

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

VOTE.ORG; GEORGIA ALLIANCE FOR)
RETIREED AMERICANS; and PRIORITIES USA,))

Petitioner,)

v.)

) CIVIL ACTION FILE
) NO: 1:22-CV-01734-JPB

GEORGIA STATE ELECTION BOARD;)
EDWARD LINDSEY, JANICE W. JOHNSTON,)
SARA TINDALL GHAZAL, and MATTHEW)
MASHBURN, in their official capacities as)
members of the Georgia State Election Board; and)
CATHY WOOLARD, KATHLEEN D. RUTH,)
AARON V. JOHNSON, MARK WINGATE, and)
TERESA K. CRAWFORD in their official)
capacities as members of the Fulton County)
Registration and Elections Board,)

Defendants,)

**DEFENDANTS CATHY WOOLARD, KATHLEEN D. RUTH, AARON
JOHNSON, MARK WINGATE, AND TERESA K. CRAWFORD’S
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS’
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

COME NOW, Cathy Woolard, Kathleen Ruth, Mark Wingate, Teresa Crawford, and Aaron Johnson, in their official capacities as members of the Fulton County Board of Registration and Elections (hereafter “Fulton BRE Members”) through counsel, and respectfully file this their Answer to Plaintiffs’ Complaint for

Declaratory and Injunctive Relief showing the Court as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs' claims are barred, in whole or in part, for failure to state a claim upon which relief can be granted, since the Fulton County BRE Members are required to comply with state statutes and the Georgia Constitution.

SECOND DEFENSE

Plaintiffs lack standing to bring all, or a portion, of their claims against the Fulton County BRE Members.

THIRD DEFENSE

Plaintiffs lack a clear legal right to the relief sought.

FOURTH DEFENSE

Fulton County BRE Members have not breached a duty owed to Plaintiffs.

FIFTH DEFENSE

Fulton County BRE Members' compliance with Georgia law is being carried out in good faith, without conscious, reckless, or negligent disregard for the rights of any voter.

SIXTH DEFENSE

Fulton County BRE Members have not subjected Plaintiffs to the deprivation of any rights, due process or equal protection guaranteed by the Georgia Constitution or the United States Constitution.

SEVENTH DEFENSE

Fulton County BRE Members are not capable of providing a remedy to Plaintiffs since their powers and duties do not include the ability to determine the voting laws or system of the State of Georgia.

EIGHTH DEFENSE

Plaintiffs' claims against the Fulton County BRE Members are barred by Eleventh Amendment Immunity.

NINTH DEFENSE

Subject to and without waiving the foregoing affirmative defenses, Fulton County BRE Members respond to the individually numbered paragraphs of the Plaintiffs' Complaint as follows:

1.

Paragraph 1 contains Plaintiffs' contentions, as to the nature of this action and as such, Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contention contained in Paragraph 1, and for

this reason, the contention contained in Paragraph 1 are denied. Defendants admit that Plaintiffs have accurately quoted from 52 U.S.C. 10101(a)(2)(B).

2.

Paragraph 2 contains Plaintiff's contentions as to what can happen under certain conditions and as such Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contentions and allegations contained in Paragraph 2, and for this reason, the contentions and allegations contained in Paragraph 2 are also denied. Defendants admit that O.C. G . A § 21-2-381 contains the phrase "pen and ink".

3.

Paragraph 3 contains Plaintiff's contentions as to what can happen under certain conditions and as such Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contentions and allegations contained in Paragraph 3, and for this reason, the contentions and allegations contained in Paragraph 2 are also denied. Fulton County BRE Members are without knowledge or information sufficient to either admit or deny to the allegations contained in Paragraph 3, and for this reason, the allegations contained in Paragraph 3 are denied.

4.

Fulton County BRE Members are without knowledge or information sufficient to admit or deny to the contentions and allegations contained in Paragraph 4, and for this reason, the contentions and allegations contained in Paragraph 4 are denied.

5.

Fulton County BRE Members are without knowledge or information sufficient to establish the truthfulness of the statistics cited in Paragraph 5, or to admit or deny the contentions and allegations contained in Paragraph 5, and for this reason, the contentions and allegations contained in Paragraph 5 are denied.

6.

Fulton County BRE Members are without knowledge or information sufficient to establish the truthfulness of the statistics cited in Paragraph 6 or to admit or deny the allegations contained in Paragraph 6, and for this reason, the allegations contained in Paragraph 6 are denied.

7.

Paragraph 7 contains Plaintiffs' contentions as to the impact as to the process and states a claim for relief sought by Plaintiffs. To the extent a response is required,

Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contentions and allegations contained in Paragraph 7, and for this reason, the contentions and allegations contained in Paragraph 7 are denied.

JURISDICTION AND VENUE

8.

Fulton County BRE Members admit that the Court has jurisdiction over claims brought pursuant to 52 U.S.C. 10101 and 42 U.S.C. § 1983 and § 1988. Fulton County MRE Members are without knowledge or information sufficient to either admit or deny that the Court has jurisdiction over the claims at bar.

9.

Fulton County BRE Members admit that the Court has original jurisdiction over claims that assert a deprivation under color of state law for rights secured under federal law.

10.

The Fulton County BRE Members admit the allegations contained in Paragraph 10.

11.

The Fulton County BRE Members admit the allegations contained in

Paragraph 11.

12.

The Fulton County BRE Members admit the allegations contained in Paragraph 12.

13.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 13, and for this reason, the allegations contained in Paragraph 13 are denied.

14.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 14, and for this reason, the allegations contained in Paragraph 14 are denied.

15.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 15, and for this reason, the allegations contained in Paragraph 15 are denied.

16.

The Fulton County BRE Members are without knowledge or information

sufficient to either admit or deny the allegations contained in Paragraph 16 and for this reason, the allegations contained in Paragraph 16 are denied.

17.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the alleged threat to Alliance members. The Fulton County BRE Members deny the remaining allegations of Paragraph 17 as stated.

18.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 18 and for this reason, the allegations contained in Paragraph 18 are denied.

19.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 19 and for this reason, the allegations contained in Paragraph 19 are denied.

20.

The Fulton County BRE Members admit that Edward Lindsey, Janice W. Johnston, Sara Tindall Ghazal, and Matthew Mashburn are members of the Georgia State Election Board and are named in their official capacities. The Fulton County

BRE Members further admit that the statute and regulation referenced in Paragraph 20 exist.

21.

The Fulton County BRE Members admit that Cathy Woolard, Kathleen D. Ruth, Aaron Johnson, Mark Wingate, and Teresa Crawford are members of the FCBRE and are sued in their official capacities. The Fulton County BRE Members further admit that the statutes referenced in Paragraph 21 exist. The remaining allegations in Paragraph 21 are denied.

STATEMENT OF FACTS AND LAW

22.

Fulton County BRE Members admit the allegations in Paragraph 22.

23.

The Fulton County BRE Members admit that the statute and regulation referenced in Paragraph 23 exist. The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the remaining contentions and Allegations in Paragraph 23, and for this reason, the remaining contentions and allegations in Paragraph 23 are denied.

24.

The Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the allegations contained in Paragraph 24 and for this reason, the allegations contained in Paragraph 24 are denied.

25.

The Fulton County BRE Members admit that the annotations to O.C.G.A. § 21-2-381, Editor's Notes ("Ga. L. 2021, p. 14 § 2/ SB 202, not codified by the General Assembly") referenced in Paragraph 25 exist and were accurately recited by Plaintiffs. The Fulton County BRE Members are without knowledge and information sufficient to either admit or deny the remaining contentions and allegations of Paragraph 25.

26.

The Fulton County BRE Members state that the statute referenced in Paragraph 26 exist and is accurately cited in Paragraph 26. The Fulton County BRE Members are without knowledge and information sufficient to either admit or deny the remaining contentions and allegations of Paragraph 26.

27.

The Fulton County BRE Members state that the statutes and regulation referenced in Paragraph 27 exist and that registrars and absentee ballot clerks are

constrained to follow the law

28.

The Fulton County BRE Members state that the statute and regulation referenced in Paragraph 28 exist and is accurately cited in Paragraph 28. The Fulton County BRE Members are without knowledge and information sufficient to either admit or deny the remaining contentions and allegations of Paragraph 28.

29.

The Fulton County BRE Members state that the statutes referenced in Paragraph 29 exist and are accurately cited in Paragraph 26. The Fulton County BRE Members are without knowledge and information sufficient to either admit or deny the remaining contentions and allegations of Paragraph 26.

30.

Paragraph 30 contains Plaintiffs' contentions, as to the nature of this action and as such, Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contention contained in Paragraph 30, and for this reason, the contention contained in Paragraph 30 are denied. Defendants admit that Plaintiffs have accurately quoted from 52 U.S.C. 10101(a)(2)(B).

CLAIM FOR RELIEF
COUNT I
52 U.S.C. § 10101; 42 U.S.C. § 1983
Violation of 52 U.S.C. § 10101(a)(2)(B)
Against All Defendants

31.

The Fulton County BRE Members restate and reincorporate by reference Paragraphs 1-30 of this Answer, as though fully set forth herein.

32.

The Fulton County BRE Members state that the statute referenced in Paragraph 32 exists and is accurately cited.

33.

The Fulton County BRE Members state that the caselaw and statute referenced in Paragraph 33 exist.

34.

Paragraph 34 contains legal conclusions and as such, does not require an admission or denial, for these reasons the allegations contained in Paragraph 34 are denied.

35.

The Fulton County BRE Members admit that absentee ballots are the only means by which some Georgians can vote. The Fulton County BRE Members are without sufficient knowledge or information to either admit or deny the deny the

remaining allegations of Paragraph 35.

36.

The Fulton County BRE Members state that the caselaw referenced in Paragraph 36 exists and is accurately cited. Paragraph 36 contains Plaintiffs' contentions, as to the nature of this action and as such, Fulton County BRE Members are without knowledge or information sufficient to either admit or deny the contention contained in Paragraph 36, and for this reason, the contention contained in Paragraph 36 are denied.

37.

The Fulton County BRE Members deny that they have deprived voters of rights secured by 52 USC 10101(a)(2)(B).

GENERAL DENIAL

Fulton County BRE Members deny that Plaintiffs are entitled to any of the relief sought and deny each numbered paragraph of the Prayer for Relief. The Fulton County BRE Members further deny each and every allegation of the Complaint, not specifically admitted, denied, or otherwise responded to herein.

WHEREFORE, the Fulton County BRE Members request:

(a) That the Complaint be dismissed;

- (b) That all relief sought by Plaintiffs be denied;
- (c) That judgment be issued in Fulton County BRE Members' favor;
- (d) That attorneys' fees and costs be assessed against Plaintiffs; and
- (f) Any other further relief as this Court deems just and proper.

Respectfully submitted this 5th day of July 2022.

**OFFICE OF THE COUNTY
ATTORNEY**

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/ David R. Lowman

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed this Certificate of Service of using **DEFENDANTS' CATHY WOOLARD, KATHLEEN D. RUTH, AARON JOHNSON, MARK WINGATE, AND TERESA K. CRAWFORD'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** using the Odyssey e-File GA system, which automatically sends email

notification of such filing to all attorneys of record.

Respectfully submitted, this 5th day of July 2022.

/s/ **David R. Lowman**

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