

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FIFTH DIVISION

THE LEAGUE OF WOMEN VOTERS
OF ARKANSAS and ARKANSAS UNITED

PLAINTIFFS

v.

CASE NO. 60CV-21-3138

JOHN THURSTON, in his official capacity
As the Secretary of State of Arkansas;
And SHARON BROOKS, BILENDA
HARRIS-RITTER, WILLIAM LUTHER,
CHARLES ROBERTS, JAMES SHARP, and
J. HARMON SMITH, in their official capacities
As members of the Arkansas State Board of
Election Commissioners,

DEFENDANTS

NOTICE OF INTERLOCUTORY APPEAL

Defendants John Thurston, in his official capacity as Secretary of State, and Sharon Brooks, Bilenda Harris-Ritter, William Luther, Charles Roberts, James Sharp, and J. Harmon Smith, in their official capacities as members of the Arkansas State Board of Election Commission, hereby give notice of their appeal to the Arkansas Supreme Court pursuant to the Arkansas Rules of Appellate Procedure—Civil and Rules of the Supreme Court.

1. **Appealing Parties.** The parties taking this appeal are John Thurston, in his official capacity as Secretary of State, and Sharon Brooks, Bilenda Harris-Ritter, William Luther, Charles Roberts, James Sharp, and J. Harmon Smith, in their official capacities as members of the Arkansas State Board of Election Commission. Because the Defendants are sued in their official capacity, the only Defendant is the State of Arkansas. *Harris v. Hutchinson*, 2020 Ark. 3, at *4, 591 S.W.3d 778, 781.

2. **Order Being Appealed.** The Defendants appeal from the Circuit Court's November 1, 2021, Memorandum Order Denying Defendants' Motion to Dismiss which denied the Defendants' motion to dismiss on the basis of, *inter alia*, sovereign immunity.

3. **Designation of Record.** The Defendants designate as the record on appeal, the entire record in this matter existing as of the filing of this notice.

4. **Certificate of Transcript.** The Defendants, by and through Undersigned, have ordered the hearing transcript and have made any financial arrangements required by the court reporter under Ark. Code Ann. § 16-13-510(c).

5. **Jurisdiction of the Arkansas Supreme Court.** The Defendants—the State—take this interlocutory appeal pursuant to Ark. R. App. P.—Civil 2(a)(10) as it is an appeal of an order denying a motion to dismiss based on the defense of sovereign immunity. The Supreme Court has jurisdiction to hear the instant appeal pursuant to Ark. Sup. Ct. R. 1-2, subsection (a)(1) as it involves the interpretation or construction of the Arkansas Constitution, subsection (a)(4) as it involves election procedures, (b)(1) as it involves issues of first impression, subsection (b)(4) as it involves issues of substantial public interest, subsection (b)(5) as it also involves significant issues needing clarification and development of the law, and subsection (b)(6) as it involves substantial questions of law concerning the construction or interpretation of an act of the General Assembly.

6. **Abandonment of Claims.** The Defendants have not asserted a claim in this matter and, therefore, Rule 3(e)(vi) of the Rules of Appellate Procedure—Civil does not apply.

7. **Electronic Record.** The Defendants request an electronic record pursuant to *In re Acceptance of Records on Appeal in Electronic Format and Elimination of the Abstracting and Addendum Requirements*, 2019 Ark. 213.

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

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Counsel for Defendants

CERTIFICATE OF SERVICE

I, Michael Mosley, certify that on November 3rd, 2021, I filed the foregoing document with the Clerk of the Court via the E-flex filing system, which shall send notification of the filing to all parties of record and their counsel.

Michael A. Mosley
MICHAEL A. MOSLEY