

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

FAITH RIVERA, DIOSSELYN TOT-
VELASQUEZ, KIMBERLY WEAVER,
PARIS RAITE, DONNAVAN DILLON,
and LOUD LIGHT,

Plaintiffs,

TOM ALONZO, SHARON AL-UQDAH,
AMY CARTER, CONNIE BROWN
COLLINS, SHEYVETTE DINKENS,
MELINDA LAVON, ANA MARCELA
MALDONADO MORALES, LIZ MEITL,
RICHARD NOBLES, ROSE SCHWAB,
and ANNA WHITE,

Plaintiffs,

SUSAN FRICK, LAUREN SULLIVAN,
DARRELL LEA, and SUSAN SPRING
SCHIFFELBEIN,

Plaintiffs.

v.

SCOTT SCHWAB, MICHAEL ABBOTT,
and JAMIE SHEW.

Defendants.

Case No.: 2022-CV-000089

(Consolidated with 2022-CV-000090 and
2022-CV-000071)

Division: 6

ANSWER

Defendants Scott Schwab and Michael Abbott, for their answer to the Petition filed in Wyandotte County case number 2022-cv-000090, deny all allegations except those specifically admitted herein, and further answer and state as follows:

Paragraph 1: Paragraph 1 alleges law, not facts. As a result, no response is required.

Paragraph 2: To the extent Paragraph 2 alleges law and not facts, no response is required. Defendants deny all other allegations in Paragraph 2.

Paragraph 3: The allegations of Paragraph 3 are denied as stated.

Paragraph 4: The allegations of Paragraph 4 are denied as stated. Moreover, the hearsay statements of a former state senator are irrelevant to any issue. Former Senator Wagle was not a member of the Kansas Senate during the redistricting vote and cannot speak for any other legislator specifically or the intent of the legislature as a whole.

Paragraph 5: The allegations of Paragraph 5 are denied as stated.

Paragraph 6: The allegations of Paragraph 6 are denied as stated.

Paragraph 7: The allegations of Paragraph 7 are denied as stated.

Paragraph 8: The allegations of Paragraph 8 are denied as stated.

Paragraph 9: The allegations of Paragraph 9 are denied as stated.

Paragraph 10: The allegations of Paragraph 10 are denied as stated.

Paragraph 11: The allegations of Paragraph 11 are denied.

Paragraph 12: Paragraph 12 does not allege facts to which a response is required.

Paragraph 13: Answering Paragraph 13, Defendants deny that Plaintiffs' purported claims are justiciable.

Paragraph 14: Answering Paragraph 14, Defendants deny that Defendant Abbott is a proper party to this case, which identifies him as a defendant (to the exclusion of every election commissioner in 104 other counties in the state) for the sole purpose of selecting Wyandotte County as a forum. Moreover, Defendants deny that Plaintiffs' purported claims are justiciable.

Paragraph 15: Answering Paragraph 15, Defendants deny that venue is proper in Wyandotte County.

Paragraph 16: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 16 and therefore the same are denied.

Paragraph 17: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 and therefore the same are denied.

Paragraph 18: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore the same are denied.

Paragraph 19: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 19 and therefore the same are denied.

Paragraph 20: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 20 and therefore the same are denied.

Paragraph 21: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21 and therefore the same are denied.

Paragraph 22: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22 and therefore the same are denied.

Paragraph 23: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23 and therefore the same are denied.

Paragraph 24: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24 and therefore the same are denied.

Paragraph 25: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 25 and therefore the same are denied.

Paragraph 26: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 26 and therefore the same are denied.

Paragraph 27: The allegations of Paragraph 27 are denied as stated.

Paragraph 28: The allegations of Paragraph 28 are denied as stated.

Paragraph 29: Admitted.

Paragraph 30: Answering Paragraph 30, Defendants admit that Michael Abbott is the Election Commissioner of Wyandotte County. The remaining allegations are denied as stated.

Paragraph 31: Admitted.

Paragraph 32: Admitted.

Paragraph 33: Admitted.

Paragraph 34: Answering Paragraph 34, Defendants admit the election results for Kansas' 2018 federal congressional election and state that said results speak for themselves.

Paragraph 35: Answering Paragraph 35, Defendants admit the election results for Kansas' 2020 federal congressional election and state that said results speak for themselves.

Paragraph 36: The allegations of Paragraph 36 are denied as stated.

Paragraph 37: Admitted.

Paragraph 38: Admitted.

Paragraph 39: Admitted.

Paragraph 40: The allegations of Paragraph 40 are denied.

Paragraph 41: Answering Paragraph 41, the hearsay statements of a former state senator are irrelevant to any issue. Former Senator Wagle was not a member of the Kansas Senate during

the redistricting vote and cannot speak for any other legislator specifically or the intent of the legislature as a whole. Accordingly, the allegations of Paragraph 41 are denied as stated.

Paragraph 42: Answering Paragraph 42, the hearsay statements of a former state senator are irrelevant to any issue. Former Senator Wagle was not a member of the Kansas Senate during the redistricting vote and cannot speak for any other legislator specifically or the intent of the legislature as a whole. Accordingly, the allegations of Paragraph 42 are denied as stated.

Paragraph 43: The allegations of Paragraph 43 are denied.

Paragraph 44: The allegations of Paragraph 44 are denied.

Paragraph 45: The allegations of Paragraph 45 are denied as stated.

Paragraph 46: The allegations of Paragraph 40 are denied as stated.

Paragraph 47: Defendants admit that Kansans submitted testimony about redistricting over the course of 14 town halls. All other allegations in Paragraph 47 are denied as stated.

Paragraph 48: Defendants admit that the 2020 census data showed that population growth made it impossible to keep both Wyandotte and Johnson County whole in a single district. All other allegations in Paragraph 48 are denied as stated.

Paragraph 49: Defendants admit that the “Legislature held four additional town halls between August 12, 2021 and the start of the 2022 legislative session on January 10, 2022.” (Pet. ¶ 49). All other allegations in Paragraph 49 are denied as stated.

Paragraph 50: Answering Paragraph 50, Defendants admit that the redistricting committees adopted certain guidelines. Defendants deny the conclusory allegations of the remainder of Paragraph 50.

Paragraph 51: Admitted.

Paragraph 52: Defendants admit that the Kansas legislature adopted the Enacted Plan, known as “Ad Astra 2.” Defendants deny the conclusory allegations of the remainder of Paragraph 52.

Paragraph 53: Defendants admit that the Enacted Plan “was introduced in the House and Senate on January 18, 2022, and originally called ‘Ad Astra’;” the Enacted Plan split Wyandotte County and part of Kansas City into different districts; and that Democrats and outside groups also presented maps during the redistricting process. The remaining allegations in Paragraph 53 are denied as stated.

Paragraph 54: The allegations of Paragraph 54 are denied as stated.

Paragraph 55: Defendants admit that members of the public presented written and oral testimony during the January 20, 2022 Senate Redistricting Committee hearing. The remaining allegations of Paragraph 56 are denied as stated.

Paragraph 56: Answering Paragraph 56, Defendants state that legislative speech and debate is a valuable and constitutionally protected right and demonstrates why the United States Constitution entrusts to the elected members of the legislature the right to determine congressional redistricting maps. In further answer, Defendants state that they do not have personal knowledge of the specifics of Representative Corson’s comments and therefore the same are denied. Defendants also state that they do not have personal knowledge of the specifics of Senate President Masterson’s comments but admit the quoted statement.

Paragraph 57: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 57 and therefore the same are denied.

Paragraph 58: Answering Paragraph 58, Defendants admit that the Senate Redistricting Committee voted the Ad Astra 2 map, now S.B. 355, out of committee on January 20, 2022.

Paragraph 59: Answering Paragraph 59, Defendants admit that the Kansas Senate met to consider S.B. 355 on January 21, 2022, and that amendments to the same were offered and rejected.

Paragraph 60: The allegations in Paragraph 60 are denied as stated.

Paragraph 61: Admitted.

Paragraph 62: Admitted.

Paragraph 63: Defendants admit that the House and Senate Redistricting Committees held hearings on January 20, 2022. The remaining allegations of Paragraph 63 are denied as stated.

Paragraph 64: Defendants admit that Chairman Croft permitted testimony to be submitted late and that the House Redistricting Committee heard testimony from constituents before the KLRD had been able to compile census data due to census delays. All other allegations in Paragraph 64 are denied as stated.

Paragraph 65: The allegations in Paragraph 65 are denied as stated.

Paragraph 66: Defendants admit that the House Redistricting Committee heard testimony on January 21, 2022, which is the same day the Senate Redistricting Committee passed the Ad Astra 2 map. The remaining allegations in Paragraph 66 are denied as stated.

Paragraph 67: Answering Paragraph 67, Defendants state that legislative speech and debate is a valuable and constitutionally protected right and demonstrates why the United States Constitution entrusts to the elected members of the legislature the right to determine congressional redistricting maps. In further answer, Defendants state that they do not have personal knowledge of the specifics of Representative Burroughs' statements and therefore the same are denied.

Paragraph 68: Admitted.

Paragraph 69: Admitted.

Paragraph 70: Answering Paragraph 70, Defendants state that Governor Kelly's statement speaks for itself. In further answer, Defendants admit that Governor Kelly vetoed S.B. 355 on February 3, 2022.

Paragraph 71: Admitted.

Paragraph 72: The allegations in Paragraph 72 are denied as stated.

Paragraph 73: The allegations in Paragraph 73 are denied as stated.

Paragraph 74: Defendants admit that the Kansas Senate overrode Governor Kelly's veto on February 8, 2022. All other allegations in Paragraph 74 are denied as stated.

Paragraph 75: Defendants admit that the Kansas House overrode Governor Kelly's veto on February 9, 2022. All other allegations in Paragraph 75 are denied as stated.

Paragraph 76: Admitted.

Paragraph 77: The allegations in Paragraph 77 are denied.

Paragraph 78: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 78 and therefore the same are denied.

Paragraph 79: The allegations in Paragraph 79 are denied as stated.

Paragraph 80: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 80 and therefore the same are denied.

Paragraph 81: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 81 and therefore the same are denied.

Paragraph 82: The allegations in Paragraph 82 are denied as stated.

Paragraph 83: Admitted.

Paragraph 84: Admitted.

Paragraph 85: The allegations in Paragraph 85 are denied as stated.

Paragraph 86: The allegations in Paragraph 86 are denied as stated.

Paragraph 87: The allegations in Paragraph 87 are denied.

Paragraph 88: The allegations in Paragraph 88 are denied as stated.

Paragraph 89: The allegations in Paragraph 89 are denied.

Paragraph 90: The allegations in Paragraph 90 are denied as stated.

Paragraph 91: The allegations in Paragraph 91 are denied.

Paragraph 92: The allegations in Paragraph 92 are denied as stated.

Paragraph 93: The allegations in Paragraph 93 are denied as stated.

Paragraph 94: The allegations in Paragraph 94 are denied.

Paragraph 95: The allegations in Paragraph 95 are denied.

Paragraph 96: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 96 are therefore denied.

Paragraph 97: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 97 are therefore denied.

Paragraph 98: Defendants lack knowledge or information sufficient to form a belief about the truth of said allegations; the remaining allegations in Paragraph 98 are therefore denied.

Paragraph 99: The allegations in Paragraph 99 are denied.

Paragraph 100: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 100 are therefore denied.

Paragraph 101: Admitted.

Paragraph 102: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 102 and therefore the same are denied.

Paragraph 103: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 103 and therefore the same are denied.

Paragraph 104: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 104 and therefore the same are denied.

Paragraph 105: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 105 and therefore the same are denied.

Paragraph 106: The allegations in Paragraph 106 are denied as stated.

Paragraph 107: The allegation in Paragraph 107 is a statement of opinion and is therefore denied.

Paragraph 108: The allegations of Paragraph 108 are broad statements of opinion and are therefore denied.

Paragraph 109: The allegations of Paragraph 109 are broad statements of opinion and are therefore denied.

Paragraph 110: Defendants incorporate their responses to Paragraphs 1–109 as if set forth fully herein.

Paragraph 111: The allegations in Paragraph 111 are denied.

Paragraph 112: Paragraph 112 alleges law, not facts. As a result, no response is required.

Paragraph 113: The allegations in Paragraph 113 are denied.

Paragraph 114: The allegations in Paragraph 114 are denied.

Paragraph 115: Defendants incorporate their responses to Paragraphs 1–113 as if set forth fully herein.

Paragraph 116: The allegations in Paragraph 116 are denied.

Paragraph 117: The allegations in Paragraph 117 are denied.

Paragraph 118: Defendants incorporate their responses to Paragraphs 1–117 as if set forth fully herein.

Paragraph 119: The allegations in Paragraph 119 are denied.

Paragraph 120: The allegations in Paragraph 120 are denied.

Paragraph 121: Defendants incorporate their responses to Paragraphs 1–120 as if set forth fully herein.

Paragraph 122: The allegations in Paragraph 122 are denied.

Paragraph 123: The allegations in Paragraph 123 are denied.

Paragraph 124: The allegations in Paragraph 124 are denied.

Paragraph 125: The allegations in Paragraph 125 are denied.

Defenses

1. Plaintiffs have failed to state a claim to which relief may be granted. Neither the United States Constitution nor any exercise of the State’s lawmaking power, including the Kansas Constitution, authorizes this Court to invalidate federal congressional maps. The U.S. Constitution prohibits it from doing so.

2. There is no established standard under the Kansas Constitution by which this Court can lawfully measure alleged claims of political gerrymandering.

3. There is no established standard under the Kansas Constitution by which this Court can lawfully measure alleged racial gerrymandering.

4. The Court is under a legal obligation to avoid interference with the legislative branch.

5. The United States Constitution commits legislative redistricting to the legislative branch.

6. Plaintiffs' political gerrymandering claims are nonjusticiable.

7. This Court lacks subject matter jurisdiction.

8. To the extent the case is permitted to proceed, venue is improper in Wyandotte County and is only proper in Shawnee County.

9. Plaintiffs fail to allege a racial vote dilution claim.

10. Defendant Abbott must be dismissed because he is not a proper defendant.

11. Defendants are not proper parties because they cannot provide the relief requested by Plaintiffs.

12. Plaintiffs lack standing to bring their claims as they have suffered no injury in fact.

13. The Petition presents non-justiciable political questions.

14. The expedited nature of this case, including suspension of nearly all rules, prejudices Defendants.

15. To the extent that the Court finds in favor of Plaintiffs, this Court does not have authority to draw or adopt a map itself and must return to the matter to the Legislature.

16. Plaintiffs' request for costs, expenses, and attorneys' fees is improper under Kansas law.

17. Both the U.S. and Kansas Constitutions prohibit this Court from drawing or adopting maps itself.

WHEREFORE, Defendants pray for judgment in their favor, for the costs of this action, and for such other and further relief as the Court deems just and equitable.

Respectfully submitted by:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 1st day of April, 2022, I presented the foregoing to the clerk of the court for filing and uploading to the e-flex electronic court filing system and service by electronic notification to the following counsel of record:

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