

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

DEMOCRATIC PARTY OF VIRGINIA,)
et al.)
)
Plaintiffs,)
)
v.)
)
ROBERT BRINK, et al.,)
)
Defendants.)
_____)

Case No. 3:21-cv-756-HEH

DEFENDANTS' ANSWER

Defendants, by counsel, submit this Answer to Plaintiffs' Complaint as follows:

1. Paragraph 1 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

2. Paragraph 2 contains legal conclusions to which Defendants need not respond. Defendants admit that Virginia does not process online voter registration applications without a prospective voter's full social security number ("SSN"), and paper applications contain a written warning that applications lacking a full SSN will be denied. To the extent the paragraph contains additional factual allegations, they are denied.

3. Defendants deny the allegations of paragraph 3, except Defendants admit that identity theft is a serious concern and that the full SSN is required for voter registration in Virginia.

4. Defendants deny the allegations of paragraph 4, except Defendants admit that handling the full SSN requires care.

5. Defendants admit the first two sentences of paragraph 5. Defendants deny the last sentence of paragraph 5.

6. Defendants admit the allegations of paragraph 6.

7. Defendants deny the allegations of paragraph 7, except Defendants admit that Virginia is in the minority of states that require the Full SSN. Defendants further aver that the full SSN requirement is in the Virginia Constitution.

8. Defendants need not respond to the allegations in paragraphs 8-14 because those counts of the Complaint were dismissed.

15. Paragraph 15 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

16. Paragraph 16 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

17. Paragraph 17 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

18. Defendants deny the allegations of paragraph 18, except Defendants admit the first two sentences of Paragraph 18.

19. Defendants need not respond to the allegations in paragraphs 19-20 because those counts of the Complaint were dismissed.

21. Defendants deny the allegations of paragraph 21 that relate to the Full SSN. Defendants need not respond to the allegations related to the cure process because those counts of the Complaint were dismissed.

22. Defendants lack sufficient information to admit or deny the allegations in paragraph 22.

23. Defendants deny the first sentence of Paragraph 23. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 23.

24. Defendants admit that the individuals named in Paragraph 24 hold positions on the Virginia State Board of Elections as alleged, except that Defendant LeCruise resigned from the State Board of Elections on April 13, 2022. Defendants further aver that the Virginia State Board of Elections is made up of five members, not three as named in the Complaint.

25. Defendants deny that Christopher E. Piper is the Commissioner of Elections and aver that Governor Youngkin appointed Susan Beals to serve as Commissioner of Elections. Defendants admit the remaining allegations in paragraph 25.

26. Defendants deny the allegations in paragraph 26.

27. Defendants deny the allegations of paragraph 27, except they admit that Virginia is one of a small number of states that require the Full SSN as required by the Virginia Constitution.

28. Defendants deny the allegations of Paragraph 28.

29. Defendants deny the allegations of Paragraph 29.

30. Defendants deny the allegations of Paragraph 30.

31. Defendants deny the allegations of paragraph 31.

32. Paragraph 32 contains legal conclusions to which Defendants need not respond.

To the extent the paragraph contains factual allegations, they are denied.

33. Defendants admit the allegations of paragraph 33 and aver that Virginia qualifies for the Privacy Act's grandfather provision.

34. Defendants deny the allegations of paragraph 34.

35. Paragraph 25 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

36. Defendants deny the allegations of paragraph 36, except they admit Americans conduct much of their personal and professional lives online.

37. Paragraph 37 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

38. Defendants deny the allegations of paragraph 38, except admit that disclosure of the full SSN, the last four digits and other personal information can lead to identity theft which can have significant consequences.

39. Defendants deny the allegations of paragraph 39, except admit that disclosure of the full SSN, the last four digits and other personal information can lead to identity theft which can have significant consequences.

40. Defendants deny the allegations of paragraph 40, except admit that disclosure of the full SSN, the last four digits and other personal information can lead to identity theft which can have significant consequences.

41. Defendants lack sufficient information to admit or deny the allegations of paragraph 41.

42. Defendants admit the allegations of paragraph 42.

43. Defendants lack sufficient information to admit or deny the allegations in paragraph 43.

44. Defendants lack sufficient information to admit or deny the allegations in paragraph 44.

45. Defendants lack sufficient information to admit or deny the allegations in paragraph 45.

46. Defendants lack sufficient information to admit or deny the allegations in paragraph 46.

47. Defendants lack sufficient information to admit or deny the allegations in paragraph 47.

48. Defendants lack sufficient information to admit or deny the allegations in paragraph 48.

49. Defendants lack sufficient information to admit or deny the allegations in paragraph 49.

50. Defendants lack sufficient information to admit or deny the allegations in paragraph 50.

51. Defendants lack sufficient information to admit or deny the allegations in paragraph 51.

52. Defendants lack sufficient information to admit or deny the allegations in paragraph 52.

53. Defendants admit the allegations of paragraph 53, except they deny the last sentence.

54. Defendants deny the allegations of paragraph 54.

55. Defendants deny the allegations of paragraph 55.

56. Defendants deny the allegations of paragraph 56.

57. Defendants deny the allegations of paragraph 57.

58. Defendants lack sufficient information to admit or deny the allegations in paragraph 58.

59. Defendants deny the allegations of paragraph 59.

60. Defendants deny the allegations of paragraph 60.

61. Defendants lack sufficient information to admit or deny the allegations in paragraph 61, except they admit that Virginia permits online registration.

62. Defendants admit that one must have a valid Virginia driver's license or state ID to register to vote online in Virginia. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 62.

63. Defendants lack sufficient information to admit or deny the allegations in paragraph 63.

64. Defendants lack sufficient information to admit or deny the allegations in the first sentence of paragraph 64. Defendants deny the allegation contained in the second sentence of paragraph 64.

65. Defendants lack sufficient information to admit or deny the allegations in paragraph 65.

66. Defendants lack sufficient information to admit or deny the allegations in paragraph 66.

67. Defendants lack sufficient information to admit or deny the allegations in paragraph 67.

68. Defendants lack sufficient information to admit or deny the allegations in paragraph 68.

69. Defendants lack sufficient information to admit or deny the allegations in paragraph 69.

70. Defendants deny the allegations of paragraph 70.

71. Defendants deny the allegations of paragraph 71.

72. Defendants deny the allegations of paragraph 72, except Defendants admit the allegation contained in the first sentence to the extent it avers that verifying applicants' eligibility to vote is one of the reasons for the Full SSN requirement.

73. Paragraph 73 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

74. Defendants lack sufficient information to admit or deny the allegations in paragraph 74.

75. Defendants need not respond to the allegations in paragraphs 75-94 because those counts of the Complaint were dismissed.

95. Defendants hereby incorporate their responses to paragraphs 1-74 of the Complaint.

96. Defendants deny the allegations of paragraph 96.

97. Paragraph 97 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

98. Paragraph 98 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

99. Defendants deny the allegations of paragraph 99.

100. Defendants deny the allegations of paragraph 100.

101. Defendants deny the allegations of paragraph 101.

102. Paragraph 102 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

103. Paragraph 103 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

104. Defendants admit the first sentence of paragraph 104. The remainder of paragraph 104 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains additional factual allegations, they are denied.

105. Defendants deny the allegations of paragraph 105.

106. Paragraph 106 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

107. Defendants deny the allegations of paragraph 107.

108. Defendants deny the allegations of paragraph 108.

109. Defendants deny the allegations of paragraph 109.

110. Defendants hereby incorporate by reference their responses to paragraphs 1-109 of the Complaint.

111. Paragraph 111 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

112. Paragraph 112 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

113. Paragraph 113 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

114. Defendants admit the allegations of paragraph 114.

115. Defendants deny the allegations of paragraph 115 and aver that the Constitution of Virginia includes the Full SSN requirement.

116. Defendants deny the allegations of paragraph 116.

117. Defendants deny the allegations of paragraph 117.

118. Defendants lack sufficient information to admit or deny the allegations in paragraph 118, except admit that plaintiffs have brought this action on their own behalf.

119. Defendants hereby incorporate their responses to paragraphs 1-118 of the Complaint.

120. Paragraph 120 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

121. Paragraph 121 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

122. Defendants deny the allegations of paragraph 122.

123. Defendants deny the allegations of paragraph 123.

124. Defendants deny the allegations of paragraph 124.

125. Defendants need not respond to the allegations in paragraphs 125-137 because those counts of the Complaint were dismissed.

139. Defendants hereby incorporate their responses to paragraphs 1-124 of the Complaint.

140. Paragraph 140 contains legal conclusions to which Defendants need not respond. To the extent the paragraph contains factual allegations, they are denied.

141. Defendants deny the allegations of paragraph 141.

142. Defendants deny the allegations of paragraph 142.

143. Defendants deny the allegations of paragraph 143.

139. paragraph 16.

AFFIRMATIVE DEFENSES

1. Plaintiffs fail to state a claim upon which relief can be granted.

2. Defendants assert that any and all acts of which Plaintiffs complain were at all times constitutional, and lawful.

3. Defendants assert that Plaintiffs have suffered no violation of any constitutional right under the First or Fourteenth Amendments to the United States Constitution.

4. Defendants assert that Virginia's use of the Full SSN is grandfathered under the Privacy Act.

5. Defendants deny that Plaintiffs have sustained injury as alleged and demand strict proof of any such injuries.

6. Defendants reserve the right to amend the responses in this Answer and to set forth any additional defenses that may come to light or otherwise reveal themselves in the course of litigation, including during discovery and at trial.

WHEREFORE, Defendants request that this Court dismiss this action with prejudice and award them any other relief deemed appropriate under the circumstances, including attorney's fees, costs, and expenses as a prevailing party under 42 U.S.C. § 1988, pursuant to Federal Rule of Civil Procedure 11, and as otherwise deemed or proven appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2022, I served the foregoing first discovery requests via email to counsel for Plaintiffs.

/s/ Joshua N. Lief

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