

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

PUBLIC INTEREST LEGAL
FOUNDATION, INC.,

Plaintiff,

v.

SHENNA BELLOWS, in her official capacity
as the Secretary of State for the State of
Maine,

Defendant.

Docket No. 1:20-cv-00061-GZS

**ANSWER TO FIRST AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES**

Defendant Shenna Bellows, in her official capacity as the Maine Secretary of State, answers Plaintiff's First Amended Complaint for Declaratory and Injunctive Relief ("amended complaint") as follows:

1. Defendant denies the allegations in paragraph 1.
2. Defendant admits that venue is proper in this district.
3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 and therefore denies them.
4. Admitted.
5. Defendant admits that she is being sued only in her official capacity as Maine's Secretary of State.
6. Defendant admits that Title 21-A, Section 196-A of the Maine Revised Statutes ("M.R.S.") sets forth certain requirements for access to information contained electronically in

Maine's central voter registration system and any reports or information generated by that system. Defendant denies the remaining allegations in paragraph 6.

7. Paragraph 7 quotes language from a statute and, as such, does not require a response. To the extent a response is required, defendant admits that the quoted language appears in that statute, 21-A M.R.S. § 196-A(1). Defendant denies the remaining allegations in paragraph 7.

8. Paragraph 8 contains legal argument to which no response is required. To the extent a response is required, defendant admits that the language in the indented, single-spaced quotation in paragraph 8 appears in statute, 21-A M.R.S. § 196-A(1)(B), and that the voter information listed in the quoted language may be obtained upon request by certain individuals and entities for limited purposes as specified in § 196-A(1)(B). Defendant denies the remaining allegations in paragraph 8.

9. Defendant admits that a report that contains the specific fields of data described in 21-A M.R.S. § 196-A(1)(B) is referred to by her office as a "party/campaign use voter file." Defendant denies the remaining allegations in paragraph 9.

10. Paragraph 10 contains legal argument and quotes language from a statute, 21-A M.R.S. § 196-A(1)(B) to which no response is required. To the extent a response is required, defendant admits that the language quoted on lines 2 through 4 of paragraph 10 appears in that statute. Defendant denies the remaining allegations in paragraph 10.

11. Paragraph 11 contains legal argument to which no response is required. To the extent a response is required, defendant admits that 21-A M.R.S. § 196-A(1)(B) describes the types of voter record information that may be produced in a report and purchased by certain types of individuals and entities by making a request to the Secretary of State, or to a registrar if

the information requested concerns voters in a particular municipality. Defendant denies the remaining allegations in paragraph 11.

12. Paragraph 12 contains legal argument to which no response is required. To the extent a response is required, defendant admits that the text quoted on lines three through ten of paragraph 12 appears in 21-A M.R.S. § 196-A(1)(B). Defendant denies that paragraph 12 fairly describes the cited statute and denies the remaining allegations in paragraph 12.

13. Paragraph 13 contains legal argument to which no response is required. To the extent a response is required, defendant admits that the text quoted in this paragraph appears in 21-A M.R.S. § 196-A(1)(B). Defendant otherwise denies paragraph 13.

14. Paragraph 14 contains legal argument to which no response is required. To the extent a response is required, Defendant denies Paragraph 14.

15. Admitted.

16. Paragraph 16 contains legal argument to which no response is required. To the extent a response is required, defendant admits that the text quoted in this paragraph appears in 21-A M.R.S. § 196-A(1)(J).

17. Paragraph 17 contains legal argument to which no response is required. To the extent a response is required, defendant admits that the text quoted in this paragraph appears in 21-A M.R.S. § 196-A(1)(J).

18. Paragraph 18 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that the paragraph accurately quotes 21-A M.R.S. § 196-A(5)(A) but denies that the paragraph accurately describes the statute.

19. Paragraph 19 contains legal argument to which no response is required. To the extent a response is required, Defendant denies that Paragraph 19 accurately describes the statute.

20. Paragraph 20 quotes language from a federal statute to which a response is not required. To the extent a response is required, defendant admits that the language quoted in paragraph 20 is contained in, but is not the full text of, 52 U.S.C. § 20507(i)(1) of the NVRA, which is known as the “Public Disclosure Provision.” Defendant denies all other allegations in paragraph 20.

21. Paragraph 21 contains legal argument to which no response is required. To the extent a response is required, defendant denies that paragraph 21 fairly describes the cited decision and denies the remaining allegations in paragraph 21.

22. Paragraph 22 contains legal argument to which no response is required. To the extent a response is required, defendant denies that paragraph 22 fairly describes the cited decision and denies the remaining allegations in paragraph 22.

23. Defendant admits that the correspondence attached to the amended complaint as Exhibit A was emailed to the defendant on October 17, 2019, and that the correspondence in part requested “an electronic copy of the Maine statewide voter registration list.” Defendant denies the remaining allegations in paragraph 23.

24. Paragraph 24 paraphrases assertions contained in the correspondence attached as Exhibit A to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant denies the allegations in paragraph 24.

25. Paragraph 25 paraphrases assertions contained in the correspondence attached as Exhibit A to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant denies the allegations in paragraph 25.

26. Paragraph 26 quotes from email correspondence sent by the Secretary of State's office to plaintiff, attached as Exhibit B to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant admits that the quoted language appears in Exhibit B. Defendant denies the remaining allegations in paragraph 26.

27. Defendant admits that the correspondence attached to the amended complaint as Exhibit C was sent by email and certified mail to the defendant on October 29, 2019, and copied to the Maine Attorney General. Defendant denies the remaining allegations in paragraph 27.

28. Paragraph 28 paraphrases assertions contained in the correspondence attached as Exhibit C to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant denies the allegations in paragraph 28.

29. Paragraph 29 paraphrases assertions contained in the correspondence attached as Exhibit C to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant denies the allegations in paragraph 29.

30. Denied.

31. Defendant admits that the correspondence attached to the amended complaint as Exhibit D was sent to the defendant on January 29, 2020, as alleged in the first sentence of paragraph 31. The second sentence of paragraph 31 paraphrases assertions contained in the correspondence attached as Exhibit D to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant denies the allegations in the second sentence of paragraph 31 and denies the remaining allegations in paragraph 31.

32. Paragraph 32 paraphrases assertions contained in the correspondence attached as Exhibit D to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant admits that in the correspondence plaintiff stated the possibility that it would “pursue legal remedies through litigation.” Defendant denies the remaining allegations in paragraph 32.

33. Defendant admits that Deputy Secretary of State Julie Flynn sent the letter attached to the amended complaint as Exhibit E to the plaintiff on January 31, 2020, as alleged in the first sentence of paragraph 33. Defendant denies that the second sentence of paragraph 33 fairly describes the letter attached as Exhibit E and denies the remaining allegations in paragraph 33.

34. Defendant denies that paragraph 34 fairly describes the communication from Deputy Secretary of State Flynn, attached as Exhibit E to the amended complaint, and denies the remaining allegations in paragraph 34.

35. Paragraph 35 quotes from the correspondence attached as Exhibit E to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant admits that the quoted text appears in Exhibit E. Defendant denies that paragraph 35 fairly describes the correspondence in Exhibit E and denies the remaining allegations in paragraph 35.

36. Paragraph 36 quotes from the correspondence attached as Exhibit E to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant admits that the quoted text appears in Exhibit E. Defendant denies that paragraph 36 fairly describes the correspondence in Exhibit E and denies the remaining allegations in paragraph 36.

37. Defendant admits the allegations in the first sentence of paragraph 37. Defendant denies that the second sentence of paragraph 37 fairly describes the correspondence attached to the amended complaint as Exhibit F and denies the remaining allegations in paragraph 37.

38. Paragraph 38 quotes from the correspondence attached as Exhibit F to the amended complaint and, as such, does not require a response. To the extent a response is required, defendant admits that the quoted text appears in Exhibit F and denies the remaining allegations in paragraph 38.

39. Defendant admits that on February 5, 2020, Deputy Secretary of State Flynn sent the letter, attached to the amended complaint as Exhibit G, via email to the plaintiff. Defendant denies the remaining allegations in paragraph 39.

40. Admitted.

41. Denied.

42. Paragraph 42 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that the language of the Public Disclosure Provision does not expressly address whether there are restrictions on the recipient's use of the records within its scope and otherwise denies paragraph 42.

43. Paragraph 43 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that Maine law places certain reasonable restrictions on certain parties' use of the "Party/Campaign Use Voter File and otherwise denies the allegations in paragraph 43.

44. Paragraph 44 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that Paragraph 44 accurately quotes 21-A M.R.S. § 196-A(1)(J)(1), but otherwise denies that Paragraph 44 accurately describes the statute.

45. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 and therefore denies them.

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 and therefore denies them.

47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47 and therefore denies them.

48. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 and therefore denies them.

49. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and therefore denies them.

50. Paragraph 50 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that Paragraph 50 accurately quotes 21-A M.R.S. § 196-A(1)(J)(2), but otherwise denies that Paragraph 50 accurately describes the statute.

51. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 and therefore denies them.

52. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 and therefore denies them.

53. Paragraph 53 contains legal argument to which no response is required. To the extent a response is required, Defendant admits Paragraph 53.

54. Admitted.

55. Defendant admits that the language in the block quote in Paragraph 55 appears on the request form and that the form requires the signature of the requestor. Defendant otherwise denies Paragraph 55.

56. Admitted.

57. Defendant admits that the data instructions include the language quoted in Paragraph 57. Defendant otherwise denies paragraph 57.

58. Defendant admits that, since the filing of the amended complaint, the Secretary has revised Maine's data request form and instructions to reflect the amendments to 21-A M.R.S. § 196-A. Defendant otherwise denies Paragraph 58.

59. Defendant admits that the revised data request form includes the same language quoted in Paragraph 55 of the amended complaint and that the form and instructions continue to require the signature of the requestor. Defendant otherwise denies the allegations in Paragraph 59.

60. Denied.

61. Denied.

62. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 and therefore denies them.

63. Defendant admits that the defendant received the letter attached to the amended complaint as Exhibit C. Defendant denies the remaining allegations in paragraph 63.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

COUNT I

68. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant repeats and realleges her responses to paragraphs 1 through 67 as if fully set forth in this paragraph.

69. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant admits that her office has access to the central voter registration system and records contained therein. Defendant denies the remaining allegations in paragraph 69.

70. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations in paragraph 70.

71. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations in paragraph 71.

72. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations of paragraph 72.

73. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations of paragraph 73.

74. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations of paragraph 74.

75. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations of paragraph 75.

76. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. Further, Paragraph 76 is a legal argument to which no response is required. To the extent a response is required, Defendant denies the allegations in paragraph 76.

77. No response is necessary to this paragraph because Count I has been dismissed by Order of the Court, dated March 4, 2022. To the extent a response is required, Defendant denies the allegations in paragraph 77.

COUNT II

78. Defendant repeats and realleges her responses to paragraphs 1 through 77 as if fully set forth in this paragraph.

79. Paragraph 79 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that the language of the Public Disclosure Provision does not expressly address whether there are restrictions on the recipient's use of the records within its scope and otherwise denies paragraph 79.

80. Denied.

81. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 and therefore denies them.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

COUNT III

87. Defendant repeats and realleges her responses to paragraphs 1 through 86 as if fully set forth in this paragraph.

88. Paragraph 88 contains legal argument to which no response is required. To the extent a response is required, Defendant denies Paragraph 88.

89. Paragraph 89 contains legal argument to which no response is required. To the extent a response is required, Defendant admits that Maine law places certain reasonable restrictions on certain parties' use of the "Party/Campaign Use Voter File." Defendant otherwise denies the allegations in paragraph 89.

90. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 90 that the Foundation intends to use the "Party/Campaign Use Voter File" for purposes legally prohibited by Maine law and therefore denies it. Defendant denies the remaining allegations in Paragraph 90.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

AFFIRMATIVE DEFENSES

Expressly reserving the right to amend or supplement the defenses set forth below, and reserving and not waiving any defenses, Defendant asserts the following affirmative defenses to the Amended Complaint:

1. The amended complaint fails to state a claim on which relief can be granted.
2. The Court lacks subject matter jurisdiction.
3. Some or all of plaintiff's claims are not justiciable.
4. Plaintiff lacks standing to bring some or all of these claims.
5. Plaintiff's claims are barred in whole or in part by sovereign immunity and/or by

the Eleventh Amendment.

6. Plaintiff's claims are barred in whole or in part by waiver or estoppel.
7. Plaintiff is not entitled to equitable relief.
8. Plaintiff's claims are moot.
9. Plaintiff's claims are unripe.
10. Plaintiff failed to provide proper notice of its claims under 52 U.S.C.

§ 20510(b)(1).

Defendant prays for judgment against plaintiff on all counts in the amended complaint and for such other relief as the Court deems just and appropriate, including attorneys' fees and costs.

Dated: March 25, 2022

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Attorney General

/s/ Jonathan R. Bolton

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