

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PUBLIC INTEREST LEGAL FOUNDATION,

Plaintiff,

v

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

Defendant.

No. 1:21-cv-00929

HON. ROBERT J. JONKER

Kaylan Phillips
Noel Johnson
Charlotte M. Davis
Public Interest Legal Foundation
32 East Washington Street, Suite 1675
Indianapolis, Indiana 46204
317.203.5599
kphillips@publicinterestlegal.org
njohnson@publicinterestlegal.org
cdavis@publicinterestlegal.org

Heather S. Meingast (P55439)
Erik A. Grill (P64713)
Assistant Attorneys General
PO Box 30736
Lansing, Michigan 48909
517.335.7659
meingast@michigan.gov
grille@michigan.gov

**DEFENDANT SECRETARY OF STATE JOCELYN BENSON'S BRIEF IN SUPPORT
OF HER PARTIAL MOTION TO DISMISS**

Defendant Secretary of State Jocelyn Benson, by counsel, moves this Court to dismiss Count I of Plaintiff's complaint under Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) for the reasons identified below and explained in detail in her supporting brief.

Dismissal is necessary under Rule 12(b)(1) because the factual allegations in the complaint, even if true, do not demonstrate standing with respect to the claims asserted. Standing is a threshold issue, indispensable to availing oneself of the Court's jurisdiction. Having failed to provide sufficient factual allegations supporting this, Plaintiff's complaint must be dismissed.

Dismissal is also warranted under Rule 12(b)(6) because the factual allegations in the complaint, even if true, are insufficient to allege a violation under the list maintenance requirements of the National Voter Registration Act, 52 U.S.C. § 20507. That act only requires the State of Michigan to implement a general program that makes reasonable efforts to remove deceased voters from Michigan's voter rolls. The state has implemented such a program.

Accordingly, for the reasons explained above and in her supporting brief, Defendant Secretary Benson respectfully requests this Court dismiss Count I of Plaintiff's complaint in its entirety.

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: December 13, 2021

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2021, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing of the foregoing document as well as via US Mail to all non-ECF participants.

s/Heather S. Meingast

Heather S. Meingast (P55439)

Attorney for Defendant

P.O. Box 30736

Lansing, Michigan 48909

517.335.7659

Email: meingasth@michigan.gov
(P55439)