

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

**VOTE.ORG; FLORIDA ALLIANCE  
FOR RETIRED AMERICANS;  
FLORIDA STATE CONFERENCE  
OF BRANCHES AND YOUTH UNITS  
OF THE NAACP,**

**Case No. 4:23-cv-00111-AW-MAF**

**Plaintiffs,**

**v.**

**CRAIG LATIMER, in his official  
capacity as Supervisor of Elections  
For Hillsborough County, et. al.**

**Defendants.**

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**DEFENDANT HILLSBOROUGH COUNTY SUPERVISOR OF  
ELECTIONS CRAIG LATIMER'S ANSWER TO PLAINTIFFS'  
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendant CRAIG LATIMER, in his official capacity as Supervisor of Elections for Hillsborough County (herein, HCSOE), pursuant to Fed. R. Civ. P. 8, hereby answers Plaintiffs' Complaint for Declaratory and Injunctive Relief, D.E. 1 ("Complaint"), as follows:

**NATURE OF THE CASE**

1. As to the statutes cited, summarized, or described in Paragraph 1 of the Complaint, those statutes speak for themselves and thus no answer is required.

HCSOE is without knowledge as to any other allegations and they are therefore denied.

2. Denied as stated.

3. As to the statutes or case law cited, summarized, or described in Paragraph 3 of the Complaint, the cited statutes and the case law speak for themselves and thus no answer is required. HCSOE is without knowledge as to the other allegations of paragraph 3 and they are therefore denied.

4. As to the statutes cited, summarized, or described in Paragraph 4 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations and they are therefore denied.

5. HCSOE is without knowledge as to the allegations in Paragraph 5 of the Complaint and they are therefore denied.

### **JURISDICTION AND VENUE**

6. HCSOE is without knowledge as to the allegations contained in Paragraph 6 and they are therefore denied.

7. HCSOE admits Paragraph 7 for jurisdictional purposes only and denies the allegations of Paragraph 7 for all other purposes.

8. HCSOE admits Paragraph 8 for jurisdictional purposes only and denies the allegations of Paragraph 8 for all other purposes.

9. Admitted.

10. As to all statutes or rules cited, summarized, or described in Paragraph

10 of the Complaint, those statutes and rules speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 10 and they are therefore denied.

### **PARTIES**

11. HCSOE is without knowledge as to the allegations in Paragraph 11 of the Complaint and they are therefore denied.

12. HCSOE is without knowledge as to the allegations in Paragraph 12 of the Complaint and they are therefore denied.

13. HCSOE is without knowledge as to the allegations in Paragraph 13 of the Complaint and they are therefore denied.

14. HCSOE is without knowledge as to the allegations in Paragraph 14 of the Complaint and they are therefore denied.

15. HCSOE is without knowledge as to the allegations in Paragraph 15 of the Complaint and they are therefore denied.

16. HCSOE is without knowledge as to the allegations in Paragraph 16 of the Complaint and they are therefore denied.

17. HCSOE is without knowledge as to the allegations in Paragraph 17 of the Complaint and they are therefore denied.

18. HCSOE is without knowledge as to the allegations in Paragraph 18 of the Complaint and they are therefore denied.

19. HCSOE is without knowledge as to the allegations in Paragraph 19 of the Complaint and they are therefore denied.

20. HCSOE is without knowledge as to the allegations in Paragraph 20 of

the Complaint and they are therefore denied.

21. The first sentence is denied. HCSOE is without knowledge as to all other allegations in Paragraph 21 of the Complaint and they are therefore denied.

22. Admitted that Defendant Cord Byrd is the Secretary of State of Florida. As to the statutes cited, summarized, or described in Paragraph 22 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 22 of the Complaint and they are therefore denied.

23. HCSOE admits that Florida Supervisors of Elections are each responsible for election administration in their respective individual counties, but denies that they are the sole election administrators for each county because the Florida Division of Elections of the Department of State also has involvement in the administration of elections statewide. HCSOE also admits that Plaintiffs have identified each of the 67 Supervisors of Elections. As to the statutes cited, summarized, or described in Paragraph 23 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 23 of the Complaint and they are therefore denied.

#### **STATEMENT OF FACTS AND LAW**

24. HCSOE is without knowledge as to the allegations contained in Paragraph 24 of the Complaint and they are therefore denied.

25. As to the statutes cited, summarized, or described in Paragraph 25 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph

25 and they are therefore denied.

26. As to the statutes cited, summarized, or described in Paragraph 26 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 26 and they are therefore denied.

27. As to the statutes cited, summarized, or described in Paragraph 27 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 27 and they are therefore denied.

28. As to the statutes cited, summarized, or described in Paragraph 28 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 28 and they are therefore denied.

29. As to the statutes cited, summarized, or described in Paragraph 29 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 29 of the Complaint and they are therefore denied.

30. As to any statutes cited, summarized, or described in Paragraph 30 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 30 and they are therefore denied.

31. As to the statutes or websites cited, summarized, or described in Paragraph 31 of the Complaint, those statutes and websites speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other

allegations contained in Paragraph 31 of the Complaint and they are therefore denied.

32. As to the statutes cited, summarized, or described in Paragraph 32 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 32 of the Complaint and they are therefore denied.

33. As to any statutes or advisory opinions cited, summarized, or described in Paragraph 33 of the Complaint, those statutes and advisory opinions speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 33 of the Complaint and they are therefore denied.

34. As to the websites cited, summarized, or described in Paragraph 34 of the Complaint, those websites speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 34 of the Complaint and they are therefore denied.

35. As to the statutes cited, summarized, or described in Paragraph 35 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 35 of the Complaint and they are therefore denied.

### **COUNT 1**

36. HCSOE restates by incorporation all responses to paragraphs 1-35 as though fully set forth herein.

37. As to the statute cited, summarized, or described in Paragraph 37 of the Complaint, the statute speaks for itself and thus no answer is required.

38. As to the statute cited, summarized, or described in Paragraph 38 of the Complaint, the statute speaks for itself and thus no answer is required.

39. As to the case law cited, summarized, or described in Paragraph 39 of the Complaint, the case law speaks for itself and thus no answer is required.

40. As to the case law cited, summarized, or described in Paragraph 40 of the Complaint, the case law speaks for itself and thus no answer is required.

41. HCSOE denies the allegations set forth in the first sentence of Paragraph 41, but HCSOE is without knowledge as to any other defendants, and thus such allegations are also denied. As to the caselaw cited, summarized, or described in the remainder of Paragraph 41 of the Complaint, the caselaw speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 41 of the Complaint and they are therefore denied.

42. As to the statutes cited, summarized, or described in Paragraph 42 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 42 of the Complaint and they are therefore denied.

43. As to the statutes cited, summarized, or described in Paragraph 43 of the Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 43 of the Complaint and they are therefore denied.

44. HCSOE is without knowledge as to the allegations in Paragraph 44 of the Complaint and they are therefore denied.

## **Affirmative Defenses**

**First Defense.** Plaintiffs lack Article III standing to sue the HCSOE on the basis of the claims set forth in the Complaint.

**Second Defense.** “ ‘[T]o impose § 1983 liability on a municipality, a plaintiff must show: (1) that his constitutional rights were violated; (2) that the municipality had a custom or policy that constituted deliberate indifference to that constitutional right; and (3) that the policy or custom caused the violation.’ McDowell v. Brown, 392 F.3d 1283, 1289 (11<sup>th</sup> Cir. 2004); ... ‘[T]o demonstrate a policy or custom, it is generally necessary to show **a persistent and wide-spread practice,**’ as opposed to a single incident.” McDowell, 392 F.3d at 1290.” (emphasis supplied).

Stephens v. Manatee County, 2012 WL 939769 (M.D.Fla. 2012). Plaintiffs have not alleged any facts particular to the HCSOE suggesting the existence of any “persistent and wide-spread practice” by the HCSOE, much less a policy or custom, which could give rise to § 1983 liability.

**Third Defense.** Plaintiffs have failed to state a cause of action against HCSOE for which relief may be granted. Instead, Plaintiffs’ allegations have been made by lumping all defendants together without alleging with specificity any basis for a claim against each defendant. Such an approach to pleading defies the pleading standards set forth in Bell Atlantic v. Twombly, 127 S.Ct. 155 (2007) and Ashcroft



v. Iqbal, 556 U.S. 662, 129 S.Ct. 1937 (2009) and fails to place the HCSOE on notice of the allegations specific to HCSOE.

Respectfully submitted,

*/s/Stephen M. Todd*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 30, 2023, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to Counsel of Record.

*/s/Stephen M. Todd*

Stephen M. Todd, Esquire