

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRIORITIES USA and MARISSA
ACCARDO,

No. 19-13188

Plaintiffs,

HON. ROBERT H. CLELAND

v

MAG. ANTHONY P. PATTI

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

**DEFENDANT SECRETARY OF
STATE JOCELYN BENSON'S
ANSWER TO PLAINTIFFS'
AMENDED COMPLAINT AND
AFFIRMATIVE DEFENSES**

and

THE MICHIGAN SENATE and THE
MICHIGAN HOUSE OF
REPRESENTATIVES,

Defendants.

Andrew Nickelhoff (P37990)
Attorney for Plaintiffs
333 W. Fort Street, Suite 1400
Detroit, Michigan 48226
313.496.9515

Patrick G. Seyferth (P47475)
Michael K. Steinberger (P76702)
Attorneys for Defendants
Senate & House
100 W Big Beaver Rd, Ste 400
Troy, Michigan 48084
248.822.7800

Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Assistant Attorneys General
Attorneys for Defendant Benson
P.O. Box 30736
Lansing, Michigan 48909
517.335.7659

Marc Elias, Uzoma N. Nkwonta,
Jacki Anderson, K'Shaani Smith
700 Thirteenth St, NW, Ste 600
Washington, DC 20005
202.654.6200
Attorneys for Plaintiffs

**DEFENDANT SECRETARY OF STATE JOCELYN BENSON’S ANSWER
TO PLAINTIFFS’ AMENDED COMPLAINT AND AFFIRMATIVE
DEFENSES**

NOW COMES Defendant Secretary of State Jocelyn Benson, by counsel, and answers Plaintiffs’ amended complaint for declaratory and injunctive relief (Doc. 15, Page ID 140), by like-numbered paragraphs, as follows:

NATURE OF THE CASE

1. Defendant Benson admits that the right to vote is an important if not fundamental constitutional right. Defendant otherwise denies the allegations in paragraph 1 as legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.
2. Defendant Benson denies the allegation that the statutory process referred to in paragraph 2 is “error prone.” The remaining allegations require no response because the statutory process speaks for itself and no response is thus required.
3. These allegations refer to a statutory process that speaks for itself and no response is thus required.
4. These allegations refer to a statutory process that speaks for itself and no response is thus required.

5. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

6. Defendant Benson admits that voter signatures may vary for different reasons but denies the allegation that Michigan election officials do not undergo training regarding signature comparisons.

7. Denied.

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and on that basis denies.

9. Defendant admits that there is no statutory mechanism by which voters may challenge a signature mismatch or cure rejected ballots but denies that there is no mechanism as Defendant and the Bureau of Elections have been and will instruct clerks to assist voters in curing signature mismatches. As to the remaining allegation, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation and on that basis denies.

10. Defendant admits that there is no statutory mechanism by which voters must be notified of a signature mismatch but denies that there is no mechanism as Defendant and the Bureau of Elections have been and will instruct clerks to provide voters with notice. The remaining allegation is a reference to a news article, which speaks for itself and no response is thus required.

11. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation regarding the former Director of Elections and on that basis denies.

12. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

13. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

JURISDICTION AND VENUE

14. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

15. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

16. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

17. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

18. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

19. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

PARTIES

20. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and on that basis denies.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and on that basis denies.

22. Defendant admits that she is the current Secretary of State of Michigan and that she has the powers and duties described in Mich. Comp. Laws §§ 168.21 and 168.31. The remaining allegations are conclusions of law to which no response is

required. To the extent a response is required, Defendant denies the allegation for the reason that it is untrue.

STATEMENT OF FACTS AND LAW

A. Michigan Law imposes a Signature Matching Requirement on Absentee Ballot Applications.

23. Defendant admits the cited constitutional provision provides registered voters with a right to vote absentee. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 23, and on that basis denies.

24. These allegations refer to a statutory process that speaks for itself and no response is thus required.

25. These allegations refer to a statutory process that speaks for itself and no response is thus required.

26. These allegations refer to a statutory process that speaks for itself and no response is thus required.

27. Denied.

28. Denied.

29. Defendant Benson admits that there are no statutes that require notice and an opportunity to cure a signature mismatch but means have been and will be provided through guidance by the Defendant and the Bureau of Elections.

B. Michigan Law imposes a Signature Matching Requirement on Absentee Ballot Applications.

30. These allegations refer to a statutory process that speaks for itself and no response is thus required.

31. These allegations refer to a statutory process that speaks for itself and no response is thus required.

32. These allegations refer to a statutory process that speaks for itself and no response is thus required.

33. These allegations refer to a statutory process that speaks for itself and no response is thus required.

34. These allegations refer to a statutory process that speaks for itself and no response is thus required.

35. These allegations refer to a statutory process that speaks for itself and no response is thus required.

36. Denied.

37. Defendant Benson admits that there are no statutes that require notice and an opportunity to cure a signature mismatch but means have been and will be provided through guidance by the Defendant and the Bureau of Elections.

C. Michigan Signature Matching Regime is Highly Error-Prone.

38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38, and on that basis denies.

39. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39, and on that basis denies.

40. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40, and on that basis denies.

41. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41, and on that basis denies.

42. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42, and on that basis denies.

D. Michigan's Townships and Cities Employ Different Signature Matching Procedures.

43. The allegation in this paragraph is a quote from a court opinion, which opinion speaks for itself and no response is thus required.

44. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44, and on that basis denies.

45. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45, and on that basis denies.

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46, and on that basis denies.

47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and on that basis denies.

48. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

E. The Signature Matching Regime is Not Justified By Any Legitimate State Interest.

49. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

50. Defendant denies that the challenged laws are duplicative of other laws. The allegations referring to statutes require no response as the statutes speak for themselves. And Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation regarding the former Director of Elections and on that basis denies.

51. These allegations refer to a statutory process that speaks for itself and no response is thus required.

52. These allegations refer to a statutory process that speaks for itself and no response is thus required.

53. These allegations refer to a statutory process that speaks for itself and no response is thus required.

54. These allegations refer to a statutory process that speaks for itself and no response is thus required.

55. These allegations refer to a statutory process that speaks for itself and no response is thus required.

56. These allegations refer to a statutory process that speaks for itself and no response is thus required.

57. These allegations refer to a statutory process that speaks for itself and no response is thus required.

58. These allegations refer to an election manual that speaks for itself and no response is thus required.

F. The Signature Matching Regime Has Denied Eligible Michigan Voters the right to Vote and Threatens to Disenfranchise Many More in Future Elections.

59. These allegations refer to a survey, a statute, and a section of the Michigan Constitution, all of which speak for themselves and no response is thus required.

60. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60, and on that basis denies.

61. Defendant Benson admits that the use of absentee voting will increase, but otherwise denies the allegations in paragraph 61 as legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations for the reason that they are untrue.

CLAIMS FOR RELIEF
COUNT I

First Amendment and Equal Protection
U.S. Const. Amend. I and XIV, 42 U.S.C. § 1983
Undue Burden on the Right to Vote

62. Defendant incorporates by reference the above paragraphs as if fully set forth herein.

63. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

64. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

65. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

66. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

67. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

Count II

**Equal Protection
U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

68. Defendant incorporates by reference the above paragraphs as if fully set forth herein.

69. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

70. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

71. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

72. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

73. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

Count III

**Procedural Due Process
U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

74. Defendant incorporates by reference the above paragraphs as if fully set forth herein.

75. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

76. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

77. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

78. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

79. These allegations represent legal conclusions to which no response is necessary. To the extent a response is required, Defendant denies the allegations for the reason they are untrue.

AFFIRMATIVE DEFENSES

Defendant, by counsel, pursuant to Fed. R. Civ. P. 8(c), asserts the following affirmative defenses, upon which they may rely:

1. Plaintiffs' complaint fails to state a claim.
2. Plaintiffs' claims may be barred due to estoppel, res judicata, waiver, and/or laches.
3. Some or all of Plaintiffs' claims may be moot or not ripe for adjudication.
4. Some of Plaintiffs' claims may be barred due to this Court's lack of jurisdiction to hear this matter.
5. Defendant reserves the right to raise any additional affirmative defenses that Defendant may have following the completion of discovery herein.

WHEREFORE, Defendant Michigan Secretary of State Jocelyn Benson respectfully requests that this Court dismiss the complaint, with prejudice, and award Defendant her costs and attorney fees associated with defending this matter.

Respectfully submitted,

s/Heather S. Meingast
Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Assistant Attorneys General
Attorneys for Defendant
P.O. Box 30736
Lansing, Michigan 48909
517.335.7659
Email: meingasth@michigan.gov
P55439

Dated: April 7, 2020

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

s/Heather S. Meingast
Heather S. Meingast (P55439)
Assistant Attorney General
P.O. Box 30736
Lansing, Michigan 48909
517.335.7659
Email: grille@michigan.gov
P64713