

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE BROOKLYN BRANCH OF THE NATIONAL
ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE,,

**ANSWER TO THE
AMENDED COMPLAINT**

Plaintiff,

21 CV 7667 (KPF)

- against -

PETER S. KOSINSKI, in his official capacity as Co-
Chair of the State Board of Elections, *et al*.,

Defendants.
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Defendants Frederic M. Umane, Jose Miguel Araujo, Hon. Carol Edmead,¹ Gino A. Marmorato, Michael J. Coppotelli, Jodi Morales, Rodney L. Pepe-Souvenir, Simon Shamoun, and Keith Sullivan,² each in their official capacity as a Commissioner of Elections in the City of New York (collectively, the “New York City Board of Elections Defendants”), through their attorney, **HON. SYLVIA O. HINDS-RADIX**, Corporation Counsel of the City of New York, as and for their Answer to the Amended Complaint (the “Complaint”), respectfully state as follows:

1. Deny the allegations set forth in paragraph “1” of the Complaint.
2. Deny the allegations set forth in paragraph “2” of the Complaint except deny knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph “2” of the Complaint.

¹ The Hon. Carol Edmead was appointed the Democratic Party Commissioner of Elections in the City of New York, from New York County, replacing Jenny Low, who replaced Tiffany Townsend, the Commissioner originally named as a defendant in this action.

² Commissioner Patricia Ann Taylor resigned on January 31, 2023, and her position remains vacant at the present time.

3. Deny the allegations set forth in paragraph “3” of the Complaint.

4. Deny the allegations set forth in paragraph “4” of the Complaint except deny knowledge or information sufficient to form a belief as to the truth of the allegation concerning Douglas Kellner or whether or not former Mayor de Blasio complained about back pain.

5. Deny the allegations set forth in paragraph “5” and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

6. Deny the allegations set forth in paragraph “6” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

7. Deny the allegations set forth in paragraph “7” of the Complaint.

8. Deny the allegations set forth in paragraph “8” of the Complaint.

9. Deny the allegations set forth in paragraph “9” of the Complaint except admit that Plaintiff purports to proceed as set forth therein.

10. Deny the allegations set forth in paragraph “10” of the Complaint except admit that Plaintiff purports to proceed as set forth therein.

11. Deny the allegations set forth in paragraph “11” of the Complaint except admit that Plaintiff purports to proceed as set forth therein.

12. Deny the allegations set forth in paragraph “12” of the Complaint and respectfully refer the Court to the Rules and Statutes cited for their full text and import.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the Complaint.

14. Deny the allegations set forth in paragraph “14” of the Complaint except admit that Plaintiff purports to proceed as set forth therein and respectfully refer the Court to the statutes cited for their full text and import.

15. Deny the allegations set forth in paragraph “15” of the Complaint except admit that Plaintiff purports to proceed as set forth therein and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

16. Deny the allegations set forth in paragraph “16” of the Complaint and respectfully refer the Court to the statute cited for its full text and import.

17. Deny the allegations set forth in paragraph “17” of the Complaint and respectfully refers the Court to the relevant provisions of the Election Law for their full text and import.

18. Deny the allegations set forth in paragraph “18” of the Complaint and respectfully refers the Court to the relevant provisions of the Election Law for their full text and import.

19. Deny the allegations set forth in paragraph 19 of the Complaint.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of the Complaint.

21. Deny the allegations set forth in paragraph “21” of the Complaint except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning what “volunteers” do or don’t do and respectfully refer the Court to the cited statutes for their full text and import.

22. Deny the allegations set forth in paragraph “22” of the Complaint.

23. Deny the allegations set forth in paragraph “23” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

24. Deny the allegations set forth in paragraph “24” of the Complaint and respectfully refer the Court to the cited statute for its full text and import.

25. Deny the allegations set forth in paragraph “25” of the Complaint except deny knowledge or information sufficient to form a belief as to the retail value of the items listed, and respectfully refer the Court to the statute and case law cited for their full text and import.

26. Deny the allegations set forth in paragraph “26” of the Complaint and respectfully refer the Court to the statute and regulations cited for their full text and import.

27. Deny the allegations set forth in paragraph “27” of the Complaint.

28. Deny the allegations set forth in paragraph “28” of the Complaint.

29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the Complaint.

30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the Complaint.

31. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the Complaint.

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of the Complaint.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the Complaint.

34. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of the Complaint.

35. Deny the allegations set forth in paragraph “35” of the Complaint.

36. Deny the allegations set forth in paragraph “36” of the Complaint.

37. Deny the allegations set forth in paragraph “37” of the Complaint.

38. Repeat and reallege each and every response set forth in paragraphs “1” through “34” above as if fully set forth herein.

39. Deny the allegations set forth in paragraph “39” and respectfully refer the Court to the Constitutional provisions and case law cited for their full text and import.

40. Deny the allegations set forth in paragraph “40” of the Complaint.

41. Deny the allegations set forth in paragraph “41” of the Complaint.

42. Deny the allegations set forth in paragraph “42” of the Complaint.

43. Deny the allegations set forth in paragraph “43” of the Complaint.

44. Deny the allegations set forth in paragraph “44” of the Complaint.

45. Repeat and reallege each and every response set forth in paragraphs “1” through “43” as if fully set forth herein.

46. Deny the allegations set forth in paragraph “46” of the Complaint.

47. Deny the allegations set forth in paragraph “47” of the Complaint and respectfully refer the Court to the case law cited for its full text and import.

48. Deny the allegations set forth in paragraph “48” of the Complaint.

49. Deny the allegations set forth in paragraph “49” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

50. Deny the allegations set forth in paragraph “50” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

51. Deny the allegations set forth in paragraph “51” of the Complaint.

52. Deny the allegations set forth in paragraph “52” of the Complaint.

53. Repeat and reallege each and every response set forth in paragraphs “1” through “51” as if fully set forth herein.

54. Deny the allegations set forth in paragraph 54 of the Complaint and affirmatively state that pursuant to this Court’s Order dated February 23, 2023, plaintiff’s as applied vagueness claim has been dismissed.

55. Deny the allegations set forth in paragraph “55” of the Complaint and respectfully refer the Court to the statute and case law cited for their full text and import.

56. Deny the allegations set forth in paragraph “56” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

57. Deny the allegations set forth in paragraph “57” of the Complaint and respectfully refer the Court to the relevant provisions of the Election Law for their full text and import.

58. Deny the allegations set forth in paragraph “58” of the Complaint except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning plaintiff’s ability to distinguish legal from illegal activity.

59. Deny the allegations set forth in paragraph “59” of the Complaint.

60. Deny the allegations set forth in paragraph “60” of the Complaint.

61. Deny the allegations set forth in paragraph “61” of the Complaint and respectfully refer the Court to the cited case law for its full text and import.

62. Deny the allegations set forth in paragraph “62” of the Complaint and respectfully refer the Court to the cited case law for its full text and import.

63. Deny the allegations set forth in paragraph “63” of the Complaint except affirmatively state that pursuant to this Court’s Order dated February 23, 2023, plaintiff’s as applied vagueness claim has been dismissed.

64. Deny the allegations set forth in paragraph “64” of the Complaint except affirmatively state that pursuant to this Court’s Order dated February 23, 2023, plaintiff’s as applied vagueness claim has been dismissed.

AS AND FOR A FIRST AFFIRMATIVE DEFENSES

65. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

66. Plaintiff’s claims are barred, in whole or in part, because Plaintiff lacks organizational standing and/or associational standing.

JURY DEMAND

67. The New York Cit Board of Elections Defendants demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

WHEREFORE, the New York City Board of Elections Defendants respectfully request that this Court enter judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
March 9, 2023

HON. SYLVIA O. HINDS-RADIX
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City of New York
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By: s/Stephen Kitzinger
Stephen Kitzinger
Assistant Corporation Counsel