

Missouri Protection & Advocacy Services,
et al.,

Cause No.: 2:22-cv-04097-NKL

John R. Ashcroft, *et al.*,

Answer and Affirmative Defenses of Defendant St. Louis County Board of Election Commissioners

Defendant St. Louis County Board of Election Commissioners (“STL-BOEC”) by and through counsel, and for its Answer and Affirmative Defenses to Plaintiffs’ Complaint states as follows:

ANSWER

Introduction

1. STL-BOEC admits that the Complaint purports to seek relief under 52 U.S.C. §10508 (“VRA”). Paragraph 1 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 1 asserts any factual allegations, STL-BOEC denies the same.

2. Paragraph 2 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 2 asserts any factual allegations, STL-BOEC denies the same.

3. Paragraph 3 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 3 asserts any factual allegations, STL-BOEC denies the same.

4. Paragraph 4 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 4 asserts any factual allegations, STL-BOEC denies the same.

5. Paragraph 5 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 5 asserts any factual allegations, STL-BOEC denies the same.

6. Paragraph 6 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 6 asserts any factual allegations, STL-BOEC denies the same.

7. Paragraph 7 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 7 asserts any factual allegations, STL-BOEC denies the same.

8. Paragraph 8 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 8 asserts any factual allegations, STL-BOEC denies the same.

9. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 9 of the Complaint and, therefore, denies the same.

10. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 10 of the Complaint and, therefore, denies the same.

11. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 11 of the Complaint and, therefore, denies the same.

12. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 12 of the Complaint and, therefore, denies the same.

13. Paragraph 13 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 13 asserts any factual allegations, STL-BOEC denies the same.

14. STL-BOEC admits that the Complaint purports to seek relief under the VRA. To the extent that Paragraph 14 asserts any factual allegations, STL-BOEC denies the same.

Jurisdiction and Venue

15. STL-BOEC admits the allegations set forth in Paragraph 15 of the Complaint.

16. STL-BOEC admits the allegations set forth in Paragraph 16 of the Complaint.

17. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 17 of the Complaint and, therefore, denies the same.

18. STL-BOEC admits that the referenced Defendants are located in the corresponding counties but lacks knowledge sufficient to form a belief as to the veracity of the remaining allegations set forth in paragraph 18 of the Complaint and, therefore, denies the same.

Parties

19. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 19 of the Complaint and, therefore, denies the same.

20. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 20 of the Complaint and, therefore, denies the same.

21. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 21 of the Complaint and, therefore, denies the same.

22. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 22 of the Complaint and, therefore, denies the same.

23. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 23 of the Complaint and, therefore, denies the same.

24. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 24 of the Complaint and, therefore, denies the same.

25. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 25 of the Complaint and, therefore, denies the same.

26. STL-BOEC admits that Ms. Sheinbein is a registered voter in St. Louis County, Missouri, but lacks knowledge sufficient to form a belief as to the veracity of the remaining allegations set forth in paragraph 26 of the Complaint and, therefore, denies the same.

27. STL-BOEC admits that Mr. Ashcroft is the Secretary of State for the State of Missouri. Paragraph 27 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 27 asserts any factual allegations, STL-BOEC denies the same.

28. STL-BOEC admits the allegation set forth in Paragraph 28 of the Complaint, and further states that the duties and obligations of each election authority is established by applicable law.

29. STL-BOEC admits it is an election authority, with duties and obligations, under Missouri law. Paragraph 29 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 29 asserts any factual allegations, STL-BOEC denies the same.

30. STL-BOEC admits that the referenced language is included in the referenced materials, and that said material speaks for itself. STL-BOEC denies the remaining allegations set forth in Paragraph 30 of the Complaint.

Facts

31. STL-BOEC admits the allegations set forth in Paragraph 31 of the Complaint.

32. Paragraph 32 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 32 asserts any factual allegations, STL-BOEC denies the same.

33. STL-BOEC admits the allegations set forth in Paragraph 33 of the Complaint.

34. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 34 of the Complaint and, therefore, denies the same.

35. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 35 of the Complaint and, therefore, denies the same.

36. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 36 of the Complaint and, therefore, denies the same.

37. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 37 of the Complaint and, therefore, denies the same.

38. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 38 of the Complaint and, therefore, denies the same.

39. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 39 of the Complaint and, therefore, denies the same.

40. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 40 of the Complaint and, therefore, denies the same.

41. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 41 of the Complaint and, therefore, denies the same.

42. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 42 of the Complaint and, therefore, denies the same.

43. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 43 of the Complaint and, therefore, denies the same.

44. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 44 of the Complaint and, therefore, denies the same.

45. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 45 of the Complaint and, therefore, denies the same.

46. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 46 of the Complaint and, therefore, denies the same.

47. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 47 of the Complaint and, therefore, denies the same.

48. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 48 of the Complaint and, therefore, denies the same.

Relevant Law

49. Paragraph 49 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 49 asserts any factual allegations, STL-BOEC denies the same.

50. Paragraph 50 of the Complaint contains a reference to a senate report, legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 50 asserts any factual allegations, STL-BOEC denies the same.

51. Paragraph 51 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 51 asserts any factual allegations, STL-BOEC denies the same.

52. Paragraph 52 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 52 asserts any factual allegations, STL-BOEC denies the same.

53. Paragraph 53 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 53 asserts any factual allegations, STL-BOEC denies the same.

54. Paragraph 54 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 54 asserts any factual allegations, STL-BOEC denies the same.

55. STL-BOEC denies the allegations set forth in paragraph 55 of the Complaint.

56. STL-BOEC admits that it conducts elections in accordance with applicable law, but denies any remaining allegations set forth in paragraph 56 of the Complaint.

Organizational Assistor Plaintiff Activities and Harms

57. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 57 of the Complaint and, therefore, denies the same.

58. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 58 of the Complaint and, therefore, denies the same.

59. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 59 of the Complaint and, therefore, denies the same.

60. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 60 of the Complaint and, therefore, denies the same.

61. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 61 of the Complaint and, therefore, denies the same.

62. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 62 of the Complaint and, therefore, denies the same.

63. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 63 of the Complaint and, therefore, denies the same.

64. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 64 of the Complaint and, therefore, denies the same.

65. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 65 of the Complaint and, therefore, denies the same.

66. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 66 of the Complaint and, therefore, denies the same.

67. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 67 of the Complaint and, therefore, denies the same.

68. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 68 of the Complaint and, therefore, denies the same.

69. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 69 of the Complaint and, therefore, denies the same.

70. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 70 of the Complaint and, therefore, denies the same.

71. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 71 of the Complaint and, therefore, denies the same.

72. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 72 of the Complaint and, therefore, denies the same.

73. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 73 of the Complaint and, therefore, denies the same.

74. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 74 of the Complaint and, therefore, denies the same.

75. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 75 of the Complaint and, therefore, denies the same.

76. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 76 of the Complaint and, therefore, denies the same.

77. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 77 of the Complaint and, therefore, denies the same.

78. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 78 of the Complaint and, therefore, denies the same.

79. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 79 of the Complaint and, therefore, denies the same.

80. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 80 of the Complaint and, therefore, denies the same.

81. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 81 of the Complaint and, therefore, denies the same.

82. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 82 of the Complaint and, therefore, denies the same.

83. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 83 of the Complaint and, therefore, denies the same.

84. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 84 of the Complaint and, therefore, denies the same.

85. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 85 of the Complaint and, therefore, denies the same.

86. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 86 of the Complaint and, therefore, denies the same.

87. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 87 of the Complaint and, therefore, denies the same.

88. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 88 of the Complaint and, therefore, denies the same.

89. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 89 of the Complaint and, therefore, denies the same.

Individual Assistor Plaintiff Activities and Harms

90. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 90 of the Complaint and, therefore, denies the same.

91. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 91 of the Complaint and, therefore, denies the same.

92. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 92 of the Complaint and, therefore, denies the same.

93. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 93 of the Complaint and, therefore, denies the same.

94. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 94 of the Complaint and, therefore, denies the same.

95. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 95 of the Complaint and, therefore, denies the same.

96. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 96 of the Complaint and, therefore, denies the same.

97. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 97 of the Complaint and, therefore, denies the same.

98. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 98 of the Complaint and, therefore, denies the same.

99. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 99 of the Complaint and, therefore, denies the same.

100. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 100 of the Complaint and, therefore, denies the same.

Voter Plaintiff Harms

101. STL-BOEC admits that Ms. Sheinbein is a registered voter in St. Louis County, Missouri, but lacks knowledge of sufficient to form a belief as to the veracity of the remaining allegations set forth in paragraph 101 of the Complaint and, therefore, denies the same.

102. STL-BOEC admits that Ms. Sheinbein voted in said election, but lacks knowledge sufficient to form a belief as to the veracity of the remaining allegations set forth in paragraph 102 of the Complaint and, therefore, denies the same.

103. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 103 of the Complaint and, therefore, denies the same.

104. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 104 of the Complaint and, therefore, denies the same.

105. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 105 of the Complaint and, therefore, denies the same.

106. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 106 of the Complaint and, therefore, denies the same.

107. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 107 of the Complaint and, therefore, denies the same.

108. STL-BOEC lacks knowledge sufficient to form a belief as to the veracity of the allegations set forth in paragraph 108 of the Complaint and, therefore, denies the same.

Count I

Missouri's Voter Assistance Restrictions violate the Supremacy Clause of the U.S.

Constitution

109. STL-BOEC incorporates and restates its responses to Paragraphs 1-108 as fully set forth herein.

110. Paragraph 110 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 110 asserts any factual allegations, STL-BOEC denies the same.

111. Paragraph 111 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 111 asserts any factual allegations, STL-BOEC denies the same.

112. Paragraph 112 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 112 asserts any factual allegations, STL-BOEC denies the same.

Count II

Missouri's Voter Assistance Restrictions Violate Section 208 of the VRA

113. STL-BOEC incorporates and restates its responses to Paragraphs 1-112 as fully set forth herein.

114. Paragraph 114 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 114 asserts any factual allegations, STL-BOEC denies the same.

115. Paragraph 115 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 115 asserts any factual allegations, STL-BOEC denies the same.

116. Paragraph 116 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 116 asserts any factual allegations, STL-BOEC denies the same.

117. Paragraph 117 of the Complaint contains legal conclusions and/or recitation of law, which speak for themselves, and to which no answer is required. To the extent that Paragraph 117 asserts any factual allegations, STL-BOEC denies the same.

Prayer for Relief

WHEREFORE, having fully answered the Complaint STL-BOEC respectfully requests that this Court grant judgment in its favor, and against the Plaintiffs, and dismiss all counts in the

Complaint as they pertain to STL-BOEC, and award such other further relief as this Court deems just and proper under the premises.

Affirmative Defenses

A. The Complaint should be dismissed in its entirety as to STL-BOEC for failure to state a claim as the Plaintiffs have failed to establish that they have standing to bring a cause of action against STL-BOEC, in that the VRA does not confer a private right of action that would afford relief in the case at bar, and the Complaint fails to demonstrate that Plaintiffs have suffered an injury-in-fact.

B. The Complaint should be dismissed in its entirety as to STL-BOEC for failure to state a claim as the Plaintiffs have failed to allege that there has been a violation of the VRA, in that the facts as pled do not demonstrate that any Plaintiff has been deprived of the ability to have assistance from a person of their choosing.

C. The Complaint should be dismissed in its entirety as to STL-BOEC, because STL-BOEC as a local election authority has no discretion to disregard State Law, and it is not a necessary party to the resolution of the case at bar. The Secretary of State is the appropriate party to defend the suit and is already a party to this action. STL-BOEC is not implementing a policy or custom, but instead complying with State Law.

D. In the event Plaintiffs prevail, STL-BOEC should not be responsible for the payment of attorneys' fees, as it is a local election authority that does not have the discretion to disregard State Law, and it is not a necessary party to the resolution of the case at bar.

E. Plaintiffs' claims are barred by the doctrine of laches in that the Missouri Law forming the basis of the Complaint was adopted in 1977.

F. STL-BOEC reserves the right to assert additional affirmative defenses as discovery is conducted.

Respectfully submitted,

CURTIS, HEINZ, GARRETT &
O'KEEFE, P.C.

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CERTIFICATE OF SERVICE

A copy of the above and foregoing was served upon the following via email this 23rd day of August, 2022 upon all counsel of record

/s/ Edward J. Sluys