

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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VITO J. FOSSELLA, NICHOLAS A. LANGWORTHY,
JOSEPH BORRELLI, NICOLE MALLIOTAKIS,
ANDREW LANZA, MICHAEL REILLY, MICHAEL
TANNOUSIS, INNA VERNIKOV, DAVID CARR,
JOANN ARIOLA, VICKIE PALADINO, ROBERT
HOLDEN, GERARD KASSAR, VERALIA
MILLIOTAKIS, MICHAEL PETROV, WAFIK HABIB,
PHILLIP YAN HING WONG, NEW YORK
REPUBLICAN STATE COMMITTEE, and
REPUBLICAN NATIONAL COMMITTEE,

ANSWER

Index No. 85007/2022

Plaintiffs,

-against-

ERIC ADAMS, in his official capacity as Mayor of New
York City, BOARD OF ELECTIONS IN THE CITY OF
NEW YORK, CITY COUNCIL OF THE CITY OF NEW
YORK,

Defendants.

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Defendants, Mayor Eric Adams, in his official capacity, and the New York City
Council (“City Council”), by and through their attorney, Georgia M. Pestana, Corporation
Counsel of the City of New York, as and for their Answer to the Complaint (“Complaint”) dated
January 10, 2022, hereby allege as follows:

1. Deny the allegations set forth in paragraph “1” of the Complaint, except admit that Int. No. 1867-A, which permits certain New York City (“City”) residents who are not citizens of the United States to vote in City elections, was passed by the City Council on or about December 9, 2021 and became Local Law No. 11 of 2022 (“Local Law 11”) on January 9, 2022, and refers this court to Local Law 11 itself for its full text and true meaning.

2. Deny the allegations set forth in paragraph “2” of the Complaint, except admit that plaintiffs purport to proceed as stated therein.

3. Deny the allegations set forth in paragraph “3” of the Complaint, except admit that plaintiffs purport to seek the relief stated therein

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “4” of the Complaint, except admit that Plaintiff Vito Fossella is the current Staten Island Borough President and was previously a member of the United States House of Representatives and a member of the New York City Council.

5. Admit the allegations set forth in paragraph “5” of the Complaint insofar as Nicholas Langworthy is the current Chairman of the New York Republican State Committee.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Complaint, except admit that Joseph Borrelli is a member of City Council representing the 51st District and the current Minority Leader and further admit that the relevant hearing transcript indicates that Plaintiff Borrelli voted against Local Law 11.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the Complaint, except admit that Nicole Malliotakis is a member of the United States House of Representatives from New York’s 11th District.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the Complaint, except admit that Andrew Lanza is a State Senator in the New York State Senate representing the 24th District.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the Complaint, except admit that Michael Reilly is a member of the New York State Assembly representing the 62nd District.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the Complaint, except admit that Michael Tannousis is a member of the New York State Assembly representing the 64th District.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of the Complaint, except admit that Inna Vernikov is a member of the New York City Council representing the 48th District and further admit that the relevant hearing transcript indicates that Plaintiff Vernikov voted against Local Law 11.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the Complaint, except admit that David Carr is a member of the New York City Council representing the 50th District and further admit that the relevant hearing transcript indicates that Plaintiff Carr voted against Local Law 11.

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, except admit that Joann Ariola is a member of the New York City Council representing the 32nd District.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the Complaint, except admit that Vickie Paladino is a member of the New York City Council representing the 19th District.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the Complaint, except admit that Robert Holden

is a member of the New York City Council representing the 30th District and further admit that the relevant hearing transcript indicates that Plaintiff Holden voted against Local Law 11.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the Complaint, except admit that Gerard Kesser is the current Chairman of the New York State Conservative Party.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of the Complaint.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “18” of the Complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of 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 knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of the Complaint, except admit that the New York Republican State Committee is registered with the New York State Board of Elections and refer this court to the statute cited therein for its full text and true meaning.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the Complaint, except admit that the Republican National Committee is registered as a political action committee with the Federal Election Commission and refer this court to the statute cited therein for its full text and true meaning.

23. Deny the allegations set forth in paragraph “23” of the Complaint, except admit that Eric Adams is the Mayor of the City as of January 1, 2022 and that Plaintiffs purport to proceed against Mayor Adams as stated therein.

24. Deny the allegations set forth in paragraph “24” of the Complaint, except admit that Plaintiffs purport to proceed against BOE as stated therein and refer this court to Title III of the New York State Election Law (“Election Law”) for an accurate recitation of the creation of BOE, BOE’s duties and responsibilities, and its relationship to the City.

25. Deny the allegations set forth in paragraph “25” of the Complaint, except admit that City Council is the legislative body of the City, that City Council passed Local Law 11 on or about December 9, 2021, and refer this court to Title 3, Chapter 2 of the New York City Administrative Code (“Admin. Code”) and Chapter 2 of the New York City Charter (“Charter”) for an accurate recitation of the duties and responsibilities of City Council and its relationship to the City.

26. Deny the allegations set forth in paragraph “26” of the Complaint, except admit that Plaintiffs purport to base venue as stated therein.

27. Deny the allegations set forth in paragraph “27” of the Complaint insofar as it contains allegations of fact and refer this court to Article II, Section 1 of the New York State Constitution for its full text and true meaning.

28. Deny the allegations set forth in paragraph “28” of the Complaint insofar as it contains allegations of fact and refer this court to Article II, Section 1 of the New York State Constitution for its full text and true meaning.

29. Deny the allegations set forth in paragraph “29” of the Complaint insofar as it contains allegations of fact and refer this court to Article II, Section 5 of the New York State Constitution for its full text and true meaning.

30. Deny the allegations set forth in paragraph “30” of the Complaint insofar as it contains allegations of fact and refer this court to Article IX, Section 1 of the New York State Constitution for its full text and true meaning.

31. Deny the allegations set forth in paragraph “31” of the Complaint.

32. Deny the allegations set forth in paragraph “32” of the Complaint insofar as it contains allegations of fact and refer this court to Article IX, Section 3 of the New York State Constitution for its full text and true meaning.

33. Deny the allegations set forth in paragraph “33” of the Complaint.

34. Deny the allegations set forth in paragraph “34” of the Complaint insofar as it contains allegations of fact and refer this court to Chapter 17, Section 5-102 of the Election Law for its full text and true meaning.

35. Deny the allegations set forth in paragraph “35” of the Complaint insofar as it contains allegations of fact and refer this court to the case cited therein and to Chapter 17, Section 5-102 of the Election Law, for their full text and true meaning.

36. Deny the allegations set forth in paragraph “36” of the Complaint insofar as it contains allegations of fact and refer this court to Chapter 36a, Section 23 of the New York State Municipal Home Rule Law for its full text and true meaning.

37. Deny the allegations set forth in paragraph “37” of the Complaint, except admit that City Council voted to pass Intro No. 1867-A and sent the bill to the Mayor on or about

December 9, 2021 and refer this court to the text of Intro No. 1867-A for an accurate recitation of its contents.

38. Deny the allegations set forth in paragraph “38” of the Complaint, except admit that Mayor Adams neither signed nor vetoed Intro No. 1867-A and that it became law upon operation of law on or about January 9, 2022 and refer this court to Charter Chapter 2, Section 37 for its full text and true meaning.

39. Deny the allegations set forth in paragraph “39” of the Complaint, except admit that Local Law 11 amends the Charter to allow City residents who are lawful permanent residents and/or non-citizens who are authorized to work in the United States to vote in municipal elections and refer this court to Local Law 11 for its full text and true meaning.

40. Deny the allegations set forth in paragraph “40” of the Complaint insofar as it contains allegations of fact, insofar as it consists of a quotation from Local Law 11, defendants state that no response is required and refer this court to Local Law 11 for its full text and true meaning.

41. Deny the allegations set forth in paragraph “41” of the Complaint and refer this court to the legislative record for an accurate recitation of the estimated impact of Local Law 11.

42. Deny the allegations set forth in paragraph “42” of the Complaint and refer this court to the legislative record for an accurate recitation of the estimated impact of Local Law 11.

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. Deny the allegations set forth in paragraph “45” of the Complaint.

46. In response to the allegations set forth in paragraph “46” of the Complaint, Defendants repeat and reallege their responses to the foregoing paragraphs as if fully set forth herein.

47. Deny the allegations set forth in paragraph “47” of the Complaint.

48. Deny the allegations set forth in paragraph “48” of the Complaint and refer this court to the State Constitution provision cited therein for its full text and true meaning.

49. Deny the allegations set forth in paragraph “49” of the Complaint and refer this court to the State Constitution provision and case cited therein for their full text and true meaning.

50. Deny the allegations set forth in paragraph “50” of the Complaint and refer this court to the State Constitution provision cited therein for its full text and true meaning.

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. In response to the allegations set forth in paragraph “53” of the Complaint, Defendants repeat and reallege their responses to the foregoing paragraphs as if fully set forth herein.

54. Deny the allegations set forth in paragraph “54” of the Complaint and refer this court to the statute cited therein for its full text and true meaning.

55. Deny the allegations set forth in paragraph “55” of the Complaint.

56. Deny the allegations set forth in paragraph “56” of the Complaint.

57. In response to the allegations set forth in paragraph “57” of the Complaint, Defendants repeat and reallege their responses to the foregoing paragraphs as if fully set forth herein.

58. Deny the allegations set forth in paragraph “58” of the Complaint insofar as it contains allegations of fact and refer this court to the Municipal Home Rule Law for its full text and true meaning.

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

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

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

61. The Complaint fails to allege facts sufficient to state a cause of action upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

62. Defendants Mayor Adams and City Council have not violated any rights, privileges or immunities secured to the Plaintiffs by the New York State Constitution.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

63. All of the actions taken by the Defendants Mayor Adams and City Council were lawful and in accordance with the laws and rules of the State and City of New York.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

64. Some or all of the Plaintiffs may lack standing.

WHEREFORE, the Defendants Mayor Eric Adams and New York City Council request that the Complaint be denied in its entirety as against them, and that they be awarded such other and further relief as this Court deems just and proper.

Dated: New York, New York
February 25, 2022

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ANSWER

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