

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

PEOPLE FIRST OF ALABAMA, et al.,)
)
 Plaintiffs,)
)
 v.) **CASE No.: 2:20-cv-00619 -AKK**
)
 JOHN MERRILL, in his official capacity)
 as Secretary of State of Alabama, et al.,)
)
 Defendants.)

**ANSWER AND DEFENSES OF JACQUELINE ANDERSON-SMITH AND
KAREN DUNN BURKS TO THE AMENDED COMPLAINT**

COMES NOW, the Defendants, Jacqueline Anderson-Smith (“Birmingham AEM”), in her official capacity as Circuit Clerk of Jefferson County, Alabama, and Karen Dunn Burks (“Bessemer AEM”), in her official capacity as Deputy Circuit Clerk of the Bessemer Division of Jefferson County, Alabama (Collectively “Defendants”), and as answer to Plaintiffs’ First Amended Complaint for Injunctive and Declaratory Relief previously filed here in, all responses are from the Defendants unless specifically identified separately, Defendants sets forth and states as follows:

INTRODUCTION

1. Admitted that the enumerated Plaintiffs have filed the First Amended Complaint seeking injunctive and declaratory relief from the enumerated

Defendants for the reasons alleged in this paragraph. Defendants are without knowledge as Plaintiffs entitlement to relief.

2. Defendants are without knowledge as to whether “at least 24 million Americans and upwards of 440,000 Alabamians have been infected” with COVID-19 as of July 6. Otherwise admitted.
3. Admitted that Governor Ivey issued a stay at home order, that ADPH and the CDC advised people to remain in their homes and to follow social distancing protocols, and that the stay at home order closed schools and some offices and businesses. As a result, in early April of why the Governor made her decision, Defendants are without knowledge.
4. Admitted.
5. Defendants are without knowledge as to how long COVID-19 will persist or how the rate of identified cases in Alabama compared over an undefined time with other states. Otherwise admitted.
6. Admitted that Secretary Merrill waived the excuse requirement for absentee voters for the July 14, 2020 primary runoff election. Otherwise denied. Defendants are aware that the excuse requirement has been waived for the general election also.
7. Defendants are without knowledge if Alabama’s absentee voting excuse requirements and multiple other provisions of Alabama law, policy, and/or

practice that establish requirements for voting in-person and by-mail will pose direct and severe obstacles to voting.

8. Defendants are without knowledge as to whether “Plaintiffs or other high-risk voters like people who are aged 65 and older or people with disabilities, like diabetes, asthma, or autoimmune deficiencies, that place them at higher risk of death or serious illness from contracting COVID-19” fit within any of the seven delineated categories for absentee voting under Alabama law. Otherwise admitted.
9. Admitted.
10. Defendants are without knowledge as to whether the Excuse Requirement and the Witness Requirement pose an unreasonable obstacle to many thousands of vulnerable Alabamians’ ability to safely vote in the 2020 elections due to the near certainty of continuing community spread of COVID-19 throughout 2020.
11. Defendants are without knowledge as to whether the maintaining the Excuse Requirement threatens to disenfranchise or severely burden the right to vote of hundreds of thousands of Alabamians, like Plaintiffs and the members and constituents of organizational Plaintiffs, by requiring them to risk their health or the health of their loved ones to vote, as well as creating significant public health risks.

12. The census statistics quoted in this paragraph are admitted. Otherwise, Defendants are without knowledge as to whether Alabamians who live alone are at greater risk of serious illness or death.
13. Admitted that many other provisions of Alabama law safeguard the integrity of absentee voting and that Alabama is one of 12 states that require an individual submitting an absentee ballot to have it witnessed. Defendants are without knowledge as to the remaining statements.
14. Defendants are without knowledge of the veracity of this paragraph.
15. Admitted as to there are “Photo ID Requirements” for applying for an absentee ballot. Defendants are without knowledge of the remaining statements of this paragraph.
16. Admitted that Alabama does not offer curbside voting. Defendants are without knowledge as to the remainder of the paragraph.
17. Defendants are without knowledge as to this paragraph.
18. Admitted.
19. Defendants are without knowledge as to the allegations in this paragraph.
20. Defendants are without knowledge as to whether compliance with the Challenged Provisions poses a significant risk to the lives of Plaintiffs and many thousands of other Alabama voters who are seeking a safe method of exercising their right to vote in the upcoming 2020 elections, including the

elections on August 25, and November 3, as well as any other elections that occur while this crisis continues.

21. Admitted that Alabama voters almost unanimously vote in-person on Election Day. Admitted that the 2018 voting statistics are accurate and that the Witness Requirement accounted for about a quarter of the rejected ballots in 2018. Defendants are without knowledge as to the remainder of the paragraph.
22. Admitted that Secretary Merrill has made it clear that any registered voter is permitted to vote absentee in light of the COVID-19 pandemic. Alabama is expecting a large increase in absentee voting during 2020 elections. Defendants are without knowledge as to the remainder of the paragraph.
23. Defendants are without knowledge as to the allegations in this paragraph.
24. Defendants are without knowledge as to the allegations in this paragraph.
25. Admitted that Plaintiffs ask the Court for an injunction and declaration in their favor.

PARTIES

26. Defendants are without knowledge as to the allegations in this paragraph.
27. Defendants are without knowledge as to the allegations in this paragraph.
28. Defendants are without knowledge as to the allegations in this paragraph.
29. Defendants are without knowledge as to the allegations in this paragraph.
30. Defendants are without knowledge as to the allegations in this paragraph.

31. Defendants are without knowledge as to the allegations in this paragraph.

32. Defendants are without knowledge as to the allegations in this paragraph.

33. Admitted as GREATER BIRMINGHAM MINISTRIES (“GBM”) was founded in 1969. Defendants are without knowledge as to the remaining allegations in this paragraph.

34. Defendants are without knowledge as to the allegations in this paragraph.

35. Defendants are without knowledge as to the allegations in this paragraph.

36. Defendants are without knowledge as to the allegations in this paragraph.

37. Admitted.

38. Admitted.

39. Defendants are without knowledge as to the allegations in this paragraph.

40. Defendants are without knowledge as to the allegations in this paragraph.

41. Defendants are without knowledge as to the allegations in this paragraph.

42. Defendants are without knowledge as to the allegations in this paragraph.

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44. Defendants are without knowledge as to the allegations in this paragraph.

45. Defendants are without knowledge as to the allegations in this paragraph.

46. Defendants are without knowledge as to the allegations in this paragraph.

47. Defendants are without knowledge as to the allegations in this paragraph.

48. Defendants are without knowledge as to the allegations in this paragraph.

49. Defendants are without knowledge as to the allegations in this paragraph.

50. Defendants do not have the authority to eliminate the Challenged Provisions.

However, Defendants are without knowledge as to the remaining allegations in this paragraph.

51. Defendants do not have the authority to eliminate the Challenged Provisions.

However, Defendants are without knowledge as to the remaining allegations in this paragraph.

52. Defendants are without knowledge as to the allegations in this paragraph.

53. Defendants are without knowledge of the allegations in this paragraph.

54. Defendants are without knowledge of the allegations in this paragraph.

55. Admitted that Camden is in Wilcox County. Defendants are without knowledge as to the remaining allegations in this paragraph.

56. Defendants are without knowledge as to the allegations in this paragraph.

57. Admitted that Huntsville is in Madison County. Defendants are without knowledge as to the remaining allegations in this paragraph.

58. Defendants are without knowledge of the allegations in this paragraph.

59. Admitted.

60. Defendants are without knowledge of whether the State has waived or is estopped from raising a sovereign immunity defense. Otherwise admitted.

61. Admitted that Jacqueline Anderson-Smith is the circuit clerk of Jefferson County-Birmingham Division. Admitted that Karen Dunn Burks is the deputy circuit clerk of Jefferson County-Bessemer Division. Admitted that circuit clerks and absentee ballot managers are charged with enforcing the Excuse and Photo ID requirements, processing and distributing absentee ballot applications, and issuing absentee ballots. Otherwise, Defendants are without knowledge as to the remaining allegations in this paragraph.

62. Admitted that Sherri Friday and James Naftel in their official capacities are the probate judges for federal, state, and county elections in Jefferson County, and the listing of duties ascribed to probate judges. Otherwise, Defendants are without knowledge of the remaining allegations in this paragraph.

JURISDICTION AND VENUE

63. Admitted.

64. Admitted.

65. Admitted.

66. Admitted.

STATEMENT OF FACTS

I. Transmission of COVID-19 and Public Health Guidelines

67. Admitted.

68. Admitted.

69. It is the general belief. However, Defendants are without knowledge of the allegations to say with any certainty.

70. Admitted.

71. It is the general belief. However, Defendants are without knowledge of the allegations to say with any certainty.

72. It is the general belief. However, Defendants are without knowledge of the allegations to say with any certainty.

73. Admitted.

74. Admitted.

75. Admitted.

76. Defendants are without knowledge of the allegations in this paragraph.

77. Defendants are without knowledge of the allegations in this paragraph.

78. Admitted.

79. Defendants are without knowledge of the allegations in this paragraph.

80. Defendants are without knowledge of the allegations in this paragraph.

II. COVID-19 Alabama

81. Admitted.

82. Admitted that Dr. Birx stated that social distancing would be required at least through the summer. Defendants are without knowledge as to the remaining allegations in this paragraph.

83. Defendants are without knowledge of the allegations in this paragraph.

84. Defendants are without knowledge of the allegations in this paragraph.

85. Admitted that Dr. Harris made the statement attributed to him. Defendants are without knowledge as to the remaining allegations in this paragraph.

86. It is the general belief. However, Defendants are without knowledge of the allegations to say with any certainty.

87. Admitted.

88. Admitted.

89. Admitted.

90. Admitted.

91. Admitted.

92. Admitted.

93. Admitted.

94. Admitted.

95. Admitted.

96. Admitted.

97. Admitted.

98. Admitted.

99. Admitted.

100. Admitted that On April 28, Governor Ivey announced a “Safer at Home” order effective from April 30 through May 15.⁷⁵ On May 21, Governor Ivey extended the “Safer at Home” order through July 3, 2020. Defendants are without knowledge as to the remaining allegations in this paragraph.

101. Admitted that on June 30, 2020, Governor Ivey extended the Safer-at-Home order through July 31, 2020. Defendants are without knowledge as to the remaining allegations in this paragraph.

102. Admitted.

103. Admitted that as of June 23 Alabama was second in the nation in rising COVID-19 cases per capita, the statistics attributed to Alabama on July 3, 2020, and that more than one state requires quarantining for incoming Alabama visitors. Defendants are without knowledge as to the remaining allegations in this paragraph.

104. Admitted that Dr. Harris made the comments that he was “extremely concerned about these numbers and COVID-19 has created “a true state of emergency and one whose end is not yet in sight. Defendants are without knowledge as to the remaining allegations in this paragraph.

105. Admitted.

106. Admitted that the citations to the CDC are accurate citations. Defendants are without knowledge as to the remaining allegations in this paragraph.

107. Admitted as to Dr. Selwyn M. Vickers, Senior Vice President of Medicine and Dean of the University of Alabama at Birmingham School of Medicine made the statements.

108. Admitted that statistics cited are accurate. Defendants are without knowledge as to the remaining allegations in this paragraph.

109. Defendants are without knowledge of the allegations in this paragraph.

110. Defendants are without knowledge of the allegations in this paragraph.

111. Admitted that the CDC has added sickle cell disease to a list of preexisting conditions that exacerbate the effects of COVID-19. Admitted that Dr. Landers made the comments that urged Black people in particular to “stay at home” and stringently practice social distancing. Defendants are without knowledge as to the remaining allegations in this paragraph.

112. Defendants are without knowledge of the allegations in this paragraph.

113. Admitted that the cited statistics are accurate according to the Census Bureau. Admitted that “white collar” jobs are much more likely to allow employees to work from home. Defendants are without knowledge as to the remaining allegations in this paragraph.

IV. The COVID-19 Crisis and 2020 Elections in Alabama

- 114. Admitted.
- 115. Defendants are without knowledge of the allegations in this paragraph.
- 116. Defendants are without knowledge of the allegations in this paragraph.
- 117. Defendants are without knowledge of the allegations in this paragraph.
- 118. Admitted.
- 119. Admitted.
- 120. Admitted.
- 121. Defendants are without knowledge of the allegations in this paragraph.
- 122. Defendants are without knowledge of the allegations in this paragraph.
- 123. Defendants are without knowledge of the allegations in this paragraph.
- 124. Admitted.
- 125. Admitted.
- 126. Defendants are without knowledge of the allegations in this paragraph.
- 127. Defendants are without knowledge of the allegations in this paragraph.
- 128. Defendants are without knowledge of the allegations in this paragraph.
- 129. Defendants are without knowledge of the allegations in this paragraph.
- 130. Admitted that Secretary Merrill has not adopted or implemented the requests listed in paragraph 126. Defendants are without knowledge as to the remaining allegations in this paragraph.
- 131. Admitted.

132. Defendants are without knowledge of the allegations in this paragraph.

V. The Challenged Provisions Unreasonably Burden the Voting Rights of Alabamians

A. The Excuse Requirement's substantial and unreasonable burden on Alabamians during COVID-19 transmission outweighs any State interest in maintaining it.

133. Admitted that most Alabama voters have voted in person on Election Day. For most voters, that means physically appearing at a designated polling place where they may be in close contact with other voters and poll workers. This also means repeatedly touching shared equipment and material such as voting machines, paper ballots, and writing instruments. Defendants are without knowledge as to the remaining allegations in this paragraph.

134. Admitted that the CDC instructs states to encourage as many voters as possible to use "voting methods that minimize direct contact and reduce crowd size at polling locations." Defendants are without knowledge as to the remaining allegations in this paragraph.

135. Admitted there is no early voting in Alabama except absentee voting. Defendants are without knowledge as to the remaining allegations in this paragraph.

136. Defendants are without knowledge of the allegations in this paragraph.

137. Defendants are without knowledge of the allegations in this paragraph.

138. Admitted all eligible voters should be able to practice social distancing regardless of their own health condition and should not have to choose between voting and their decision to practice social distancing for the benefit of the health of their community. Defendants are without knowledge as to the remaining allegations in this paragraph.
139. Defendants are without knowledge of the allegations in this paragraph.
140. Defendants are without knowledge of the allegations in this paragraph.
141. Defendants are without knowledge of the allegations in this paragraph.
142. Defendants are without knowledge of the allegations in this paragraph.
143. Defendants are without knowledge of the allegations in this paragraph.
144. Defendants are without knowledge of the allegations in this paragraph.
145. Defendants are without knowledge of the allegations in this paragraph.
146. Defendants are without knowledge of the allegations in this paragraph.
147. Admitted.
148. Admitted.
149. Admitted.
150. Defendants are without knowledge of the allegations in this paragraph.
- B. Alabama's Witness Requirement will deny large numbers of eligible voters the right to vote without meaningfully advancing any valid State interest.
151. Defendants are without knowledge of the allegations in this paragraph.

152. Defendants are without knowledge of the allegations in this paragraph.

153. Admitted.

154. Admitted that ACS statistics are correct. Defendants are without knowledge as to the remaining allegations in this paragraph.

155. Admitted that ACS statistics are correct. Defendants are without knowledge as to the remaining allegations in this paragraph.

156. Admitted.

157. Admitted.

158. Admitted that COVID-19 has a disproportionately harmful effect on Black people. Defendants are without knowledge as to the remaining allegations in this paragraph.

159. Defendants are without knowledge of the allegations in this paragraph.

160. Admitted that notaries are entitled to a \$5.00 payment; that Governor Ivey issued an executive order on March 26th allowing attorneys who are also notaries and notaries who work for attorneys to notarize documents remotely; that not every notary has videoconferencing capability; and that for the videoconferencing option the voter must have access to videoconferencing technology. Defendants are without knowledge as to the remaining allegations in this paragraph.

161. Admitted that Alabama election officials are not required to follow up with witnesses to confirm their identity or that they indeed witnessed the signing of the voter's affidavit. Per Ala. Code § 17-11-10. Admitted officials examine the affidavit for the witness signatures. If the information in the affidavit is correct and it contains the witness signatures, then officials "shall certify the findings, open each affidavit envelope, and deposit the plain envelope containing the absentee ballot into a sealed ballot box." Id. § 17-11-10(b). Defendants are without knowledge as to the remaining allegations in this paragraph.

162. Defendants are without knowledge of the allegations in this paragraph.

163. Admitted.

164. Admitted.

165. Admitted.

166. Defendants are without knowledge of the allegations in this paragraph.

167. Defendants are without knowledge of the allegations in this paragraph.

C. The Photo ID Requirements will endanger the lives of large numbers of voters who lack access to printers and scanners or lack photo ID acceptable for voting.

168. Denied that all voters who fail to provide photo ID with the application cannot receive an absentee ballot. Otherwise admitted.

169. Defendants are without knowledge of the allegations in this paragraph.

170. Defendants are without knowledge of the allegations in this paragraph.

171. Defendants are without knowledge of the allegations in this paragraph.

172. Defendants are without knowledge of the allegations in this paragraph.

173. Defendants are without knowledge of the allegations in this paragraph.

174. Defendants are without knowledge of the allegations in this paragraph.

175. Defendants are without knowledge of the allegations in this paragraph.

176. Admitted that the Photo ID Requirements are in effect, and that there is no specific exemption from them solely for preexisting medical conditions in conjunction with COVID-19 infection. Defendants are without knowledge as to the remaining allegations in this paragraph.

D. The Curbside Voting Ban Needlessly Increases the Risks of COVID-19 Infection via Personal Interaction at In-Person Poll Sites in the 2020 Elections.

177. Admitted.

178. Admitted that Alabama does not offer curbside voting. Defendants are without knowledge as to the remaining allegations in this paragraph.

179. Defendants are without knowledge of the allegations in this paragraph.

180. Defendants are without knowledge of the allegations in this paragraph.

181. Defendants are without knowledge of the allegations in this paragraph.

182. Defendants are without knowledge of the allegations in this paragraph.

183. Defendants are without knowledge of the allegations in this paragraph.

184. Admitted that Governor Ivey's April 3 stay-at-home order and her series of "Safer at Home" orders permit "drive-in" gatherings. Admitted The June 30 Safer-at-Home order likewise requires restaurants and senior centers to offer curbside services to protect the health and safety of high-risk people. Defendants are without knowledge as to the remaining allegations in this paragraph.

185. Defendants are without knowledge of the allegations in this paragraph.

186. Defendants are without knowledge of the allegations in this paragraph.

187. Defendants are without knowledge of the allegations in this paragraph.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fundamental Right to Vote under the
First and Fourteenth Amendments (42 U.S.C. § 1983)

(All Plaintiffs against All Defendants)

188. Defendants reallege and incorporate by reference their responses to all prior paragraphs as if fully set forth herein.

189. Admitted.

190. Defendants are without knowledge of the allegations in this paragraph.

191. Defendants are without knowledge of the allegations in this paragraph.

192. Defendants are without knowledge of the allegations in this paragraph.

193. Admitted that Clay Helms, the Deputy Chief of Staff and Director of Elections for the Alabama Secretary of State, testified that a polling place with

curbside voting would be feasible and permissible under Alabama law if the curbside voting site: 1) used e-poll books; 2) placed a tabulation booth at the site; and 3) assigned poll workers to work there. Defendants are without knowledge as to the remaining allegations in this paragraph.

194. Defendants are without knowledge as to the allegations in this paragraph.

COUNT TWO

Failure to Provide Reasonable Accommodations in Violation of
Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131, *et seq.*)
(All Plaintiffs Against All Defendants)

195. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

196. Admitted that voting is one of our nation's most fundamental rights and a hallmark of our democracy. Defendants are without knowledge as to the remaining allegations in this paragraph.

197. Admitted.

198. Admitted.

199. Admitted.

200. Admitted that The U.S. Court of Appeals for the Eleventh Circuit has held that prior U.S. Supreme Court precedent considered the record supporting

Title II of the ADA as a whole, and has conclusively held that Congress had documented a sufficient historical predicate of unconstitutional disability discrimination in the provision of public services to justify enactment of a prophylactic remedy under Section 5 of the Fourteenth Amendment to the U.S. Constitution. See *Nat'l Assoc. of the Deaf v. Florida*, 945 F. 3d 1339, 1351 (11th Cir. 2020). Defendants are without knowledge as to the remaining allegations in this paragraph.

201. Defendants are without knowledge as to the allegations in this paragraph.

202. Defendants are without knowledge as to the allegations in this paragraph.

203. Defendants are without knowledge as to the allegations in this paragraph.

204. Defendants are without knowledge as to the allegations in this paragraph.

205. Defendants are without knowledge as to the allegations in this paragraph.

206. Defendants are without knowledge as to the allegations in this paragraph.

207. Defendants are without knowledge as to the allegations in this paragraph.

208. Defendants are without knowledge as to the allegations in this paragraph.

209. Admitted.

COUNT THREE

The Excuse and Witness Requirements and Curbside Voting Ban
Violate Section 2 of the Voting Rights Act (52 U.S.C. § 10301)
(All Plaintiffs, except Mr. Peebles, Against All Defendants)

210. Defendants realleges and incorporates by reference its response to all prior paragraphs as though fully set forth herein.

211. Admitted.

212. Admitted.

213. Admitted.

214. Defendants are without knowledge as to the allegations in this paragraph.

215. Defendants are without knowledge as to the allegations in this paragraph.

216. Admitted that Alabama was covered by the preclearance provisions of the VRA from 1965 to 2013. Defendants are without knowledge as to the remaining allegations in this paragraph.

217. Admitted that the ACS statistics are accurately stated. Defendants are without knowledge as to the remaining allegations in this paragraph.

218. Admitted as to black voters not holding elected offices in proportion to their population in Alabama. Defendants are without knowledge as to the remaining allegations in this paragraph.

219. Defendants are without knowledge as to the allegations in this paragraph.

220. Defendants are without knowledge as to the allegations in this paragraph.

COUNT FOUR

The Witness Requirement Violates Sections 3 and 201 of
the Voting Right Act, 52 U.S.C. §§ 10302, 10501
(All Plaintiffs Against All Defendants)

221. Defendants realleges and incorporates by reference its response to all prior paragraphs as though fully set forth herein.

222. Admitted.

223. Admitted.

224. Admitted.

225. Admitted that the citations to Ala. Code § 17-11-7 are accurate. Defendants are without knowledge as to the remaining allegations in this paragraph.

226. Defendants are without knowledge as to the allegations in this paragraph.

227. Admitted that Alabama law includes additional means of authenticating a voter, as described above at ¶¶ 147-50. Defendants are without knowledge as to the remaining allegations in this paragraph.

228. Defendants are without knowledge as to the allegations in this paragraph.

COUNT FIVE

The Witness Requirement is a Poll Tax

(42 U.S.C. §1983)

(All Plaintiffs Against All Defendants)

229. Defendants realleges and incorporates by reference its response to all prior paragraphs as though fully set forth herein.

230. Admitted that The Equal Protection Clause of the Fourteenth Amendment is violated whenever a state “makes the affluence of the voter or payment of any fee an electoral standard.” Harper v. Va. Bd. of Elections, 383 U.S. 663, 666 (1966). The Twenty-Fourth Amendment guarantees that the right to vote in federal elections “shall not be denied or abridged by reason of failure to pay any poll tax or other tax.” U.S. Const. Am. XXIV. Defendants are without knowledge as to the remaining allegations in this paragraph.

231. Admitted that A notary is always entitled to a \$5.00 fee to satisfy the notarization aspect of the Witness Requirement. Ala. Code § 36-20-74. Amid the pandemic, one means of satisfying the Witness Requirement is for voters to use videoconferencing to have a notary witness the absentee ballot. “But videoconferencing is not free. It requires internet access at a minimum, which is a service that is an unaffordable luxury for many.” Doc. 58 n.20. Defendants are without knowledge as to the remaining allegations in this paragraph.

232. Defendants are without knowledge as to the allegations in this paragraph.

233. Defendants are without knowledge as to the allegations in this paragraph.

RELIEF REQUESTED

Defendants deny any claims against them contained within the Wherefore Clause and Relief Requested, including that Plaintiffs are entitled to a judgment of any kind against Defendants, including for attorneys’ fees or costs, or any other relief.

DEFENSES

Defendants asserts the following affirmative defenses:

1. The Amended Complaint fails to state a cause of action against Defendants upon which relief can be granted. Defendants are not empowered to change binding Alabama law passed by the Legislature and signed by the Governor.
2. Any actions taken or required to be taken by Defendants are done solely at the lawful direction of other parties.
3. The relevant statutes cited by Plaintiffs do not allow Defendants to exercise discretion in enforcement of their obligations under those laws.
4. Any actions taken or required to be taken by Defendants are done in Defendants' capacity as state employees, and as such all relevant immunity defenses available to state employees apply.
5. Defendants are not empowered to pass binding legislation to create a law authorizing curbside voting.
6. To the extent applicable, arguments made by Plaintiffs are barred by the doctrines of collateral estoppel and res judicata.
7. To the extent Plaintiffs are entitled to any relief, it must be obtained from other parties, and not Defendants.
8. The relief the Plaintiffs seek from Defendants are barred by illegality.
9. Plaintiffs Clopton, Thompson, Peebles, Porter, Threadgill- Matthews, and Bentley lack standing to pursue any claims against Defendants.

10. Defendants are not authorized by law to eliminate the Challenged Provisions or redress any claims by Plaintiffs.
11. To the extent applicable, Plaintiffs are guilty of laches in regard to the November elections.
12. Defendants reserve the right to supplement or amend these defenses as more information becomes available through the discovery and trial process.

Respectfully submitted this the 24th day of July, 2020

/s/ T. A. Lawson

T.A. Lawson, ASB-3840-L72T

County Attorney

Attorney for Jefferson County AEMs

/s/ Donald McKinley Carroll

Donald McKinley Carroll, ASB-8575-A61C

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2020, I provided the foregoing to all counsel of record through electronic mail and/or through U.S. Mail.

/s/ Donald McKinley Carroll

Assistant County Attorney