

No. 19-60662  
c/w No. 19-60678

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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DENNIS HOPKINS, INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY SITUATED; HERMAN PARKER, JR., INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY SITUATED; WALTER WAYNE KUHN, JR., INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY SITUATED; BYRON DEMOND COLEMAN, INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY SITUATED; JON O'NEAL, INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS SIMILARLY SITUATED; EARNEST WILLHITE, INDIVIDUALLY AND ON BEHALF OF A CLASS OF ALL OTHERS

SIMILARLY SITUATED,  
*Plaintiffs-Appellees,*

*v.*

SECRETARY OF STATE DELBERT HOSEMAN, IN HIS OFFICIAL CAPACITY,  
*Defendant-Appellant*

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Appeal from the United States District Court  
for the Southern District of Mississippi  
No. 3:18-cv-188

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**MOTION TO SUBSTITUTE OFFICEHOLDER  
PURSUANT TO FED. R. APP. P. 43(C)**

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*Counsel for Defendant-Appellant*

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**CERTIFICATE OF INTERESTED PERSONS**

Under this Court's Rule 28.2.1, governmental parties need not furnish a certificate of interested persons.

*s/ Justin L. Matheny*  
Justin L. Matheny  
*Counsel for Defendant-Appellant*

**MOTION TO SUBSTITUTE OFFICEHOLDER  
PURSUANT TO FED. R. APP. P. 43(c)**

Defendant-Appellant moves the Court for an order for substitution of officeholder pursuant to Fed. R. App. P. 43(c) and states:

1. Former Mississippi Secretary of State Delbert Hosemann held that office when these consolidated appeals originated in this Court in 2019. Former Secretary of State Hosemann was sued in the district court below as a defendant in his official capacity and thereafter appeared in this Court as the original Defendant-Appellant in his official capacity.

2. Current Mississippi Secretary of State Michael Watson was duly elected in November 2019 and succeeded former Secretary Hosemann in office beginning in January 2020. *See* 2023 Mississippi State and County Elected Officials at 3 (available on-line at: <https://www.sos.ms.gov/communications-publications/state-county-directory>).

3. Pursuant to Fed. R. App. P. 43(c)(2), Secretary of State Watson was automatically substituted as the Defendant-Appellant named in his official capacity when he succeeded former Secretary Hosemann in office.

4. The Court should accordingly enter an order to confirm that automatic substitution and to amend the official case caption to include

“Secretary of State Michael Watson, in his official capacity” as the named Defendant-Appellant.

5. Undersigned counsel contacted counsel for the Plaintiffs-Appellees by email on October 23, 2023, and requested Plaintiffs-Appellees’ position on this motion. Counsel for Plaintiffs-Appellees has not responded as of this writing.

FOR THESE REASONS, Defendant-Appellant requests an order confirming current Mississippi Secretary of State Michael Watson’s automatic substitution as the named Defendant-Appellant in these consolidated appeals and amending the official case caption in conformity therewith.

Respectfully submitted,

LYNN FITCH

Attorney General

*s/ Justin L. Matheny*

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*Counsel for Defendant-Appellant*

October 25, 2023

### **CERTIFICATE OF SERVICE**

I, Justin L. Matheny, hereby certify that the foregoing motion has been filed with the Clerk of Court using the Court's electronic filing system, which sent notification of such filing to all counsel of record.

Dated: October 25, 2023

*s/ Justin L. Matheny*  
Justin L. Matheny  
*Counsel for Defendant-Appellant*

### **CERTIFICATE OF COMPLIANCE**

This motion complies with the word limitations of Fed. R. App. P. 27 because it contains 257 words, excluding parts exempted by Fed. R. App. P. 32(f). This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because its text has been prepared in proportionally spaced typeface, including serifs, using Microsoft Word 2016, in Century Schoolbook 14-point font.

Dated: October 25, 2023

*s/ Justin L. Matheny*  
Justin L. Matheny  
*Counsel for Defendant-Appellant*