IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI NORTHERN DIVISION

National Association for the Advancement of Colored People, Mississippi State Conference of The National Association for the Advancement of Colored People; Jackson City Branch of the NAACP; Derrick Johnson; Frank Figgers; Charles Taylor; Markyel Pittman; Charles Jones: and Nsombi Lambright-Havnes

vs.

Tate Reeves, in his official capacity as Governor of the State of Mississippi; Sean Tisdell, in his official capacity as Commissioner of Public Safety; Bo Luckey, in his official capacity as Chief of the Mississippi Department of Public Safety Office of Capitol Police; Michael K. Randolph, in his official capacity as Chief Justice of the Mississippi Supreme Court; and Lynn Fitch, in her official capacity as Attorney General of the State of Mississippi

Plaintiffs Case No. 3:23-cv-272-HTW-LGI i;

Defendants

Motion to Dismiss on behalf of Defendant Michael K. Randolph, in his official capacity as Chief Justice of the Mississippi Supreme Court

Defendant Michael K. Randolph, in his official capacity as Chief Justice of

the Mississippi Supreme Court (the "Chief Justice"), moves the Court to dismiss the

action against the Chief Justice for lack of jurisdiction and failure to state a claim

upon which relief can be granted pursuant to the Federal Rules of Civil Procedure. The following independent, yet interrelated, grounds support such relief: (1) As a matter of comity and abstention, the U.S. District Court should defer to the State Court¹ that has assumed jurisdiction and made rulings. The State Court ordered from the Bench on May 4, 2023, that the effectiveness of HB 1020 be stayed. Issue has been joined in the State Court which has further set hearings for Wednesday, May 10, 2023. The State Court's bench ruling denied Plaintiffs' preliminary injunctive relief concerning Miss. Code Ann. section 9-1-105. The State Court ordered that the Chief Justice's Motion to Dismiss based on judicial immunity be heard first on May 10, 2023; (2) The Chief Justice is not a proper party since there is no "case or controversy" with respect to the Chief Justice, as he lacks a sufficient interest to be deemed an adverse litigant in this matter; (3) the Chief Justice is entitled to judicial and sovereign immunity; (4) public-policy considerations to secure fair, just and timely determination of every proceeding. *See* M.R.C.P. 1.

The Courts of Mississippi seek to promote justice, uniformity, and efficiency and to eliminate unjustifiable delay and expense and to protect the rights of individuals while protecting the public. *See* Miss.R.Crim.P. 1.2, also *see* Miss. Constitution Art. §§3, 24, 26, and 26A. Case precedent, federal and state, statutes, Rules of Court, the Code of Judicial Conduct, and the Constitutions of the United States and Mississippi overwhelmingly favor his dismissal.

Respectfully submitted, this the 4th day of May, 2023.

¹ The Fifth Chancery Court District for Hinds County, Cause No. 25CH1:23-cv-0021, Chancellor J. Dewayne Thomas presiding.

Respectfully submitted,

Michael K. Randolph, in his official capacity as Chief Justice of the Mississippi Supreme Court

/s/ Ned A. Nelson

By:__

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<u>Certificate of Service</u>

I, Ned A. Nelson, hereby certify that on this the 4th day of May, 2023, I electronically filed the foregoing with Clerk of the Court using the ECF system which will provide notice to all counsel of record.

/s/ Ned A. Nelson

Ned A. Nelson