

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

REPUBLICAN NATIONAL COMMITTEE,
MISSISSIPPI REPUBLICAN PARTY, JAMES
PERRY, and MATTHEW LAMB,

Plaintiffs,

v.

JUSTIN WETZEL, *in his official capacity as the clerk and registrar of the Circuit Court of Harrison County*, TONI JO DIAZ, BECKY PAYNE, BARBARA KIMBALL, CHRISTENE BRICE, and CAROLYN HANDLER, *in their official capacities as members of the Harrison County Election Commission*, and MICHAEL WATSON, *in his official capacity as the Secretary of State of Mississippi*,

Defendants.

No. 1:24-cv-00025-LG-RPM

**PROPOSED INTERVENORS VET VOICE'S AND THE MISSISSIPPI ALLIANCE FOR
RETIRED AMERICANS' NOTICE REGARDING DEFENDANT WATSON'S
UNOPPOSED MOTION TO PROCEED TO SUMMARY JUDGMENT (ECF NO. 17)
AND POSITION ON CONSOLIDATION**

Vet Voice Foundation (“Vet Voice”) and the Mississippi Alliance for Retired Americans (“Alliance”) (together, the “Proposed Intervenors”) file this Notice to (1) address Defendant Secretary of State Watson’s unopposed motion requesting that he be exempt from filing an answer or other responsive pleading to Plaintiffs’ complaint in anticipation that the parties will dispose of all claims via cross-motions for summary judgment, ECF No. 17 ¶¶ 4–5, and (2) advise the Court of their position on consolidation of this matter with the substantially similar complaint in *Libertarian Party of Mississippi v. Wetzel et al.*, No. 1:24-cv-00037-LG-RPM (S.D. Miss.) (“*Libertarian Party*”), the possibility of which was also referenced in Secretary Watson’s Motion.

Specifically, Proposed Intervenors agree that consolidation is appropriate and, if granted intervention, are willing to abide by any schedule entered by the Court, including one that dispenses of responsive pleadings and moves straight to summary judgment.

BACKGROUND

On January 26, 2024, the Republican National Committee, Mississippi Republican Party, and two individuals (collectively, the “Republican Plaintiffs”), filed a complaint against the Secretary and several Harrison County officials challenging the legality of Mississippi’s Ballot Receipt Deadline, Miss. Code § 23-15-637(1)(a), on federal statutory and constitutional grounds. *See generally* ECF No. 1. On February 9, 2024, Proposed Intervenors moved to intervene, *see* ECF Nos. 6, 6-1, 6-2, 7, and in accordance with Federal Rule of Civil Procedure 24(c), the Motion to Intervene was accompanied by a proposed motion to dismiss setting out the defenses for which intervention is sought, *see* ECF Nos. 6-3, 6-4. Opposition to the motion is due tomorrow, February 23, 2024. *See* L. Civ. R. 7(b)(4).

On February 16, 2024, Defendant Secretary of State Michael Watson filed an unopposed motion requesting that he be exempted from filing an answer or other responsive pleading to Republican Plaintiffs’ complaint. *See* ECF No. 17 ¶ 5. The motion stated the parties would, in the near future, seek an order from the Court setting a briefing schedule for cross-motions for summary judgment, and further indicated that the parties will seek to consolidate this case and the related *Libertarian Party* case to allow for a coordinated briefing schedule on the parties’ respective cross-motions for summary judgment. *See id.* ¶¶ 4–5; n.1.¹

¹ Defendant Watson filed the same unopposed motion in *Libertarian Party of Mississippi v. Wetzel*, a case filed by the Libertarian Party of Mississippi several days after this case was initiated and which raises effectively the same claims presented here. *See* Compl., *Libertarian Party*, No. 1:24-cv-00037-LG-RPM (S.D. Miss. Feb. 5, 2024), ECF No. 1. Though initially assigned to another

PROPOSED INTERVENORS' POSITION

Proposed Intervenors agree that consolidation is appropriate, as both cases involve common questions of law and fact and share the same named Defendants. *See* Fed. R. Civ. P. 42(a)(2).²

To the extent the Court intends to exempt Defendant Watson from filing a responsive pleading, or to promptly set a schedule for the parties to file cross-motions for summary judgment, Proposed Intervenors file this Notice to convey their willingness to abide by any briefing schedule this Court sets for the parties in this case. Furthermore, to the extent it aids the Court, and to avoid any undue delay, if the Court enters such a schedule and grants intervention, Proposed Intervenors are also willing to withdraw their proposed Motion to Dismiss, which accompanied their Motion to Intervene pursuant to Rule 24(c), and instead raise those and any other appropriate arguments on summary judgment on the schedule entered by the Court.³

court within this District, *Libertarian Party* was transferred to this Court on February 8, 2024. *Id.*, ECF No. 3.

² Though all parties appear to agree consolidation is appropriate, no existing party has formally moved to consolidate the two cases. Thus, Proposed Intervenors plan to file a Motion to Intervene and accompanying proposed motion to dismiss in the *Libertarian Party* case in short order, based on substantially the same grounds raised on their motion here. *See* ECF Nos. 6, 6-3, 6-4, 7.

³ Proposed Intervenors are also willing to do the same for any proposed responsive pleading accompanying their forthcoming motion to intervene in *Libertarian Party*.

Dated: February 22, 2024

Respectfully submitted,

/s/ Robert B. McDuff

Robert B. McDuff

Paloma Wu

MISSISSIPPI CENTER FOR JUSTICE

210 E. Capitol Street

Suite 1800

Jackson, MS 39201

Phone: (601) 259-8484

Fax: (601) 352-4769

rmcduff@mscenterforjustice.org

pwu@mscenterforjustice.org

*Counsel for Proposed-Intervenors Vet Voice
Foundation and the Mississippi Alliance for
Retired Americans*

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Proposed Intervenors Vet Voice's and the Mississippi Alliance For Retired Americans' Notice Regarding Defendant Watson's Unopposed Motion to Proceed To Summary Judgment (ECF No. 17) and Position on Consolidation has been filed with the Court using the CM/ECF system which will automatically send e-mail notification of such filing to all counsel of record.

Dated: February 22, 2024

/s/ Robert B. McDuff _____

Robert B. McDuff
*Counsel for Proposed-Intervenors Vet Voice
Foundation and the Mississippi Alliance for
Retired Americans*

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