

**UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**VOTE.ORG; FLORIDA ALLIANCE
FOR RETIRED AMERICANS;
FLORIDA STATE CONFERENCE
OF BRANCHES AND YOUTH UNITS
OF THE NAACP; DISABILITY RIGHTS
OF FLORIDA,**

Case No. 4:23-cv-00111

Plaintiffs,

v.

**CRAIG LATIMER, in his official
capacity as Supervisor of Elections
For Hillsborough County, et. al.**

Defendants.

**DEFENDANT HILLSBOROUGH COUNTY SUPERVISOR OF
ELECTIONS CRAIG LATIMER'S ANSWER TO PLAINTIFFS' FIRST
AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF (Dkt. 101)**

Defendant CRAIG LATIMER, in his official capacity as Supervisor of Elections for Hillsborough County (herein, HCSOE), pursuant to Fed. R. Civ. P. 8, hereby answers Plaintiffs' Amended Complaint for Declaratory and Injunctive Relief, D.E. 101 ("Amended Complaint"), as follows:

NATURE OF THE CASE

1. As to the statutes cited, summarized, or described in Paragraph 1 of

the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations and they are therefore denied.

2. Denied as stated.

3. As to the statutes or case law cited, summarized, or described in Paragraph 3 of the Amended Complaint, the cited statutes and the case law speak for themselves and thus no answer is required. HCSOE is without knowledge as to the other allegations of paragraph 3 and they are therefore denied.

4. As to the statutes cited, summarized, or described in Paragraph 4 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations and they are therefore denied.

5. HCSOE is without knowledge as to the allegations in Paragraph 5 of the Amended Complaint and they are therefore denied.

JURISDICTION AND VENUE

6. HCSOE is without knowledge as to the allegations contained in Paragraph 6 and they are therefore denied.

7. HCSOE admits Paragraph 7 for jurisdictional purposes only and denies the allegations of Paragraph 7 for all other purposes.

8. HCSOE admits Paragraph 8 for jurisdictional purposes only and denies the allegations of Paragraph 8 for all other purposes.

9. Admitted.

10. As to all statutes or rules cited, summarized, or described in Paragraph 10 of the Amended Complaint, those statutes and rules speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 10 and they are therefore denied.

PARTIES

11. HCSOE is without knowledge as to the allegations in Paragraph 11 of the Amended Complaint and they are therefore denied.

12. HCSOE is without knowledge as to the allegations in Paragraph 12 of the Amended Complaint and they are therefore denied.

13. HCSOE is without knowledge as to the allegations in Paragraph 13 of the Amended Complaint and they are therefore denied.

14. HCSOE is without knowledge as to the allegations in Paragraph 14 of the Amended Complaint and they are therefore denied.

15. HCSOE is without knowledge as to the allegations in Paragraph 15 of the Amended Complaint and they are therefore denied.

16. HCSOE is without knowledge as to the allegations in Paragraph 16 of the Amended Complaint and they are therefore denied.

17. HCSOE is without knowledge as to the allegations in Paragraph 17 of the Amended Complaint and they are therefore denied.

18. HCSOE is without knowledge as to the allegations in Paragraph 18 of the Amended Complaint and they are therefore denied.

19. HCSOE is without knowledge as to the allegations in Paragraph 19 of the Amended Complaint and they are therefore denied.

20. HCSOE is without knowledge as to the allegations in Paragraph 20 of the Amended Complaint and they are therefore denied.

21. HCSOE is without knowledge as to the allegations in Paragraph 21 of the Amended Complaint and they are therefore denied.

22. HCSOE is without knowledge as to the allegations in Paragraph 22 of the Amended Complaint and they are therefore denied.

23. HCSOE is without knowledge as to the allegations in Paragraph 23 of the Amended Complaint and they are therefore denied.

24. HCSOE is without knowledge as to the allegations in Paragraph 24 of the Amended Complaint and they are therefore denied.

25. HCSOE is without knowledge as to the allegations in Paragraph 25 of the Amended Complaint and they are therefore denied.

26. HCSOE is without knowledge as to the allegations in Paragraph 26 of the Amended Complaint and they are therefore denied.

27. HCSOE is without knowledge as to the allegations in Paragraph 27 of the Amended Complaint and they are therefore denied.

28. The first sentence is denied. HCSOE is without knowledge as to all other allegations in Paragraph 28 of the Amended Complaint and they are therefore denied.

29. Admitted that Defendant Cord Byrd is the Secretary of State of Florida. As to the statutes cited, summarized, or described in Paragraph 29 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 29 of the Amended Complaint and they are therefore denied.

30. HCSOE admits that Florida Supervisors of Elections are each responsible for election administration in their respective individual counties, but deny that they are the sole election administrators for each county because the Florida Division of Elections of the Department of State also has involvement in the administration of elections statewide. HCSOE also admits that Plaintiffs have identified each of the 65 Supervisors as well as the Miami-Dade County Supervisor of Elections. As to the statutes cited, summarized, or described in Paragraph 30 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 30 of the Amended Complaint and they are therefore denied.

STATEMENT OF FACTS AND LAW

31. HCSOE is without knowledge as to the allegations contained in Paragraph 31 of the Amended Complaint and they are therefore denied.

32. As to the statutes cited, summarized, or described in Paragraph 32 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 32 and they are therefore denied.

33. As to the statutes cited, summarized, or described in Paragraph 33 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 33 and they are therefore denied.

34. As to the statutes cited, summarized, or described in Paragraph 34 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in

Paragraph 34 and they are therefore denied.

35. HCSOE is without knowledge as to the allegations in Paragraph 35 of the Amended Complaint and they are therefore denied.

36. As to the statute cited, summarized, or described in Paragraph 36 of the Amended Complaint, the cited statute speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 36 and they are therefore denied.

37. As to the statute cited, summarized, or described in Paragraph 37 of the Amended Complaint, the cited statute speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 37 of the Amended Complaint and they are therefore denied.

38. As to the statute cited, summarized, or described in Paragraph 38 of the Amended Complaint, the cited statute speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 38 of the Amended Complaint and they are therefore denied.

39. As to the statutes or websites cited, summarized, or described in Paragraph 39 of the Amended Complaint, those statutes and websites speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 39 of the Amended Complaint and they are therefore denied.

40. As to the statute cited, summarized, or described in Paragraph 40 of the Amended Complaint, the cited statute speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 40 of the Amended Complaint and they are therefore denied.

41. As to any statutes or advisory opinions cited, summarized, or described in Paragraph 41 of the Amended Complaint, those statutes and advisory opinions speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 41 of the Amended Complaint and they are therefore denied.

42. As to the websites cited, summarized, or described in Paragraph 42 of the Amended Complaint, those websites speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 42 of the Amended Complaint and they are therefore denied.

43. As to the websites cited, summarized, or described in Paragraph 43 of the Amended Complaint, those websites speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 43 of the Amended Complaint and they are therefore denied.

COUNT 1

44. HCSOE restates by incorporation all responses to paragraphs 1-43 as though fully set forth herein.

45. As to the statute cited, summarized, or described in Paragraph 45 of the Amended Complaint, the statute speaks for itself and thus no answer is required.

46. As to the statute cited, summarized, or described in Paragraph 46 of the Amended Complaint, the statute speaks for itself and thus no answer is required.

47. As to the case law cited, summarized, or described in Paragraph 47 of the Amended Complaint, the case law speaks for itself and thus no answer is required.

48. As to the case law cited, summarized, or described in Paragraph 48 of the Amended Complaint, the case law speaks for itself and thus no answer is required.

49. HCSOE denies the allegations set forth in the first sentence of Paragraph 49, but HCSOE is without knowledge as to any other defendants, and thus such allegations are also denied. As to the caselaw cited, summarized, or described in the remainder of Paragraph 49 of the Amended Complaint, the caselaw speaks for itself and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 49 of the Amended Complaint and they are therefore denied.

50. As to the statutes cited, summarized, or described in Paragraph 50 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 50 of the Amended Complaint and they are therefore denied.

51. As to the statutes cited, summarized, or described in Paragraph 51 of the Amended Complaint, those statutes speak for themselves and thus no answer is required. HCSOE is without knowledge as to any other allegations contained in Paragraph 51 of the Amended Complaint and they are therefore denied.

52. HCSOE is without knowledge as to the allegations in Paragraph 52 of the Amended Complaint and they are therefore denied.

Affirmative Defenses

First Defense. Plaintiffs lack Article III standing to sue the HCSOE on the basis of the claims set forth in the Amended Complaint.

Second Defense. “ ‘[T]o impose § 1983 liability on a municipality, a plaintiff must show: (1) that his constitutional rights were violated; (2) that the municipality had a custom or policy that constituted deliberate indifference to that constitutional right; and (3) that the policy or custom caused the violation.’ McDowell v. Brown, 392 F.3d 1283, 1289 (11th Cir. 2004); ... ‘[T]o demonstrate a policy or custom, it is generally necessary to show **a persistent and wide-spread practice**,’ as opposed to a single incident.” McDowell, 392 F.3d at 1290.” (emphasis supplied).

Stephens v. Manatee County, 2012 WL 939769 (M.D.Fla. 2012). Plaintiffs have not alleged any facts particular to the HCSOE suggesting the existence of any “persistent and wide-spread practice” by the HCSOE, much less a policy or custom, which could give rise to § 1983 liability.

Third Defense. Plaintiffs have failed to state a cause of action against HCSOE for which relief may be granted. Instead, Plaintiffs’ allegations have been made by lumping all defendants together without alleging with specificity any basis for a claim against each defendant. Such an approach to pleading defies the pleading standards set forth in Bell Atlantic v. Twombly, 127 S.Ct. 155 (2007) and Ashcroft

v. Iqbal, 556 U.S. 662, 129 S.Ct. 1937 (2009) and fails to place the HCSOE on notice of the allegations specific to HCSOE.

Fourth Defense. Plaintiffs' claims are not ripe.

Respectfully submitted,

/s/Stephen M. Todd

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 26, 2023, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to Counsel of Record.

/s/Stephen M. Todd

Stephen M. Todd, Esquire