Defendant Davis is without sufficient information or knowledge regarding “curbside voting” and other states, and therefore denies any allegations related to curbside voting in other states and demands strict proof thereof. Defendant Davis denies the remaining material allegations of

paragraph 16 of the First Amended Complaint, as pled, and demands strict proof thereof.

17. Defendant Davis denies the material allegations of paragraph 17 of the First Amended Complaint, as pled, and demands strict proof thereof.

18. Defendant Davis admits that the orders of this Court, the Eleventh Circuit and the United States Supreme Court speak for themselves. Defendant Davis denies any remaining material allegations of paragraph 18 of the First Amended Complaint, as pled, and demands strict proof thereof.

19. Defendant Davis denies that the CDC Guidelines on election procedures are binding, dispositive or fully considerate of fraud and other election/voting concerns that exist concurrent with the COVID-19 pandemic. Defendant Davis admits that the CDC Guidelines speak for themselves. Defendant Davis admits that elections in Mobile County, Alabama (with the exception of curbside voting) meet or exceed the CDC Guidelines beginning with the July 14, 2020 runoff election. Defendant Davis denies any remaining material allegations of paragraph 19 of the First Amended Complaint, as pled, and demands strict proof thereof.

20. Defendant Davis denies the material allegations of paragraph 20 of the First Amended Complaint, as pled and demands strict proof thereof.

21. Defendant Davis without sufficient information or knowledge to admit or deny the statistical allegations of paragraph 21 of the First Amended Complaint and therefore denies the statistical allegations of paragraph 21 of the First Amended Complaint and demands strict proof thereof. Defendant Davis denies the remaining material allegations of paragraph 21 of the First Amended Complaint, as pled, and demands strict proof thereof.

22. Defendant Davis admits that Secretary Merrill's emergency orders speak for themselves. Defendant Davis is without sufficient information or knowledge to admit or deny

the statistical allegations asserted in paragraph 22 of the First Amended Complaint and therefore denies the statistical allegations asserted in paragraph 22 of the First Amended Complaint and demands strict proof thereof. Defendant Davis denies any other remaining material allegations of paragraph 22 of the First Amended Complaint, as pled, and demands strict proof thereof.

23. Defendant Davis without sufficient information or knowledge to admit or deny the statistical information asserted in paragraph 23 of the First Amended Complaint and therefore denies the statistical information asserted in paragraph 23 of the First Amended Complaint. Defendant Davis denies the remaining allegations of paragraph 23 of the First Amended Complaint, as pled, and demands strict proof thereof.

24. Defendant Davis denies the material allegations of paragraph 24 of the First Amended Complaint, as pled, and demands strict proof thereof.

25. Defendant Davis denies the material allegations of paragraph 25 of the First Amended Complaint, as pled and demands strict proof thereof.

26. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 26 of the First Amended Complaint and therefore denies the material allegations of paragraph 26 of the First Amended Complaint, as pled, and demands strict proof thereof.

27. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis does not have sufficient information or knowledge regarding the members of People First and therefore denies the allegations related to the members of People First, as pled, and demands strict proof thereof. Defendant Davis denies that voters eligible to vote absentee in July 14, 2020 runoff under Secretary Merrill's emergency order are ineligible to vote absentee in the remaining 2020 elections, in light of Secretary Merrill's more

recent emergency order. Defendant Davis denies any remaining material allegations of paragraph 27 of the First Amended Complaint, as pled, and demands strict proof thereof.

28. Defendant Davis does not have sufficient information or knowledge regarding the members of People First and therefore denies the allegations related to the members of People First, as pled, and demands strict proof thereof. Defendant Davis denies the remaining material allegations of paragraph 28 of the First Amended Complaint.

29. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Robert Clopton, and therefore denies the personal information about Robert Clopton and demands strict proof thereof. Defendant Davis admits that according to the Mobile Absentee Election Manager records (at Mobile AEM001340), Robert Clopton voted by Absentee Ballot, and that said ballot was counted, in the July 14, 2020 runoff election. Therefore, Defendant Davis denies that Robert Clopton cannot satisfy the Excuse or Witness Requirements. Defendant Davis denies any remaining material allegations of paragraph 29 of the First Amended Complaint, as pled, and demands strict proof thereof.

30. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Eric Peebles, and therefore denies the personal information about Eric Peebles and demands strict proof thereof. Furthermore, Eric Peebles is not a resident of Mobile County, and therefore Defendant Davis denies that his allegations in the First Amended Complaint apply to Defendant Davis. Defendant denies any remaining material allegations of paragraph 30 of the First Amended Complaint, as pled, and demands strict proof thereof.

31. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Howard Porter, Jr., and therefore denies the personal information about Howard Porter, Jr. and demands strict proof thereof. Defendant Davis admits that

according to the Mobile Absentee Election Manager records (at Mobile AEM004627-004628), Howard Porter, Jr. applied for an Absentee Ballot for the July 14, 2020 runoff election, and selected an option that did not require a Photo ID, but failed to make the submission timely. Therefore, Defendant Davis denies that Robert Clopton cannot satisfy the Excuse and Photo ID Requirement. Defendant Davis denies any remaining material allegations of paragraph 31 of the First Amended Complaint, as pled, and demands strict proof thereof.

32. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Annie Carolyn Thompson, and therefore denies the personal information about Annie Carolyn Thompson and demands strict proof thereof. Defendant Davis admits that according to the Mobile Absentee Election Manager records (at Mobile AEM004622-004626), Annie Carolyn Thompson applied for, and was sent, an Absentee Ballot, in the July 14, 2020 runoff election, but that she never returned the Absentee Ballot to be counted. Furthermore, Annie Carolyn Thompson chose an option that did not require a Photo ID. Therefore, Defendant Davis denies that Annie Carolyn Thompson cannot satisfy the Excuse or Photo ID Requirements. Defendant Davis denies any remaining material allegations of paragraph 32 of the First Amended Complaint, as pled, and demands strict proof thereof.

33. Defendant Davis does not have sufficient information or knowledge of Greater Birmingham Ministries to admit or deny the allegations of paragraph 33 of the First Amended Complaint and therefore denies the material allegations of paragraph 33 of the First Amended Complaint, as pled, and demands strict proof thereof.

34. Defendant Davis does not have sufficient information or knowledge of Greater Birmingham Ministries to admit or deny the allegations of paragraph 34 of the First Amended Complaint and therefore denies the material allegations of paragraph 34 of the First Amended

Complaint, as pled, and demands strict proof thereof.

35. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis does not have sufficient information or knowledge regarding the members of Greater Birmingham Ministries and therefore denies the allegations related to the members of Greater Birmingham Ministries, as pled, and demands strict proof thereof. As pled, the members of Greater Birmingham Ministries do not reside in Mobile County, and therefore the claims of Greater Birmingham Ministries do not apply to Defendant Davis. Defendant Davis denies any remaining material allegations of paragraph 35 of the First Amended Complaint, as pled, and demands strict proof thereof.

36. Because Greater Birmingham Ministries does not allege that any members reside in Mobile County, Defendant Davis denies that any allegations of Greater Birmingham Ministries apply as to Defendant Davis. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis denies any remaining material allegations of paragraph 36 of the First Amended Complaint, as pled, and demands strict proof thereof.

37. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 37 of the First Amended Complaint, and therefore denies the material allegations of paragraph 37 of the First Amended Complaint and demands strict proof thereof.

38. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 38 of the First Amended Complaint, and therefore denies the material allegations of paragraph 38 of the First Amended Complaint and demands strict proof thereof.



39. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis does not have sufficient information or knowledge regarding the members of the Alabama NAACP and therefore denies the allegations related to the members of NAACP, as pled, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 39 of the First Amended Complaint, as pled, and demands strict proof thereof.

40. Defendant Davis denies the material allegations of paragraph 40 of the First Amended Complaint, as pled, and demands strict proof thereof.

41. Defendant Davis denies the material allegations of paragraph 41 of the First Amended Complaint, as pled, and demands strict proof thereof.

42. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 42 of the First Amended Complaint, and therefore denies the material allegations of paragraph 42 of the First Amended Complaint, as pled, and demands strict proof thereof.

43. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 43 of the First Amended Complaint, and therefore denies the material allegations of paragraph 43 of the First Amended Complaint, as pled, and demands strict proof thereof.

44. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 44 of the First Amended Complaint, and therefore denies the material allegations of paragraph 44 of the First Amended Complaint, as pled, and demands strict proof thereof.

45. Defendant Davis does not have sufficient information or knowledge to admit or

deny the allegations of paragraph 45 of the First Amended Complaint, and therefore denies the material allegations of paragraph 45 of the First Amended Complaint, as pled, and demands strict proof thereof.

46. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 46 of the First Amended Complaint, and therefore denies the material allegations of paragraph 46 of the First Amended Complaint, as pled, and demands strict proof thereof.

47. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 47 of the First Amended Complaint, and therefore denies the material allegations of paragraph 47 of the First Amended Complaint, as pled, and demands strict proof thereof.

48. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 48 of the First Amended Complaint, and therefore denies the material allegations of paragraph 48 of the First Amended Complaint, as pled, and demands strict proof thereof.

49. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 49 of the First Amended Complaint, and therefore denies the material allegations of paragraph 49 of the First Amended Complaint, as pled, and demands strict proof thereof.

50. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 50 of the First Amended Complaint, and therefore denies the

material allegations of paragraph 50 of the First Amended Complaint, as pled, and demands strict proof thereof.

51. Defendant Davis denies the material allegations of paragraph 51 of the First Amended Complaint, as pled, and demands strict proof thereof.

52. Defendant Davis denies the material allegations of paragraph 51 of the First Amended Complaint, as pled, and demands strict proof thereof.

53. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Teresa Bettis, and therefore denies the personal information about Teresa Bettis and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 53 of the First Amended Complaint, as pled, and demands strict proof thereof.

54. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Teresa Bettis, and therefore denies the personal information about Teresa Bettis and demands strict proof thereof. Defendant Davis admits that according to the Mobile Absentee Election Manager records (at Mobile AEM001298), Teresa Bettis applied for, and was sent, an Absentee Ballot, in the July 14, 2020 runoff election, but that she never returned the Absentee Ballot to be counted. Therefore, Defendant Davis denies that Annie Carolyn Thompson cannot satisfy the Excuse or Photo ID Requirements. Defendant Davis denies any remaining material allegations of paragraph 54 of the First Amended Complaint, as pled, and demands strict proof thereof.

55. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Sheryl Threadgill-Matthews, and therefore denies the personal information about Sheryl Threadgill-Matthews and demands strict proof thereof. Furthermore,

Sheryl Threadgill-Matthews is not a resident of Mobile County, and therefore Defendant Davis denies that her allegations in the First Amended Complaint apply to Defendant Davis.

Defendant denies any remaining material allegations of paragraph 55 of the First Amended Complaint, as pled, and demands strict proof thereof.

56. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Sheryl Threadgill-Matthews, and therefore denies the personal information about Sheryl Threadgill-Matthews and demands strict proof thereof. Furthermore, Sheryl Threadgill-Matthews is not a resident of Mobile County, and therefore Defendant Davis denies that her allegations in the First Amended Complaint apply to Defendant Davis.

Defendant denies any remaining material allegations of paragraph 56 of the First Amended Complaint, as pled, and demands strict proof thereof.

57. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Gregory Bentley, and therefore denies the personal information about Gregory Bentley and demands strict proof thereof. Furthermore, Gregory Bentley is not a resident of Mobile County, and therefore Defendant Davis denies that his allegations in the First Amended Complaint apply to Defendant Davis. Defendant denies any remaining material allegations of paragraph 57 of the First Amended Complaint, as pled, and demands strict proof thereof.

58. Defendant Davis is without sufficient information or knowledge to admit or deny the personal information about Gregory Bentley, and therefore denies the personal information about Gregory Bentley and demands strict proof thereof. Furthermore, Gregory Bentley is not a resident of Mobile County, and therefore Defendant Davis denies that his allegations in the First Amended Complaint apply to Defendant Davis. Defendant denies any remaining material

allegations of paragraph 57 of the First Amended Complaint, as pled, and demands strict proof thereof.

59. Defendant admits that John Merrill is the Secretary of State of Alabama and seemingly sued in his official capacity. Defendant further admits that Secretary John Merrill is Alabama's chief election officer and charged with enforcing Alabama election law. Defendant Davis admits that Secretary John Merrill's role and obligations with regard to elections is set forth in Alabama law, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 59 of the First Amended Complaint, as pled, and demands strict proof thereof.

60. Defendant Davis admits that the State of Alabama is a State of the United States of America. Defendant Davis admits that First Amended Complaint speaks for itself with regards to the claims against the State. Defendant Davis declines to admit or deny the legal conclusions in paragraph 60 of the First Amended Complaint. Defendant Davis denies any remaining material allegations of paragraph 60 of the First Amended Complaint, as pled, and demands strict proof thereof.

61. Defendant Davis admits that JoJo Schwarzauser is the Circuit Clerk of Mobile County, Alabama and the Absentee Election Manager of Mobile County, Alabama. Defendant Davis cannot confirm the titles, if any, of the other named Defendants in paragraph 61. The roles and obligations of circuit clerks and absentee election managers are set forth in Alabama law, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 61 of the First Amended Complaint, as pled, and demands strict proof thereof.

62. Defendant Davis admits that the Defendants named in paragraph 62 of the First Amended Complaint are the probate judges of their respective counties. Defendant Davis admits

that probate judges have the responsibilities and obligations with regards to elections as set forth in Alabama law, which speaks for itself. Defendant Davis specifically denies that probate judges have any role in enforcing the Excuse Requirement, the Witness Requirement or the Photo ID Requirement, or that they have any power or authority to authorize curbside voting. Defendant Davis denies any remaining material allegations of paragraph 62 of the First Amended Complaint and demands strict proof thereof.

63. Defendant Davis denies that the Plaintiffs are entitled to relief under the constitutional and statutory provisions set forth in paragraph 63 of the First Amended Complaint, as pled, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 63 of the First Amended Complaint, as pled, and demands strict proof thereof.

64. Defendant Davis denies the material allegations of paragraph 64 of the First Amended Complaint, as pled, and demands strict proof thereof.

65. Defendant Davis denies that the Plaintiffs are entitled to declaratory relief and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 65 of the First Amended Complaint and demands strict proof thereof.

66. Defendant Davis denies the material allegations of paragraph 66 of the First Amended Complaint, as pled, and demands strict proof thereof.

67. Defendant Davis admits that COVID-19 has and is spreading in the United States, that it is caused by SARS-CoV-2 and that people in all age groups have contracted the disease. Defendant Davis is without sufficient information or knowledge to admit or deny whether the spread is “exponential,” whether it is a respiratory disease, whether the spread can be categorized as “aggressive” and to what extent it is spread by asymptomatic people, and as such denies these

allegations, as pled in paragraph 67 of the First Amended Complaint, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 67, as pled, and demands strict proof thereof.

68. Defendant Davis does not have sufficient information or knowledge to admit or deny the statistical allegations of paragraph 68, and therefore denies the statistical allegations of paragraph 68 of the First Amended Complaint, as pled, and demands strict proof thereof. Defendant Davis does not have sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 68 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 68 of the First Amended Complaint as pled, and demands strict proof thereof.

69. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 69 of the First Amended Complaint, and therefore denies the material allegations of paragraph 69 of the First Amended Complaint, as pled, and demands strict proof thereof.

70. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 70 of the First Amended Complaint, and therefore denies the material allegations of paragraph 70 of the First Amended Complaint, as pled, and demands strict proof thereof.

71. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 71 of the First Amended Complaint, and therefore denies the material allegations of paragraph 71 of the First Amended Complaint, as pled, and demands strict proof thereof.

72. Defendant does not have sufficient information or knowledge to admit or deny the

allegations of paragraph 72 of the First Amended Complaint, and therefore denies the material allegations of paragraph 72 of the First Amended Complaint, as pled, and demands strict proof thereof.

73. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 73 of the First Amended Complaint, and therefore denies the material allegations of paragraph 73 of the First Amended Complaint, as pled, and demands strict proof thereof.

74. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 74 of the First Amended Complaint, and therefore denies the material allegations of paragraph 74 of the First Amended Complaint, as pled, and demands strict proof thereof.

75. Defendant Davis admits that the CDC recommends individuals remain at least 6 feet apart. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 75 of the First Amended Complaint, and therefore denies the material allegations of paragraph 75 of the First Amended Complaint, as pled, and demands strict proof thereof.

76. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 76 of the First Amended Complaint, and therefore denies the material allegations of paragraph 76 of the First Amended Complaint, as pled, and demands strict proof thereof.

77. Defendant does not have sufficient information or knowledge to admit or deny the allegations of paragraph 77 of the First Amended Complaint, and therefore denies the material allegations of paragraph 77 of the First Amended Complaint, as pled, and demands strict proof



thereof.

78. Defendant Davis admits that the CDC has issued guidelines, which speak for themselves. Defendant Davis denies that CDC guidelines related to voting are binding, dispositive or fully considerate of fraud and other election/voting concerns that exist concurrent with the COVID-19 pandemic. Defendant Davis denies any remaining material allegations of paragraph 78 of the First Amended Complaint, as pled, and demands strict proof thereof.

79. Defendant Davis denies that any citizen in Mobile County cannot safely vote under the current Alabama law. Defendant Davis does not have sufficient information or knowledge to admit or deny the procedures of the United States Post Office, and therefore denies any such allegations, as pled, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 79 of the First Amended Complaint, as pled, and demands strict proof thereof.

80. Defendant Davis does not have sufficient information or knowledge to admit or deny the alleged facts related to Florida and Wisconsin voting, and therefore denies these allegations, as pled, and demands strict proof thereof. Defendant Davis denies that any citizen in Mobile County cannot safely vote under the current Alabama law. Defendant Davis denies any remaining material allegations of paragraph 80 of the First Amended Complaint, as pled, and demands strict proof thereof.

81. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 81 of the First Amended Complaint, and therefore denies the allegations of paragraph 81 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

82. Defendant Davis is without sufficient information or knowledge to admit or deny

the allegations of paragraph 82 of the First Amended Complaint, and therefore denies the allegations of paragraph 82 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

83. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 83 of the First Amended Complaint, and therefore denies the allegations of paragraph 83 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

84. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 84 of the First Amended Complaint, and therefore denies the allegations of paragraph 84 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

85. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 85 of the First Amended Complaint, and therefore denies the allegations of paragraph 85 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

86. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 86 of the First Amended Complaint, and therefore denies the allegations of paragraph 86 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

87. Defendant Davis admits that Governor Ivey and ADPH have urged social distancing. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 87 of the First Amended Complaint, and therefore denies the allegations of paragraph 87 of the First Amended Counterclaim, as pled, and demands strict proof thereof.

88. Defendant Davis admits that Governor Ivey and ADPH have taken steps and issued orders, which speak for themselves. Defendant Davis denies any remaining material allegations of paragraph 88 of the First Amended Complaint, as pled, and demands strict proof thereof.

89. Admitted.

90. Defendant Davis admits that Governor Ivey and ADPH issued a health order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 90 of the First Amended Complaint, as pled, and demands strict proof thereof.

91. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 91 of the First Amended Complaint, and therefore denies the material allegations of paragraph 91 of the First Amended Complaint, as pled, and demands strict proof thereof.

92. Defendant Davis admits that Governor Ivey issued a proclamation related to numerous issues, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 92 of the First Amended Complaint, as pled, and demands strict proof thereof.

93. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 93 of the First Amended Complaint, and therefore denies the material allegations of paragraph 93 of the First Amended Complaint, as pled, and demands strict proof thereof.

94. Defendant Davis admits that Governor Ivey issued a proclamation related to numerous issues, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 94 of the First Amended Complaint, as pled, and demands strict proof

thereof.

95. Defendant Davis admits that Governor Ivey and Scott Harris issued an order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 95 of the First Amended Complaint, as pled, and demands strict proof thereof.

96. Defendant Davis admits that Governor Ivey and Scott Harris issued an order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 96 of the First Amended Complaint, as pled, and demands strict proof thereof.

97. Defendant Davis admits that Governor Ivey and Scott Harris issued an order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 97 of the First Amended Complaint, as pled, and demands strict proof thereof.

98. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 98 of the First Amended Complaint, and therefore denies the material allegations of paragraph 98 of the First Amended Complaint, as pled, and demands strict proof thereof.

99. Defendant Davis is without sufficient information or knowledge to admit or deny the allegations of paragraph 99 of the First Amended Complaint, and therefore denies the material allegations of paragraph 99 of the First Amended Complaint, as pled, and demands strict proof thereof.

100. Defendant Davis admits that Governor Ivey issued an order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 100 of the First Amended Complaint, as pled, and demands strict proof thereof.

101. Defendant Davis admits that Governor Ivey issued an order, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 101 of the First

Amended Complaint, as pled, and demands strict proof thereof.

102. Defendant Davis denies that COVID-19 cases are on the rise in Mobile County at this time. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 102 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 102 of the First Amended Complaint, as pled, and demands strict proof thereof.

103. Defendant Davis denies that Mobile County is currently experiencing a “large spike” in COVID-19 cases. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 103 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 103 of the First Amended Complaint, as pled, and demands strict proof thereof.

104. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 104 of the First Amended Complaint, and therefore denies the material allegations of paragraph 104 of the First Amended Complaint, as pled, and demands strict proof thereof.

105. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 105 of the First Amended Complaint, and therefore denies the material allegations of paragraph 105 of the First Amended Complaint, as pled, and demands strict proof thereof.

106. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 106 of the First Amended Complaint, and therefore denies the material allegations of paragraph 106 of the First Amended Complaint, as pled, and demands strict proof thereof.

107. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 107 of the First Amended Complaint, and therefore denies the material allegations of paragraph 107 of the First Amended Complaint, as pled, and demands strict proof thereof.

108. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 108 of the First Amended Complaint, and therefore denies the material allegations of paragraph 108 of the First Amended Complaint, as pled, and demands strict proof thereof.

109. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 109 of the First Amended Complaint, and therefore denies the material allegations of paragraph 109 of the First Amended Complaint, as pled, and demands strict proof thereof.

110. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 110 of the First Amended Complaint, and therefore denies the material allegations of paragraph 110 of the First Amended Complaint, as pled, and demands strict proof thereof.

111. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 111 of the First Amended Complaint, and therefore denies the material allegations of paragraph 111 of the First Amended Complaint, as pled, and demands strict proof thereof.

112. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 112 of the First Amended Complaint, and therefore denies the material allegations of paragraph 112 of the First Amended Complaint, as pled, and demands

strict proof thereof.

113. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 113 of the First Amended Complaint, and therefore denies the material allegations of paragraph 113 of the First Amended Complaint, as pled, and demands strict proof thereof.

114. Defendant Davis admits that in Mobile County, Alabama, the July 14, 2020 election has already occurred and another election is planned for November 3, 2020. Defendant Davis denies any remaining material allegations of paragraph 114 of the First Amended Complaint, as pled, and demands strict proof thereof.

115. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 115 of the First Amended Complaint, and therefore denies the material allegations of paragraph 115 of the First Amended Complaint, as pled, and demands strict proof thereof.

116. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 116 of the First Amended Complaint, and therefore denies the material allegations of paragraph 116 of the First Amended Complaint, as pled, and demands strict proof thereof.

117. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 117 of the First Amended Complaint, and therefore denies the material allegations of paragraph 117 of the First Amended Complaint, as pled, and demands strict proof thereof.

118. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 118 of the First Amended Complaint, and therefore denies

the material allegations of paragraph 118 of the First Amended Complaint, as pled, and demands strict proof thereof.

119. Defendant Davis admits that Governor Ivey declared a state of emergency in Alabama. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 119 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 119 of the First Amended Complaint, as pled, and demands strict proof thereof.

120. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 120 of the First Amended Complaint, and therefore denies the material allegations of paragraph 120 of the First Amended Complaint, as pled, and demands strict proof thereof.

121. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 121 of the First Amended Complaint, and therefore denies the material allegations of paragraph 121 of the First Amended Complaint, as pled, and demands strict proof thereof.

122. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 122 of the First Amended Complaint, and therefore denies the material allegations of paragraph 122 of the First Amended Complaint, as pled, and demands strict proof thereof.

123. Defendant Davis is aware the Attorney General issued an opinion regarding the Governor's authority to postpone the primary runoff, which speaks for itself. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 123 of the First Amended Complaint, and therefore denies the material allegations



of paragraph 123 of the First Amended Complaint, as pled, and demands strict proof thereof.

124. Defendant Davis admits that Governor Ivey postponed the March 31, 2020 primary runoff to July 14, 2020. Defendant Davis is without sufficient information or knowledge to admit or deny the remaining material allegations of paragraph 124 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 124 of the First Amended Complaint, as pled, and demands strict proof thereof.

125. Defendant Davis admits that Secretary Merrill issued an emergency rule, which speaks for itself. Defendant Davis is without sufficient information or knowledge to admit or deny any remaining material allegations of paragraph 125 of the First Amended Complaint, and therefore denies any remaining material allegations of paragraph 125 of the First Amended Complaint, as pled, and demands strict proof thereof.

126. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 126 of the First Amended Complaint, and therefore denies the material allegations of paragraph 126 of the First Amended Complaint, as pled, and demands strict proof thereof.

127. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 127 of the First Amended Complaint, and therefore denies the material allegations of paragraph 127 of the First Amended Complaint, as pled, and demands strict proof thereof.

128. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 128 of the First Amended Complaint, and therefore denies the material allegations of paragraph 128 of the First Amended Complaint, as pled, and demands strict proof thereof.

129. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 129 of the First Amended Complaint, and therefore denies the material allegations of paragraph 129 of the First Amended Complaint, as pled, and demands strict proof thereof.

130. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 130 of the First Amended Complaint, and therefore denies the material allegations of paragraph 130 of the First Amended Complaint, as pled, and demands strict proof thereof.

131. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 131 of the First Amended Complaint, and therefore denies the material allegations of paragraph 131 of the First Amended Complaint, as pled, and demands strict proof thereof.

132. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 132 of the First Amended Complaint, and therefore denies the material allegations of paragraph 132 of the First Amended Complaint, as pled, and demands strict proof thereof.

133. Defendant Davis admits that in the past most voters have voted in person. Defendant Davis states that in Mobile County, in-person voting procedures have been significantly modified to reduce the risk of exposure and transmission to voters and poll workers such that the remainder of the allegations of paragraph 133 are no longer accurate. As such, Defendant Davis denies the remaining material allegations of paragraph 133 of the First Amended Complaint, as pled, and demands strict proof thereof.

134. Defendant Davis denies that any Mobile County citizen cannot safely vote under

the current laws. Defendant denies any remaining material allegations of paragraph 134 of the First Amended Complaint, as pled, and demands strict proof thereof.

135. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Furthermore, between (a) Secretary Merrill's emergency order expanding the allowable excuse to vote absentee, and (b) that absentee ballots can be obtained and submitted in person, for the November 2020 election, a person who is concerned about COVID-19 can essentially vote early, in-person. Moreover, voters who are concerned about COVID-19 can vote absentee. Therefore, Defendant Davis denies that "under current state law, most voters will only have one option for how to vote: in person on Election Day." Defendant Davis denies any remaining material allegations of paragraph 135 of the First Amended Complaint, as pled, and demands strict proof thereof.

136. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant denies the remaining material allegations of paragraph 136 of the First Amended Complaint as mere speculation, and demands strict proof thereof.

137. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are "moot" in light of Secretary Merrill's subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 137 of the First Amended Complaint, as pled, and demands strict proof thereof.

138. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are "moot" in light of Secretary Merrill's subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 138 of the First Amended Complaint, as pled, and demands

strict proof thereof.

139. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 139 of the First Amended Complaint, as pled, and demands strict proof thereof.

140. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 140 of the First Amended Complaint, as pled, and demands strict proof thereof.

141. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 141 of the First Amended Complaint, as pled, and demands strict proof thereof.

142. Defendant Davis is without sufficient information or knowledge to admit or deny the material allegations of paragraph 142 of the First Amended Complaint and therefore denies the material allegations of paragraph 142 of the First Amended Complaint, as pled and demands strict proof thereof.

143. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis admits he wrote a letter to

Secretary Merrill and it speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 143 of the First Amended Complaint, as pled, and demands strict proof thereof.

144. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 144 of the First Amended Complaint, as pled, and demands strict proof thereof.

145. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 145 of the First Amended Complaint, as pled, and demands strict proof thereof.

146. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are “moot” in light of Secretary Merrill’s subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 146 of the First Amended Complaint, as pled, and demands strict proof thereof.

147. Defendant Davis admits that Alabama has laws and procedures to ensure the integrity of the absentee voting process, including the Excuse Requirement, the Witness Requirement and the Photo ID Requirement. Defendant Davis admits that the Absentee Election Managers’ roles and obligations are set forth in statute and regulations, which speak for themselves. Defendant Davis denies any remaining material allegations of paragraph 147 of the

First Amended Complaint, as pled, and demands strict proof thereof.

148. Defendant Davis admits that Alabama sets forth the voter's obligations related to absentee balloting, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 148 of the First Amended Complaint, as pled, and demands strict proof thereof.

149. Defendant Davis admits that Alabama sets forth the voter's obligations related to absentee balloting and penalties for violations of same, which speak for themselves. Defendant Davis denies any remaining material allegations of paragraph 149 of the First Amended Complaint, as pled, and demands strict proof thereof.

150. Defendant Davis responds that this Court has already determined that the allegations related to the excuse requirement are "moot" in light of Secretary Merrill's subsequent emergency order. To the extent required, Defendant Davis denies any remaining material allegations of paragraph 150 of the First Amended Complaint, as pled, and demands strict proof thereof.

151. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis denies the remaining material allegations of paragraph 151 of the First Amended Complaint as mere speculation, and demands strict proof thereof.

152. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant Davis denies any remaining material allegations of paragraph 152 of the First Amended Complaint, as pled, and demands strict proof thereof.

153. Defendant is without sufficient information or knowledge to admit or deny the material allegations of paragraph 153 of the First Amended Complaint and therefore denies the material allegations of paragraph 153 of the First Amended Complaint, as pled, and demands

strict proof thereof.

154. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant is without sufficient information or knowledge to admit or deny the material allegations of paragraph 154 of the First Amended Complaint and therefore denies the material allegations of paragraph 154 of the First Amended Complaint, as pled, and demands strict proof thereof.

155. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant is without sufficient information or knowledge to admit or deny the material allegations of paragraph 155 of the First Amended Complaint and therefore denies the material allegations of paragraph 155 of the First Amended Complaint, as pled, and demands strict proof thereof.

156. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant is without sufficient information or knowledge to admit or deny the material allegations of paragraph 156 of the First Amended Complaint and therefore denies the material allegations of paragraph 156 of the First Amended Complaint, as pled, and demands strict proof thereof.

157. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant is without sufficient information or knowledge to admit or deny the material allegations of paragraph 157 of the First Amended Complaint and therefore denies the material allegations of paragraph 157 of the First Amended Complaint, as pled, and demands strict proof thereof.

158. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant is without sufficient information or knowledge to admit or deny the

material allegations of paragraph 158 of the First Amended Complaint and therefore denies the material allegations of paragraph 158 of the First Amended Complaint, as pled, and demands strict proof thereof.

159. Defendant Davis denies that any Mobile County citizen cannot safely vote under the current laws. Defendant denies the remaining material allegations of paragraph 159 of the First Amended Complaint, as pled, as mere speculation, and demands strict proof thereof.

160. Defendant Davis denies that safe and free notary services are unavailable in Mobile County, Alabama. Defendant Davis admits that Governor Ivey issued an order related to notarization, which speaks for itself. Defendant Davis denies the remaining material allegations of paragraph 160 of the First Amended Complaint, as pled, as mere speculation, and demands strict proof thereof.

161. Defendant Davis admits that Alabama state law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 161 of the First Amended Complaint, as pled, and demands strict proof thereof.

162. Defendant Davis is without sufficient information and knowledge to admit or deny the allegations of paragraph 162 of the First Amended Complaint, and therefore denies the material allegations of paragraph 162 of the First Amended Complaint, as pled, and demands strict proof thereof.

163. Defendant Davis admits that the affidavit requirement, which requires a notary, and the ballot notice of criminal penalties assist in the prevention of fraud. Defendant Davis denies any remaining material allegations of paragraph 163 of the First Amended Complaint, as pled, and demands strict proof thereof.

164. Defendant Davis admits that Alabama law speaks for itself with regards to



criminalization of voting violations. Defendant Davis denies any remaining material allegations of paragraph 164 of the First Amended Complaint, as pled, and demands strict proof thereof.

165. Defendant Davis admits that the Alabama law requires certain information on Absentee Ballot applications, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 165 of the First Amended Complaint, as pled, and demands strict proof thereof.

166. Defendant Davis denies that, as suggested by the Plaintiffs, because a voter could falsify their ballot or ballot application, any protections against such falsification are pointless. Defendant Davis denies any remaining material allegations of paragraph 166 of the First Amended Complaint, as pled, and demands strict proof thereof.

167. Defendant Davis denies the material allegations of paragraph 167 of the First Amended Complaint, as pled and demands strict proof thereof.

168. Defendant Davis denies that the Photo ID Requirement requires all voters to submit a Photo ID with their application. The Photo ID Requirement and procedure is set forth by law, which speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 168 of the First Amended Complaint, as pled, and demands strict proof thereof.

169. Defendant Davis denies that any citizen in Mobile County cannot safely vote under the current Alabama law. Defendant Davis is without sufficient information or knowledge to admit or deny the statistical allegations of paragraph 169 of the First Amended Complaint, and therefore denies the statistical allegations of paragraph 169 of the First Amended Complaint, as pled, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 169 of the First Amended Complaint, as pled, and demands strict proof thereof.

170. According the Mobile County Absentee Election Manager, Porter was able to obtain a photo ID and Thompson was not required to submit a photo ID. Therefore, Defendant Davis denies that the Photo ID requirement was a hinderance to either Porter or Thompson. Defendant Davis denies that any citizen in Mobile County cannot safely vote under the current Alabama law. Defendant Davis denies any remaining material allegations of paragraph 170 of the First Amended Complaint, as pled, and demands strict proof thereof.

171. Defendant Davis is without sufficient information and knowledge to admit or deny the material allegations of paragraph 171 of the First Amended Complaint, and therefore denies the material allegations of paragraph 171 of the First Amended Complaint, as pled, and demands strict proof thereof.

172. Defendant Davis is without sufficient information and knowledge to admit or deny the material allegations of paragraph 172 of the First Amended Complaint, and therefore denies the material allegations of paragraph 172 of the First Amended Complaint, as pled, and demands strict proof thereof.

173. Defendant Davis denies that Porter or Thompson must violate social distancing protocols to comply with the Photo ID Requirement. Defendant Davis is without sufficient information and knowledge to admit or deny the remaining material allegations of paragraph 173 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 173 of the First Amended Complaint, as pled, and demands strict proof thereof.

174. Defendant Davis without sufficient information or knowledge to admit or deny the material allegations of paragraph 174 of the First Amended Complaint, and therefore denies the material allegations of paragraph 174 of the First Amended Complaint, as pled, and demands strict proof thereof.

175. Defendant Davis without sufficient information or knowledge to admit or deny the material allegations of paragraph 175 of the First Amended Complaint, and therefore denies the material allegations of paragraph 175 of the First Amended Complaint, as pled, and demands strict proof thereof.

176. Defendant Davis is not responsible for Absentee Ballot Applications and is unaware of what instructions, if any, Secretary Merrill has given regarding Photo IDs and Absentee Ballot Applications. As such, Defendant Davis denies the material allegations of paragraph 176 of the First Amended Complaint, as pled, and demands strict proof thereof.

177. Defendant Davis admits that no provision of Alabama law permits or prohibits curbside voting. Defendant Davis admits that Alabama law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 177 of the First Amended Complaint, as pled, and demands strict proof thereof.

178. Defendant Davis admits that curbside voting is not available in Mobile County because of its prohibitive logistical requirements and because it is not authorized by law. Defendant Davis admits that he understands Secretary Merrill's position is that curbside voting is not authorized by Alabama law, and therefore cannot be conducted, with which Defendant Davis agrees. Defendant Davis denies any remaining material allegations of paragraph 178 of the First amended Complaint, as pled, and demands strict proof thereof.

179. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 179 of the First Amended Complaint, and therefore denies the material allegations of paragraph 179 of the First Amended Complaint, as pled, and demands strict proof thereof.

180. Defendant Davis does not have sufficient information or knowledge to admit or

deny the allegations of paragraph 180 of the First Amended Complaint, and therefore denies the material allegations of paragraph 180 of the First Amended Complaint, as pled, and demands strict proof thereof.

181. Defendant Davis has never attempted to use curbside voting in Mobile County due to its prohibitive logistical issues and because it is not authorized by law. Defendant Davis admits that all polls in Mobile County are ADA compliant. Defendant Davis does not have sufficient information or knowledge to admit or deny the remaining allegations of paragraph 181 of the First Amended Complaint, and therefore denies the remaining material allegations of paragraph 181 of the First Amended Complaint, as pled, and demands strict proof thereof.

182. Defendant Davis denies that the CDC Guidelines on election procedures are binding, dispositive or fully considerate of fraud and other election/voting concerns that exist concurrent with the COVID-19 pandemic. Defendant Davis denies any remaining material allegations of paragraph 182 of the First Amended Complaint, as pled, and demands strict proof thereof.

183. Defendant Davis does not have sufficient information or knowledge to admit or deny the allegations of paragraph 183 of the First Amended Complaint, and therefore denies the material allegations of paragraph 183 of the First Amended Complaint, as pled, and demands strict proof thereof.

184. Defendant Davis admits that Governor Ivey's order speaks for itself, and denies that it authorizes or endorses curbside voting. Defendant Davis denies any remaining material allegations of paragraph 182 of the First Amended Complaint, as pled, and demands strict proof thereof.

185. Defendant Davis denies the material allegations of paragraph 185 of the First

Amended Complaint, as pled, and demands strict proof thereof.

186. Defendant Davis denies the material allegations of paragraph 186 of the First Amended Complaint, as pled, and demands strict proof thereof.

187. Defendant Davis denies the material allegations of paragraph 187 of the First Amended Complaint, as pled, and demands strict proof thereof.

### **COUNT ONE**

188. Defendant Davis realleges and reincorporates by reference, as if fully restated herein, all prior paragraphs of this Answer in response to paragraph 188 of the First Amended Complaint.

189. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 189 of the First Amended Complaint, as pled, and demands strict proof thereof.

190. Defendant Davis denies the material allegations of paragraph 190 of the First Amended Complaint, as pled, and demands strict proof thereof.

191. Defendant Davis denies the material allegations of paragraph 191 of the First Amended Complaint, as pled, and demands strict proof thereof.

192. Defendant Davis denies the material allegations of paragraph 192 of the First Amended Complaint, as pled, and demands strict proof thereof.

193. Defendant Davis admits that Mobile County does not currently use e-poll books. Defendant Davis denies the material allegations of paragraph 193 of the First Amended Complaint, as pled, and demands strict proof thereof.

194. Defendant Davis denies the material allegations of paragraph 194 of the First Amended Complaint, as pled, and demands strict proof thereof.

## COUNT TWO

195. Defendant Davis realleges and reincorporates by reference, as if fully restated herein, all prior paragraphs of this Answer in response to paragraph 195 of the First Amended Complaint.

196. Defendant Davis admits that voting is a fundamental right and a hallmark of democracy. Defendant Davis denies the remaining material allegations of paragraph 196 of the First Amended Complaint, as pled, and demands strict proof thereof.

197. Defendant Davis admits that the law speaks for itself. Defendant Davis denies the remaining material allegations of paragraph 197 of the First Amended Complaint, as pled, and demands strict proof thereof.

198. Defendant Davis admits that the law speaks for itself. Defendant Davis denies the remaining material allegations of paragraph 198 of the First Amended Complaint, as pled, and demands strict proof thereof.

199. Defendant Davis admits that the law speaks for itself. Defendant Davis denies the remaining material allegations of paragraph 199 of the First Amended Complaint, as pled, and demands strict proof thereof.

200. Defendant Davis admits that the law speaks for itself. Defendant Davis denies the remaining material allegations of paragraph 200 of the First Amended Complaint, as pled, and demands strict proof thereof.

201. Defendant Davis denies that Clopton, Peebles, Port, Thompson, Bettis, Threadgill-Matthews or the members of the other defendants do not leave their homes, or if they are truly unable or fearful of COVID-19, that they are prevented from voting by absentee ballot.

Defendant Davis is without sufficient information or knowledge to admit or deny whether these individuals have a disability under the ADA and therefore denies these individuals have a disability under the ADA and demand strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 201 of the First Amended Complaint, as pled, and demands strict proof thereof.

202. Defendant Davis denies the material allegations of paragraph 202 of the First Amended Complaint, as pled, and demands strict proof thereof.

203. Defendant Davis denies the material allegations of paragraph 203 of the First Amended Complaint, as pled, and demands strict proof thereof.

204. Defendant Davis denies the material allegations of paragraph 204 of the First Amended Complaint, as pled, and demands strict proof thereof.

205. Defendant Davis denies the material allegations of paragraph 205 of the First Amended Complaint, as pled, and demands strict proof thereof.

206. Defendant Davis denies the material allegations of paragraph 206 of the First Amended Complaint, as pled, and demands strict proof thereof.

207. Defendant Davis denies the material allegations of paragraph 207 of the First Amended Complaint, as pled, and demands strict proof thereof.

208. Defendant Davis denies the material allegations of paragraph 208 of the First Amended Complaint, as pled, and demands strict proof thereof.

209. Defendant Davis denies that the Plaintiffs are entitled to injunctive relief. Defendant Davis denies any remaining material allegations of paragraph 209 of the First Amended Complaint, as pled, and demands strict proof thereof.

### **COUNT THREE**

210. Defendant Davis realleges and reincorporates by reference, as if fully restated herein, all prior paragraphs of this Answer in response to paragraph 210 of the First Amended Complaint.

211. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 211 of the First Amended Complaint, as pled, and demands strict proof thereof.

212. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 212 of the First Amended Complaint, as pled, and demands strict proof thereof.

213. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 213 of the First Amended Complaint, as pled, and demands strict proof thereof.

214. Defendant Davis denies the material allegations of paragraph 214 of the First Amended Complaint, as pled, and demands strict proof thereof.

215. Defendant Davis denies the material allegations of paragraph 215 of the First Amended Complaint, as pled, and demands strict proof thereof.

216. Defendant Davis denies the material allegations of paragraph 216 of the First Amended Complaint, as pled, and demands strict proof thereof.

217. Defendant Davis is without sufficient information or knowledge to admit or deny the statistical allegations of paragraph 217 of the First Amended Complaint, and therefore denies the statistical allegations of paragraph 217 of the First Amended Complaint, as pled, and demands strict proof thereof. Defendant Davis denies any remaining material allegations of paragraph 217 of the First Amended Complaint, as pled, and demands strict proof thereof.



218. Defendant Davis denies the material allegations of paragraph 218 of the First Amended Complaint, as pled, and demands strict proof thereof.

219. Defendant Davis denies the material allegations of paragraph 219 of the First Amended Complaint, as pled, and demands strict proof thereof.

220. Defendant Davis denies the material allegations of paragraph 220 of the First Amended Complaint, as pled, and demands strict proof thereof.

#### **COUNT FOUR**

221. Defendant Davis realleges and reincorporates by reference, as if fully restated herein, all prior paragraphs of this Answer in response to paragraph 221 of the First Amended Complaint.

222. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 222 of the First Amended Complaint, as pled, and demands strict proof thereof.

223. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 223 of the First Amended Complaint, as pled, and demands strict proof thereof.

224. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 224 of the First Amended Complaint, as pled, and demands strict proof thereof.

225. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 225 of the First Amended Complaint, as pled, and demands strict proof thereof.

226. Defendant Davis denies the material allegations of paragraph 226 of the First

Amended Complaint, as pled, and demands strict proof thereof.

227. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 227 of the First Amended Complaint, as pled, and demands strict proof thereof.

228. Defendant Davis denies the material allegations of paragraph 228 of the First Amended Complaint, as pled, and demands strict proof thereof.

### **COUNT FIVE**

229. Defendant Davis realleges and reincorporates by reference, as if fully restated herein, all prior paragraphs of this Answer in response to paragraph 229 of the First Amended Complaint.

230. Defendant Davis admits that the law speaks for itself. Defendant Davis denies any remaining material allegations of paragraph 230 of the First Amended Complaint, as pled, and demands strict proof thereof.

231. Defendant Davis admits that in Mobile County, free notarial services are available to voters. Defendant Davis denies any remaining material allegations of paragraph 231 of the First Amended Complaint, as pled, and demands strict proof thereof.

232. Defendant Davis denies the material allegations of paragraph 232 of the First Amended Complaint, as pled, and demands strict proof thereof.

233. Defendant Davis denies the material allegations of paragraph 233 of the First Amended Complaint, as pled, and demands strict proof thereof.

### **RELIEF REQUESTED**

Defendant Davis denies that any of the plaintiffs are entitled to the relief requested, and demands strict proof thereof.

### **DEFENDANT DAVIS' AFFIRMATIVE DEFENSE**

1. Plaintiffs' claims as to the Excuse Requirement have already been dismissed or denied moot.

2. The schedule imposed in this case as to Defendant Davis has deprived him of his due process rights, has deprived him of justice and has deprived him of the ability to present an adequate defense.

3. Plaintiffs' claims are barred because Plaintiffs have failed to state a claim upon which relief may granted.

4. Plaintiffs' claims are barred because their First Amended Complaint constitutes an impermissible "shot-gun" complaint.

5. Plaintiffs' claims are barred as "unripe."

6. Plaintiffs' claims are barred because the Plaintiffs have not suffered an injury in fact.

7. Plaintiffs' claims are barred because Defendant Davis is the improper party from which to seek redress.

8. Plaintiffs' claims are barred because Plaintiffs alleged injuries are not traceable to Defendant Davis.

9. Plaintiffs' claims are barred for lack of standing.

10. Plaintiffs' claims are barred under the doctrines of laches, *res judicata*, collateral estoppel, issue preclusion, waiver and estoppel.

11. Plaintiffs' claims are barred due to the availability of free, curbside notarial services in Mobile County.

12. Plaintiffs' claims are barred due to the availability of free, curbside photocopying services in Mobile County.

13. Plaintiffs' claims are barred because Defendant Davis is not the cause of the current COVID-19 pandemic.

14. Plaintiffs' claims are barred because there is insufficient time to implement the requested relief prior to the November 2020 election.

15. Plaintiffs' claims are barred against Defendant Davis because, without excuse, they failed to include Defendant Davis at the outset of the litigation.

16. Plaintiffs' claims are barred because the requested relief will result in patchwork application of the law on a county by county basis, which lacks consistency upon which voters can be adequately informed and rely.

17. Plaintiffs failed to join necessary parties.

18. The challenged provisions are neutral, nondiscriminatory provisions that do not impair a voter's right to vote.

19. The State's interests are advanced by the challenged provisions and outweigh any impact on a voter's right to vote.

20. The challenged provisions do not prevent a voter from safely voting in Mobile County.

21. Defendant Davis adopts any other affirmative defense asserted by any other Defendant, including, but not limited to, the State Defendants' Affirmative Defenses listed in Court Doc. 185.

22. Defendant Davis reserves the right to modify and amend his affirmative defenses.

/s/ Jerome E. Speegle  
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**Certificate of Service**

I, the undersigned, do certify that on the **24th** day of **August, 2020**, a true and correct copy of the above and foregoing motion was filed electronically. Notice of this filing and hearing on this matter will be sent by the Court's electronic filing system to all parties on the court's electronic mailing list. Parties may access the filing through the Court's system.

/s/ Jerome E. Speegle