

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

STATE SENATOR BRYAN KING and
THE LEAGUE OF WOMEN VOTERS OF ARKANSAS

PLAINTIFFS

V.

JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS
THE ARKANSAS SECRETARY OF STATE

DEFENDANT

RESPONSE TO MOTION TO DISMISS AMENDED COMPLAINT
AND BRIEF IN SUPPORT

Comes the Plaintiffs and for their Response to the Motion to Dismiss and Brief in Support states as follows:

1. The Amended Complaint should not be dismissed pursuant to Rule 12(b) of the Arkansas Rules of Civil Procedure.
2. The League of Women Voters of Arkansas (LWVAR) has standing based in its past participation and involvement, its current participation and involvement and its future participation and involvement in the initiative and referendum process in Arkansas. At this stage, all allegations made by the LWVAR are presumed true. In addition, the LWVAR has provided the Ballot Question Committee Organization form filed with the Arkansas Ethics Commission. A Ballot Question Committee is simply a “person” who receives contributions for the purposes of advocating for the qualification, disqualification, passage, or defeat of any ballot question. Arkansas Ethic’s Commission Rule 600(c)(1). A BQC does not have to be a corporation or entity. The

Arkansas Period Poverty Project BQC is simply a group of individuals and organization. In this case the LWVAR is a member of the Arkansas Period Poverty Project, and the statement of organization is attached to the Amended Complaint. The rights of the LWVAR are directly impacted by Act 236. The LWVAR has standing.

3. Senator King has standing as a VOTER. He is not claiming status as a TAXPAYER. In Arkansas only 62% of individuals who are eligible to register to vote are in fact registered to vote. Being a voter is optional while being a taxpayer is not. Senator King is registered to vote. Article 5 Section 1 of the Arkansas Constitution confers rights to the VOTERS of this state. The Plaintiff acknowledges that the Court has already ruled on this issue and makes and restates this argument to protect its rights on appeal. All pleadings and arguments are incorporated herein by reference.
4. Secretary Thurston is not entitled to sovereign immunity. The Court has previously ruled on this issue and the Plaintiff incorporates by reference all previous pleadings and arguments made on this issue.
5. Act 236 is unconstitutional. The Plaintiffs incorporate by reference their previously filed response to the motion to dismiss and brief in support, the supplement to the motion to dismiss, and its motion to enter judgment on the pleadings as well as the arguments made at the hearing. The Defendant in this motion contends and makes specific allegations that the Act is constitutional. The Plaintiff in its response

and in its motion for judgment on the pleadings contends that the Act is unconstitutional. This issue is ripe for the Courts consideration.

6. The Plaintiff restates and realleges in motion for judgment on the pleadings filed December 11, 2013.

Wherefore the Plaintiffs request that the Motion to Dismiss the Amended Complaint be denied and that the Court grant Plaintiff's Motion for Judgment on the Pleadings and enter an order declaring Act 236 unconstitutional and enjoining its enforcement.

Respectfully submitted,

/s/ David A. Couch

David A. Couch 85-033
1501 North University Ave.
Little Rock, AR 72207
501.661.1300

CERTIFICATE OF SERVICE

I certify that I filed the foregoing document to the eFlex filing system, which notifies all counsel of record of its filing.

/s/ David A. Couch

David A. Couch