

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION**

**DEBORAH SPRINGER SUTTLAR, JUDY GREEN, FRED LOVE,
in his individual and official capacity as State Representative, KWAMI ABDUL-BEY,
CLARICE ABDUL-BEY, and PAULA WITHERS,**

PLAINTIFFS

V. NO. 60CV-22-1849

**JOHN THURSTON, in his official capacity
as the Secretary of State of Arkansas and in his official capacity as the Chairman of the
Arkansas State Board of Election Commissioners,
and SHARON BROOKS, BILENDA
HARRIS-RITTER, WILLIAM LUTHER,
CHARLES ROBERTS, WENDY BRANDON, JAMIE CLEMMER and
JAMES HARMON SMITH III, in their official capacities
As members of the Arkansas State Board of
Election Commissioners,**

DEFENDANTS

**PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' REQUEST FOR
EXPEDITED TREATMENT**

On September 1, 2022, over five months after Plaintiffs filed their Complaint, Defendants filed an untimely answer¹ and moved for judgment on the pleadings pursuant to Arkansas Rules of Civil Procedure 12(b)(1), 12(b)(6), and (12)(c). Additionally, Defendants ask this Court to order Plaintiffs to respond to the 12(c) motion by September 8, 2022.² Plaintiffs oppose Defendants'

¹ Although Defendants' answer is untimely, Plaintiffs have not moved to strike because, as Plaintiffs stated in their Partial Motion for Summary Judgment, the facts alleged in Plaintiffs' Complaint are admitted since Defendants never filed a timely responsive pleading. Plaintiffs seek to avoid an order striking the Defendants' untimely answer because it could create an opportunity for further delay through meritless interlocutory appeals.

² In a September 2, 2022 email to the Court, counsel for Defendants relayed that Defendants do not object to their 7-day requested deadline beginning on September 2, the day the Clerk's office accepted the filing, rather than September 1, the day Defendants filed. For the reasons stated

request for expedited treatment of their untimely motion. Plaintiffs agree that expeditious resolution of this action is critical, but Defendants' stated intent to file a meritless interlocutory appeal is not sufficient grounds to deprive Plaintiffs of the time that the Rules of Civil Procedure provide for responding to Defendants' motion for judgment on the pleadings.

Plaintiffs accordingly request that the Court deny Defendants' request for expedited treatment and instead order Plaintiffs to respond to Defendants' motion for judgment on the pleadings on or before the September 21, 2022 deadline established by Arkansas Rule of Civil Procedure 6.

Respectfully submitted,

Jess Askew III, Ark. Bar No. 86005
McKenzie C. Raub, Ark. Bar No. 2019142
KUTAK ROCK LLP
124 West Capitol Avenue, Suite 2000
Little Rock, Arkansas 72201-3740
Tel: (501) 975-3141
Fax: (501) 975-3001
jess.askew@kutakrock.com
mckenzie.raub@kutakrock.com

Aria Branch*
Aaron M. Mukerjee*
Marilyn Gabriela Robb*
Elias Law Group LLP
10 G. Street NE
Suite 600
Washington, DC 20002
Tel: (202) 968-4654
Fax: (202) 968-4498
abbranch@elias.law
amukerjee@elias.law
mrobb@elias.law
**Admitted pro hac vice*

herein, Plaintiffs oppose Defendants' request for expedited treatment, regardless of whether the clock starts on September 1 or September 2.

/s/ Alexander T. Jones

Alexander T. Jones, Ark. Bar No. 2015246
200 West Capitol Avenue, Suite 2300
Little Rock, Arkansas 72201-3699
Tel: (501) 212-1241
Fax: (501) 376-9442
alexandertaylorjones@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2022, I electronically filed the foregoing with the Clerk of the Court using the Arkansas Judiciary Electronic Filing System, which shall send notification of such filing to the following counsel-of-record:

Dylan L. Jacobs
Deputy Solicitor General
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
dylan.jacobs@arkansasag.gov

/s/ Alexander T. Jones

Alexander T. Jones

RETRIEVED FROM DEMOCRACYDOCKET.COM