

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA,</p> <p>Petitioner,</p> <p>v.</p> <p>IOWA SECRETARY OF STATE PAUL PATE, in his official capacity; IOWA VOTER REGISTRATION COMMISSION; BUENA VISTA COUNTY AUDITOR SUE LLOYD, in her official capacity; CALHOUN COUNTY AUDITOR ROBIN BATZ, in her official capacity; JEFFERSON COUNTY AUDITOR SCOTT RENEKER, in his official capacity; MONTGOMERY COUNTY AUDITOR STEPHANIE BURKE, in her official capacity,</p> <p>Respondents.</p>	<p>Case No. CVCV062715</p> <p>Respondents' Amended Answer and Affirmative Defenses</p>
---	---

COME NOW Respondents Iowa Secretary of State Paul Pate, the Iowa Voter Registration Commission, Buena Vista County Auditor Sue Lloyd, Calhoun County Auditor Robin Bats, Jefferson County Auditor Scott Reneker, and Montgomery County Auditor Stephanie Burke and answer the League of United Latin American Citizens of Iowa's ("LULAC's") Amended Petition following the court's Ruling on Motion to Reconsider as follows:

STATEMENT OF THE CASE

1. Paragraph 1 is denied for lack of information, except that the cited provisions of law and the opinion of the Supreme Court of the United States speak for themselves.
2. Paragraph 2 is denied, except that the cited provisions of federal law speak for themselves.

3. Paragraph 3 is denied, except that section 1.18 of the Iowa Code speaks for itself.

4. Paragraph 4 is denied, except that section 1.18 of the Iowa Code speaks for itself.

5. Paragraph 5 is denied, except that the decision of the court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), speaks for itself.

6. Paragraph 6 is denied for lack of information.

7. Paragraph 7 is denied, except that section 1.18 of the Iowa Code and the opinions of the Iowa Supreme Court and the Supreme Court of the United States speak for themselves.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied, except that the decision of the court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), speaks for itself.

JURISDICTION AND VENUE

10. Paragraph 10 is admitted except to the extent that it alleges that LULAC has standing for this action. Respondents deny that LULAC has standing, which deprives this Court of otherwise proper jurisdiction.

11. Paragraph 11 is denied, except that Respondents admit that the permanent injunction in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) was issued by the Iowa District Court for Polk County.

12. Paragraph 12 is admitted.

PARTIES

13. Paragraph 13 is denied for lack of information.

14. Paragraph 14 is admitted.

15. Paragraph 15 is denied, except that Respondents admit that the Iowa Voter Registration Commission is a party to *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

16. Paragraph 16 is denied, except that Respondents admit that Sue Lloyd is the auditor and commissioner of elections for Buena Vista County and that the Buena Vista County Auditor is a party to *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

17. Paragraph 17 is denied, except that Respondents admit that Robin Batz is the auditor and commissioner of elections for Calhoun County and that the Calhoun County Auditor is a party to *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

18. Paragraph 18 is denied, except that Respondents admit that Scott Reneker is the auditor and commissioner of elections for Jefferson County and that the Jefferson County Auditor is a party to *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

19. Paragraph 19 is denied, except that Respondents admit that Stephanie Burke is the auditor and commissioner of elections for Montgomery County and that the Montgomery County Auditor is a party to *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

FACTUAL AND LEGAL ALLEGATIONS

20. Paragraph 20 is denied, except that section 1.18 of the Iowa Code and the decision of the court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), speak for themselves.

21. Paragraph 21 is denied, except that section 1.18 of the Iowa Code speaks for itself.

22. Paragraph 22 is denied.

23. Paragraph 23 is denied, except that the provisions of the current and previous Iowa constitutions speak for themselves.

24. Paragraph 24 is denied, except that the opinions of the Iowa Supreme Court speak for themselves.

25. Paragraph 25 is denied except that the cited provision of Iowa law speaks for itself.

26. Paragraph 26 is denied.

27. Paragraph 27 is denied, except that the opinions of the Supreme Court of the United States speak for themselves.

28. Paragraph 28 is denied, except that the cited provisions of federal law speak for themselves.

29. Paragraph 29 is denied, except that the cited provisions of federal law speak for themselves.

30. Paragraph 30 is admitted.

31. Paragraph 31 is admitted.

32. Paragraph 32 is denied.

33. Paragraph 33 is denied.

34. Paragraph 34 is denied.

35. Paragraph 35 is denied for lack of information, except that previous Iowa law and the fact-finding of the district court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) speak for themselves.

36. Paragraph 36 is admitted.

37. Paragraph 37 is denied, except that the district court's ruling in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), speaks for itself.

38. Respondents admit that the permanent injunction issued by the court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) remains in effect and that the Secretary of State and Iowa Voter Registration Commission are parties to that proceeding. The remainder of paragraph 38 is denied.

39. Paragraph 39 is denied, except that Respondents admit that Exhibit 2 is an accurate copy of LULAC's petition for a declaratory order from the Secretary of State.

40. Paragraph 40 is denied, except that Respondents admit that Exhibit 3 is an accurate copy of the Secretary of State's response to LULAC's petition for a declaratory order.

41. Paragraph 41 is denied.

42. Paragraph 42 is denied.

CAUSES OF ACTION

COUNT I: Declaratory Judgment

43. The answers to paragraphs 1 through 42 are incorporated in response to this Count.

44. Paragraph 44 is denied.

45. Paragraph 45 is denied.

46. Paragraph 46 is denied.

COUNT II: Injunction on a Judgment or Final Order

47. The answers to paragraphs 1 through 46 are incorporated in response to this Count.

48. Respondents admit that the permanent injunction issued by the court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) remains in effect and that the Secretary of State and Iowa Voter

Registration Commission are parties to that proceeding. The remainder of paragraph 48 is denied, except that the district court's ruling in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008), speaks for itself.

49. Paragraph 49 is denied, except that section 1.18 of the Iowa Code speaks for itself.

50. Paragraph 50 is denied.

PRAYER FOR RELIEF

51. Paragraph A is denied.

52. Paragraph B is denied.

53. Paragraph C is denied.

54. Paragraph D is denied.

WHEREFORE Respondents request that the petition for declaratory judgment be dismissed in its entirety.

AFFIRMATIVE DEFENSES

1. LULAC fails to state a claim upon which relief can be granted.

2. LULAC lacks standing for its claims.

3. LULAC's claims are barred by issue preclusion from the decision issued by the district court *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008).

4. LULAC's requested declaratory judgment is not available under Iowa Rule of Civil Procedure 1.1102 because it does not seek a declaration of its rights, status, or legal relations under section 1.18 of the Iowa Code.

5. LULAC's requested declaratory judgment should not be rendered under Iowa Rule of Civil Procedure 1.1105 because it would not terminate any uncertainty or controversy.

6. LULAC's requested declaratory judgment is an improper collateral attack on the permanent injunction issued by the district court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) and still in effect today.

7. LULAC's request for an injunction on a judgment or final order is not authorized by the rules of civil procedure or any Iowa law because it is an improper collateral attack on the permanent injunction issued by the district court in *King v. Mauro*, Polk County Case No. CV006739 (Iowa Dist. Ct. Mar. 31, 2008) and still in effect today that could only be brought in that proceeding.

8. LULAC's request for an injunction on a judgment or final order fails because it doesn't allege any substantial change in the facts or law since the permanent injunction was issued.

9. As it relates to Buena Vista County Auditor Sue Lloyd, Calhoun County Auditor Robin Bats, Jefferson County Auditor Scott Reneker, and Montgomery County Auditor Stephanie Burke; LULAC's remaining claims against these answering Respondents are governed by the Iowa Municipal Tort Claims Act, Iowa Code Chapter 670. These answering Respondents reserve all privileges, immunities, and defenses available to them under this Act.

10. Pending further discovery and investigation, Respondents reserve the right to amend their Answer to assert other affirmative defenses as may become necessary to defend this case.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/ Matthew L. Gannon

MATTHEW L. GANNON

First Assistant Attorney General

/s/ Samuel P. Langholz

SAMUEL P. LANGHOLZ

Assistant Attorney General

Iowa Department of Justice

1305 E. Walnut Street, 2nd Floor

Des Moines, Iowa 50319

(515) 281-5164

(515) 281-4209 (fax)

sam.langholz@ag.iowa.gov

matt.gannon@ag.iowa.gov

ATTORNEYS FOR RESPONDENTS
IOWA SECRETARY OF STATE
PAUL PATE AND IOWA VOTER
REGISTRATION COMMISSION

/s/ Kristopher K. Madsen

Kristopher K. Madsen #AT0004969

Robert M. Livingston, #AT0004728

STUART TINLEY LAW FIRM LLP

300 West Broadway, Suite 175

Council Bluffs, Iowa 51503

Telephone: 712.322.4033

Facsimile: 712.322.6243

Direct #712-828-7838

Direct #712-828-7840

Email: kmadsen@stuarttinley.com

Email: rlivingston@stuarttinley.com

ATTORNEYS FOR RESPONDENTS
BUENA VISTA COUNTY AUDITOR
SUE LLOYD, CALHOUN COUNTY
AUDITOR ROBIN BATZ,
JEFFERSON COUNTY AUDITOR
SCOTT RENEKER, AND MONT-
GOMERY COUNTY AUDITOR
STEPHANIE BURKE

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties of record by delivery in the following manner on May 16, 2022:

- | | |
|--|--|
| <input type="checkbox"/> U.S. Mail | <input type="checkbox"/> FAX |
| <input type="checkbox"/> Hand Delivery | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express | <input type="checkbox"/> Other |
| <input checked="" type="checkbox"/> EDMS | |

Signature: /s/ Samuel P. Langholz

RETRIEVED FROM DEMOCRACYDOCKET.COM