

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF INDIANA**  
**HAMMOND DIVISION**

CITY OF HAMMOND, et al.,	)	
	)	
Plaintiffs,	)	CASE NO. 2:21-cv-00160-PPS-JEM
	)	
vs.	)	
	)	
STATE OF INDIANA, INDIANA	)	
SECRETARY OF STATE	)	
DIEGO MORALES, in his official	)	
Capacity, and THE LAKE COUNTY	)	
BOARD OF ELECTIONS	)	
	)	
Defendants.	)	

**DEFENDANT’S, LAKE COUNTY BOARD OF ELECTIONS, STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Comes now the Defendant, The Lake County Board of Elections, whose true name is Lake County Board of Elections and Registration, (“Election Board”), by counsel, Tolbert & Tolbert, LLC, and for their Statement of Material Facts in Support of Motion for Summary Judgment. In support thereof, the Court is shown the following:

**STATEMENT OF MATERIAL FACTS**

1. On May 7, 2021, Plaintiffs, City of Hammond, Thomas McDermott, and Eduardo Fontanez filed a Complaint for Declaratory Judgment and Injunctive Relief (“Complaint”) against the Lake County Judicial Nominating Commission. [See DKT 1, Complaint for Declaratory Judgment and Injunctive Relief.]

2. This case arises out of Plaintiffs’ claim that minority voters in Lake, Marion, and St. Joseph Counties are negatively impacted under the United States Constitution, Indiana Constitution, and the Voting Rights Act because they do not get to vote for Judges in their respective areas. [See DKT 1, pp 1-2.]

3. On December 7, 2021, Plaintiffs filed an Amended Complaint for Declaratory Judgment and Injunctive Relief (“Amended Complaint”) against the Defendants, Lake County Judicial Nominating Commission, State of Indiana, Secretary of State Holly Sullivan (in her official capacity), and the Election Board. [See DKT 30].

4. The Amended Complaint merely alleged that the Election Board was a local governmental unit that oversees elections in Lake County Indiana and administers the retention votes for Lake County Superior Court judges. Ind. Code § 33-33-45-42(e). [See DKT 30 at p. 3].

5. The Amended Complaint alleged no wrongdoing or specific violation of any law by the Election Board. [See DKT 30 at pp. 6-9].

6. On August 17, 2022, a Second Amended Complaint (“Second Amended Complaint”) was filed. [See attached as Exhibit 1, Second Amended Complaint for Declaratory and Injunctive Relief.]

7. By this time, Lonnie Randolph was added as a named Plaintiff. [Exhibit 1]

8. However, the Second Amended Complaint still made no specific or direct allegations against the Election Board nor alleged any wrongdoing by the named Defendant. [See Exhibit 1.]

9. The lone paragraph that makes any reference to the Election Board states that it is “a local governmental unit that oversees elections in Lake County Indiana and administers the retention votes for the Lake County Superior Court judges. Ind. Code § 33-33-45-42(f).” [See Exhibit 1 at p. 3, ¶ 14.]

10. The Second Amended Complaint clearly does not assert any specific claims against the Election Board, nor do the Plaintiffs allege that the Election Board has caused any injury and/or damage. [See Exhibit 1.]

**WHEREFORE**, the Defendant, The Lake County Board of Elections, whose true name is Lake County Board of Elections and Registration, asks that this Court accept this Statement of Material Facts in Support of Motion for Summary Judgment and for all other just relief proper in the premises.

Respectfully submitted,

**TOLBERT & TOLBERT, LLC**

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**CERTIFICATE OF SERVICE**

I certify that on the 5<sup>th</sup> day of June 2023, service of a true, correct and complete copy of the foregoing pleading and/or paper was made upon all counsel of record via the Court's Pacer system and/or via United States first class mail with the proper postage affixed to:

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