

5. Paragraphs 1 and 2 serve to identify the Plaintiffs. Defendant lacks sufficient information to admit or deny Paragraphs 1 and 2.

6. Defendant admits Paragraph 3.

7. Defendant denies Paragraph 4 and assert this Court does not have personal or subject matter jurisdiction. Personal jurisdiction is challenged as the South Dakota Attorney General's Office did not receive proper service pursuant to statute. Subject matter jurisdiction is challenged on standing grounds.

8. Defendant admits that Paragraph 5 is an accurate historical statement.

9. Defendant admits that Paragraph 6 is an accurate historical statement.

10. Defendant admits that Paragraph 7 accurately summarizes the petition deadline requirement and captures certain justifications for the process.

11. Defendant objects to Paragraph 8 as argumentative. To the extent a response is required, Defendant denies Paragraph 8.

12. Defendant denies Paragraph 9. The Secretary of State must "deliver to each county auditor a certified copy of each initiated measure, referred law, or proposed amendment to the Constitution to be voted on at the election, together with a statement, title, explanation, and recitation as written pursuant to § 12-13-9 or 12-13-25.1 to be published preceding the text of the

initiated measure, referred law, or proposed amendment[.]” twelve weeks prior to the general election.

13. Defendant denies Paragraph 10. This case involves a different law with distinct government interests.

14. Defendant admits that Paragraph 11 provides accurate citations to the decisions in the *SD Voice* case that may or may not be complete.

15. Defendant admits that Paragraph 12 provides accurately quoted excerpts from certain *SD Voice* decisions that may or may not be complete.

16. Defendant admits in part and denies in part Paragraph 13. Defendant admits that Paragraph 13 provides an accurate summary that may or may not be complete of one of the Eighth Circuit’s holdings in *SD Voice* applied to the facts as they existed in that case. The remainder of Paragraph 13 constitutes a legal argument that does not require a response. To which a response is required, Defendant denies the remainder of Paragraph 13.

17. Defendant admits that Paragraph 14 provides an accurate summary that may or may not be complete of a portion of the procedural history of the *SD Voice* case.

18. Defendant admits that Paragraph 15 provides an accurate summary that may or may not be complete of the effect of SB 113 (2023).

19. Defendant admits that Paragraph 16 provides an accurate summary that may or may not be complete of a portion of the procedural history of the *SD Voice* case.

20. Defendant admits that Paragraph 17 provides an accurate summary that may or may not be complete of a portion of the procedural history of the *SD Voice* case.

21. Defendant lacks sufficient information to admit or deny Paragraph 18, and the allegations are denied on that basis. Defendant specifically denies and objects to any insinuation that she had any involvement in an “aggressive campaign to disrupt signature collection by harassing petitions circulators and the potential signers.”

22. Defendant admits Paragraph 19 to the extent that she is aware of Hansen’s involvement with certain constitutional amendments. Defendant lacks sufficient information to admit or deny whether Hansen is the “public face” of any “political fight.”

23. Defendant admits Paragraph 20 to the extent that she is generally aware that Hansen was involved in litigation regarding a ballot initiative.

24. Defendant admits Paragraph 21.

25. Defendant admits Paragraph 22.

26. Defendant admits Paragraph 23.

27. Defendant admits Paragraph 24.

28. Paragraph 25 is a statement of opinion or a legal argument that does not require a response.

29. Defendant admits Paragraph 26 to the extent that petitions for IM 28 were submitted on April 24, 2023; petitions for Amendment G were

submitted on May 1, 2023; petitions for Amendment H were submitted on May 6, 2023; and petitions for IM 29 were submitted on May 7, 2023.

30. Defendant admits Paragraph 27 to the extent that the 2025 South Dakota Legislature proposed several changes to the initiative process. Defendant lacks sufficient information to admit or deny the impetus of these proposals, and the remainder of the allegations are denied on that basis.

31. Defendant admits Paragraph 28.

32. Defendant admits Paragraph 29 to the extent that the deadline for petitions to be filed pursuant to HB 1184 is in February rather than May. The remainder of Paragraph 29 constitutes legal argument or opinion which does not require a response.

33. Defendant admits that Paragraph 30 contains an accurate quote from one of the *SD Voice* decisions that may or may not be complete.

34. Defendant admits that Paragraph 31 contains an accurate quote from one of the *SD Voice* decisions that may or may not be complete.

35. Defendant admits that Paragraph 32 contains an accurate quote from one of the *SD Voice* decisions that may or may not be complete.

36. Defendant admits Paragraph 33 to the extent that Plaintiffs have satisfactorily complied with SDCL Ch. 2-1 to permit them to circulate ballot petitions.

37. Defendant admits Paragraph 34.

38. Defendant admits Paragraph 35.

39. Defendants deny the entirety of Paragraph 36 to the extent that Plaintiffs have not suffered a concrete and particularized injury. The remainder of Paragraph 36 contains statements of opinion or legal arguments that do not require responses. Further, Defendant lacks sufficient information to admit or deny many of these statements, and they are further denied on that basis.

40. Defendant admits Paragraph 37.

41. Defendant admits that Paragraph 38 contains an accurate quote from one of the *SD Voice* decisions that may or may not be complete.

42. Defendant admits Paragraph 39 to the extent that it accurately represents the political affiliations of South Dakota's elected officials. The remainder of Paragraph 39 contains statements of opinion or legal arguments that do not require responses.

43. Defendants admit Paragraph 40 to the extent that it lists several initiatives that were on the ballot which list may or may not be complete. The remainder of Paragraph 40 contains statements of opinions that do not require a response.

44. Defendant denies Paragraph 41.

45. Defendant objects to Paragraph 42 as irrelevant and having no bearing on the present Complaint. Defendant admits Paragraph 42 to the extent that it accurately represents the outcome of the referenced litigation.

46. Defendant objects to Paragraph 43 as irrelevant and having no bearing on the present Complaint. Defendant admits Paragraph 42 to the extent that it accurately represents the outcome of the referenced litigation.

47. Defendant objects to Paragraph 44 as irrelevant and having no bearing on the present Complaint. Defendant admits Paragraph 42 to the extent that it accurately represents the outcome of the referenced litigation.

48. Paragraph 45 does not require a response.

49. Paragraph 46 contains a legal argument which does not require a response. To the extent a response is required, Defendant denies Paragraph 46.

WHEREFORE, having answered Plaintiffs' Complaint, Defendant raises the following defenses, including affirmative defenses.

AFFIRMATIVE DEFENSES

1. Defendant affirmatively allege that Plaintiff has failed to state a claim upon which relief can be granted.

2. Defendant affirmatively allege this Court lacks subject matter jurisdiction because Plaintiffs lack standing to bring their Complaint and have not demonstrated an ongoing injury in fact.

3. Defendant is immune from suit based on sovereign, qualified, and governmental immunity.

4. Defendant has no intent, purpose, or deliberate indifference on their part to deny Plaintiffs its constitutional or statutory rights, or any rights

alleged to have been deprived by the Complaint, and Plaintiffs are barred from any relief herein.

5. Waiver and laches.

WHEREFORE, for the reasons stated above, Defendant respectfully request that Plaintiffs' request for declaratory and injunctive relief be denied in all respects and that Plaintiffs' Complaint be dismissed with prejudice, in its entirety, and judgment be entered in favor of Defendant. Defendant further request recovery of their costs and disbursements, and for such other and further relief that the Court deems proper and just. In the event this matter proceeds to trial, Defendant hereby demands a trial by jury on all issues pursuant to Fed. R. Civ. P. 38(b)(1).

Dated this 27th day of May, 2025.

/s/ Grant M. Flynn

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