

# Exhibit A

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

BRYAN NORRIS and  
NORRIS FOR ARKANSAS,

Plaintiffs,

v.

TIM GRIFFIN, in his official capacity  
as Attorney General of Arkansas, and  
COLE JESTER, in his official capacity  
as Secretary of State of Arkansas

Civil Action No. 5:26-cv-05005-TLB

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiffs Bryan Norris (“Norris”) and his state campaign committee, Norris for Arkansas (collectively, “Plaintiffs”), for their First Amended Complaint against Defendants Tim Griffin, in his official capacity as Attorney General of Arkansas, and Cole Jester, in his official capacity as Secretary of State of Arkansas, state as follows:

**NATURE OF THE ACTION**

1. Plaintiffs are a candidate seeking the Republican Party nomination for the office of Arkansas Secretary of State in the runoff scheduled for March 31, 2026, and his state campaign committee (Norris having finished first in the March 3 primary election, with no candidate obtaining a majority of the votes).

2. Plaintiffs are currently in the process of attempting to secure the agreement of a well-established, nationally prominent polling and survey firm to conduct in-person exit polling during the runoff election, an agreement which would

necessarily be conditioned on Plaintiffs first obtaining judicial relief invalidating Act 728 of 2021 (codified at A.C.A. § 7-1-103(a)(24) under the First Amendment, as applied to that exit polling.

3. If Plaintiffs are unable to secure such an agreement in time for the runoff, and are successful in the runoff, they plan to secure such an agreement to have exit polling conducted during the general election on November 3, 2026. Regardless of the result in this election cycle, Plaintiffs plan to seek the Republican nomination for Arkansas Secretary of State in the primary election scheduled for March 5, 2030. Thus, Plaintiffs have a continuing interest in obtaining the judicial relief necessary for them to have exit polling conducted on their behalf on one or election days in the future.

4. Based on the past difficulties they have encountered in securing exit-polling services, it is clear that Plaintiffs will be unable to obtain a commitment by from a well-established, prominent polling and survey research firm, to actually conduct the planned exit polling, unless Plaintiffs first obtain a court order ensuring that the firm and those it hires would not face criminal prosecution for carrying out the exit polling.

5. Defendants are officials of the State of Arkansas who are responsible for enforcement of the Arkansas election code, including Act 728 of 2021 (codified at A.C.A. § 7-1-103(a)(24)).

6. This action challenges the constitutionality of Act 728 as applied to prohibit exit polling within 100 feet of the primary exterior entrance to a polling

place. Federal courts across the country have uniformly concluded that exit polling is protected by the First Amendment, and that any restrictions on exit polling must be narrowly tailored and strictly limited to only those measures necessary to advance a substantial governmental purpose. This Court's intervention is sought to vindicate the ability not just of candidates, but also of media outlets, researchers, and the general public, to obtain and use valuable information through exit polling in Arkansas, unhindered by the flat prohibition in Act 728 on any nonvoter remaining within 100 feet of the primary entrance to a polling place while voting is taking place.

#### **JURISDICTION AND VENUE**

7. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as Plaintiffs allege that Defendants are violating 42 U.S.C. § 1983 by depriving them, under color of state law, of rights, privileges, and immunities secured by the First and Fourteenth Amendments of the United States Constitution.

8. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) because a substantial part of the exit polling for which Plaintiffs plan to contract will be conducted in this district, which no polling firm is willing to do unless the risk of criminal charges is removed—so that the chilling effect on protected speech of the statute being challenged is currently being felt in this district.

## PARTIES

9. Plaintiff Bryan Norris is a citizen of Arkansas who resides in Batesville, Arkansas. He is a candidate seeking the Republican Party nomination for the office of Arkansas Secretary of State. The primary election was held on March 3, 2026. Norris finished first, with no candidate obtaining a majority of the votes, and he thereby qualified for the March 31 runoff.

10. Plaintiff Norris for Arkansas is the state campaign committee of Bryan Norris.

11. Defendant Tim Griffin is the Arkansas Attorney General. He is responsible for defending state statutes against constitutional attacks. His office, through its Election Integrity Unit, also has authority to refer and assist in criminal prosecutions of alleged violations of Act 728. His office is currently handling one such case, involving exit polling in Batesville, Arkansas, on November 5, 2024.

12. Defendant Cole Jester is the Arkansas Secretary of State. As the chief elections officer of the State of Arkansas, he is responsible for ensuring the uniform application of the election laws throughout the State. In particular, he serves as the Chair (and Secretary) of the State Board of Election Commissioners (SBEC), which investigates alleged violations of the election laws and has authority to refer complaints for possible criminal prosecution, as it did with the pending criminal case involving exit polling in Batesville, Arkansas, on November 5, 2024.

## FACTS

### *Exit Polling*

13. Exit polling of voters who agree to answer questions upon leaving the polling place is a well-accepted method for obtaining accurate information about *for whom* voters have cast their ballots, and *why*, which has been in use since the 1960s.<sup>1</sup> In addition to being used by media outlets to inform the public about voting behavior, voting trends, and voters' reactions to important issues of the day, exit polling is also a tool relied on by political campaigns.

14. How exit polls are conducted, and why they are important, is explained in exhibits to this Complaint that were prepared by leading experts in the field. *See* Affidavit of Joseph W. Lenski, III (**Exhibit A** hereto); Declaration of Dr. Kathleen A. Frankovic (**Exhibit B** hereto). Typically, one exit poll worker is assigned to each of the polling places selected for the polling. The pollster stands just outside the exit of the building in which the polling is being conducted. Pollsters wear a badge clearly identifying them as conducting an exit poll, and as not being affiliated with a political candidate or political party. Pollsters are instructed to be courteous and

---

<sup>1</sup> *See also* William J. Mitofsky & Murray Edelman, "The Exit Poll Phenomenon," in Paul J. Lavrakas & Jack K. Holley (Eds.), *Polling and Election Coverage 1-25* (1991) ([https://us.sagepub.com/sites/default/files/upm-assets/47512\\_book\\_item\\_47512.pdf](https://us.sagepub.com/sites/default/files/upm-assets/47512_book_item_47512.pdf)) (<https://perma.cc/ATF3-XU7X>); Liberty Vittert and Xiao-Li Meng, "An Interview With Murray Edelman on the History of the Exit Poll," *Harvard Data Science Review*, Feb. 24, 2021 (<https://hdsr.mitpress.mit.edu/pub/fekmqbv4/release/3>) (<https://perma.cc/F4EG-SGC4>); Adam Clymer, "Warren J. Mitofsky, 71, Innovator Who Devised Exit Poll, Dies," *N.Y. Times*, Sept. 4, 2006 (<https://archive.is/DxcIh>).

businesslike and not to interfere with the election process in any way. Pollsters engage voters only after they leave the polling place, in a predetermined pattern (e.g., every third voter, every fifth voter, etc.), and they ask if the voter would be willing to fill out a brief, anonymous questionnaire. The typical questionnaire solicits information on how the voter voted in the election, and on the voter's views of various political topics of the day, and it also requests demographic information from each participating voter. Lenski Aff. ¶¶ 5-9; Frankovic Decl. ¶¶ 8-12.

15. Effective exit polling requires face-to-face interaction with voters immediately upon their exit from the polling place, and therefore pollsters are instructed to position themselves as close to the exit as possible without impinging on the ability of voters to freely enter and exit, typically within 10 to 25 feet of the exit. Lenski Aff. ¶¶ 8, 15. Both the quantity and quality of the information collected through exit polling decreases significantly if a pollster is required to stand more than 25 feet from a polling location. Lenski Aff. ¶ 8; Frankovic Decl. ¶¶ 8, 11. Effective exit polling is not viable if it must be conducted at a distance of 100 feet from the polling place. Lenski Aff. ¶¶ 16-18; Frankovic Decl. ¶¶ 8, 11.

### ***Exit Polling in Arkansas Until 2021***

16. Beginning in 1888, as part of their efforts to protect voters from confusion and undue influence in voting, various states, in addition to adopting the “Australian ballot” (ensuring the ability to vote anonymously), began enacting

statutes to prevent electioneering near a polling place.<sup>2</sup> Nearly all states now have statutes in place that prohibit electioneering during voting hours within a defined radius of the entrance to a polling place, with the majority of states having set the distance at between ten and 100 feet.<sup>3</sup>

17. The Arkansas statute bans electioneering within 100 feet, a prohibition codified in A.C.A. § 7-1-103(a)(8)(B):

On early voting days and election day, a person shall not do any electioneering during voting hours:

(i) In a building in which voting is taking place;

(ii) Within one hundred feet (100') of the primary exterior entrance used by voters to a building in which voting is taking place; or

(iii) With persons standing in line to vote.

18. The term “electioneering” is defined, in general, as “the display of or audible dissemination of information that advocates for or against any candidate, issue, or measure on a ballot,” § 7-1-103(a)(8)(C)(i), and the term also includes the solicitation of “signatures on a petition” or the solicitation of “contributions for a charitable or other purpose . . . .” § 7-1-103(a)(8)(C)(ii)(b) & (c).

---

<sup>2</sup> See generally, *Burson v. Freeman*, 504 U.S. 191, 199-206 (1992) (plurality opinion of Blackmun, J.). See also *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876, 1882-83 (2018).

<sup>3</sup> James J. Woodruff II, *Freedom of Speech & Election Day at the Polls: Thou Doth Protest Too Much*, 65 Mercer L. Rev. 331, 348-49 & n.141 (2014) ([https://digitalcommons.law.mercer.edu/jour\\_mlr/vol65/iss2/2](https://digitalcommons.law.mercer.edu/jour_mlr/vol65/iss2/2)) (listing nine states and the District of Columbia as specifying a radius of between 10 and 50 feet, and 20 states as specifying a radius of 100 feet).

19. The above-referenced, sweeping statutory prohibition on electioneering during all voting (an earlier prohibition applied only to early voting<sup>4</sup>) was first enacted in 1999. Act 1525 of 1999 (codified at A.C.A. § 7-1-103(9)). This prompted a request from the Secretary of State to the Attorney General, regarding whether the statute's prohibition on "electioneering" applied to "exit polling activities."<sup>5</sup> In response, Attorney General Pryor explained:

This statute prohibits several different activities by all persons. It prohibits the handing out or the offering to hand out campaign literature, the solicitation of signatures on petitions, charitable solicitations or the solicitation of contributions for other purposes and "electioneering of any kind." This statute, in my opinion, does not proscribe "exit polling." "Exit polling" does not involve the distribution of "campaign literature." It does not involve the solicitation of signatures on a petition. It does not seek contributions for charitable or other purposes. The most relevant question is whether "exit polling" can be classified as "electioneering of any kind." In my opinion the answer to this question is "no."

\* \* \*

It is my opinion . . . that "exit polling" does not fit within the definition of "electioneering," and therefore is not prohibited within the area described in A.C.A. § 7-3-103(a)(9).<sup>6</sup>

20. Similarly, when asked by an Arkansas State Representative for a summary of Arkansas law concerning exit polls, in reaction to news "that a New Jersey firm plans to do an 'exit poll' in one of the polling places in Johnson County," Attorney General Beebe confirmed that there is no mention of exit polls "anywhere

---

<sup>4</sup> Act 445 of 1997, § 2 (codified at A.C.A. § 7-1-103(b) & (c)).

<sup>5</sup> Opinion No. 99-330, Arkansas Attorney General, Jan. 27, 2000, 2000 Ark. AG LEXIS 2, at \*1 (**Exhibit C**).

<sup>6</sup> *Id.* at \*4-\*5.

in the Arkansas Code,” that the only limitation on exit polling was the mandate of A.C.A. § 7-5-309(a)(4) that no person other than election officials or voters may come within six feet of a voting booth,<sup>7</sup> and that:

My predecessor concluded and I agree, that this subsection has no applicability to exit polling activities. Exit polling does not involve the distribution of “campaign literature,” or the solicitation of signatures or contributions for charitable or other purposes. In addition, in my opinion the conduct of exit polling cannot reasonably be categorized as “electioneering.” . . . In my opinion, therefore, the one-hundred foot limitation of A.C.A. § 7-1-103(a)(9)A does not apply to exit polling activities.<sup>8</sup>

### *Exit Polling in Arkansas Since 2021*

21. Until 2021, there existed in Arkansas no statutory basis for limiting exit polling within 100 feet outside a polling place. Indeed, there was no ban on *any* speech-related activity, conducted by *anyone* within this radius, other than the ban on electioneering. Individuals were free to be present within this radius and engage in speech activity, restricted only by the prohibition against electioneering.

22. That changed on April 19, 2021, with the Arkansas legislature’s enactment of Act 728 (Senate Bill 486).<sup>9</sup> Act 728, its sponsors explained, was

---

<sup>7</sup> Opinion No. 2004-268, Arkansas Attorney General, Oct. 5, 2004, 2004 Ark. AG LEXIS 261, at \*1-\*2 (**Exhibit D**).

<sup>8</sup> *Id.* at \*3-\*4.

<sup>9</sup> Although considered in conjunction with other amendments to the election code that were ultimately adopted, Senate Bill 486 was a standalone measure, spanning a single page: <https://arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F2021R%2FPublic%2FACT728.pdf> (<https://perma.cc/2CY8-YN3A>) (**Exhibit E**). (Originally slated for codification as A.C.A. § 7-1-103(a)(23), to accommodate a later amendment it was codified as A.C.A. § 7-1-103(a)(24).)

prompted by complaints about ostensibly “nonpartisan” activists who, in the guise of “voter support” efforts, had a regular practice of offering drinks, and even meals, to voters standing in line within this 100-foot distance (often setting up tables for that purpose), in an effort both to encourage early voting and evidently also to build voter support for the group.<sup>10</sup>

23. The legislative measure adopted to address this concern was to impose a flat ban on *all* speech activity within 100 feet of the polling entrance by *anyone* except voters who are waiting in line to vote. This flat speech ban was accomplished by banning nonvoters from coming within 100 feet of the polling entrance, except while entering or leaving the building for some other (i.e., non-voting) lawful purpose. This amendment did not supplant the existing ban on electioneering; rather, this new prohibition was added on top of it, appended at the end of the subsection of the section of the election code that contained the electioneering ban:

A person shall not enter or remain in an area within one hundred feet (100') of the primary exterior entrance to a building where voting is taking place except for a person entering or leaving a building where voting is taking place for lawful purposes.

Act 728 of 2021 (codified at A.C.A. § 7-1-103(a)(24)).

24. Given this 2021 amendment to A.C.A. § 7-1-103, exit polling is no longer protected from criminal prosecution in Arkansas. The current Attorney General,

---

<sup>10</sup> Videos of the debates on Senate Bill 486 are archived here: <https://arkleg.state.ar.us/Bills/Detail?id=SB486&ddBienniumSession=2021/2021R>

For the Court’s convenience, unofficial transcripts of the debates in the Senate and House of Representatives are included as **Exhibit F** and **Exhibit G**, respectively.

Defendant Tim Griffin, has made clear that Act 728 will be strictly enforced against exit polling. On October 9, 2025, his office issued a press release announcing the criminal prosecution of two individuals who had engaged in exit polling in Batesville, Arkansas, on November 5, 2024, explaining:<sup>11</sup>

“Arkansas Code § 7-1-103 prohibits electioneering in the building or within 100 feet of the primary exterior entrance used by voters in which voting is taking place, or with persons standing in line to vote. That same statute also makes it unlawful for a person to enter or remain within the 100-foot area unless the person is entering or leaving the building for lawful purposes where voting is taking place.

“The evidence in this case includes a video of both men conducting exit polling approximately 30 feet from a polling site. This case, and the misdemeanor warrants we obtained, are about one thing: following the law. The subjects of our investigation were treated no differently than any subject of other investigations we have conducted.”

### ***Plaintiffs’ Exit Polling Plan***

25. As part of their campaign efforts, Plaintiffs entered into an agreement with Rasmussen Reports, LLC (“Rasmussen”), a well-established polling and survey research firm, to have it conduct exit polling in at least seven counties in Arkansas (including Benton, Sebastian, and Washington) during the primary election on March 3, 2026. See **Exhibit I** (Exit Polling Services Agreement, Jan. 6, 2026). Under the agreement, assuming that the exit polling had gone forward as contemplated, Plaintiffs would have received the raw polling data, a description of the polling methodology (including sampling and weighting procedures), tabulated

---

<sup>11</sup> Press Release, “Attorney General Griffin Addresses Election-Related Charges Filed by His Office,” Oct. 9, 2025 (<https://media.ark.org/ag/2025-10-09-Reynolds-warrant-FINAL.pdf>) (<https://perma.cc/889N-HJHB>) (**Exhibit H**).

data summaries, and a final written report summarizing the findings. *Id.*, ¶¶ 1.2 & 1.3.

26. The agreement provided that the work, of course, was required to be performed in compliance with all applicable federal and state statutes, rules, regulations and other directives. *Id.*, ¶ 2.1. Thus, given the Attorney General's recent statement that exit polling within 100 feet of a polling site is a crime under Arkansas law, Plaintiffs were unable to follow through on their exit polling plan, absent a grant of judicial relief invalidating Act 728.

### ***Need for Relief***

27. However, under the agreement, there remained the potential that the exit polling could nonetheless proceed, provided that Plaintiffs obtained a court order by February 17, 2026, invalidating Act 728 as applied to exit polling. *Id.*, ¶ 2.2. As explained by Rasmussen ("Contractor") in the agreement, a removal of distance-based restrictions was vital to its ability to conduct effective exit polling:

To conduct effective exit polling, it is imperative that Contractor's personnel are allowed to engage with voters after they have voted and as soon as they depart the building, typically within a range of 10 to 25 feet.

*Id.* Under the contract, invalidation of the statute's distance-based restriction on exit polling by February 17 was a necessary predicate for Rasmussen to conduct the March 3 exit polling under the contract.

28. In addition to using the information gained by exit polling in connection with their political campaign, Plaintiffs worked out agreements with various media outlets to allow for broader dissemination of the information. Absent the relief

sought in this lawsuit, the First Amendment right of Plaintiffs to obtain exit-polling information, as well as the First Amendment right of the media to report on it and the First Amendment right of both researchers and members of the general public to receive and act on this information, would be abridged by Act 728's ban on exit polling within 100 feet of a polling place.

29. Unfortunately, Plaintiffs were ultimately forced to abandon their plan to have Rasmussen conduct the contemplated exit polling, once it became clear that it would not be practicable for judicial relief to issue by February 17. Plaintiffs' motion for a preliminary injunction was fully briefed and ready for decision on February 2, but no decision on the motion issued by the February 17 deadline. It became impracticable (perhaps impossible) for judicial relief to issue by that deadline when, on February 12, the U.S. District Judge initially assigned to this case entered an order of recusal, and the case was reassigned to a new judge who had no prior involvement with the case. ECF No. 24.

30. Plaintiffs were therefore forced by this change of circumstances to make alternate plans, given that Rasmussen was unwilling to extend the deadline and become obligated to carry out the exit polling on less than two weeks' notice. In order to provide the Court with adequate time to rule on the motion for a preliminary injunction, so that exit polling might still go forward on March 3, Plaintiffs were able to negotiate with Rasmussen to permit the exit polling work to be subcontracted to an Arkansas-based organization that would be able to carry out

the exit polling on shorter notice, provided that a preliminary injunction issued by February 27. *See* ECF No. 25.

31. That modification, unfortunately, undermined a key predicate of Plaintiffs' motion for a preliminary injunction: that the exit polling would be conducted by a nationally prominent polling and survey research firm, a point that was cited by the Court in its decision issued on February 27 denying Plaintiffs' motion for a preliminary injunction. ECF No. 39 at 2 ("So, although Mr. Norris has assured the Court that any polling on March 3 would be conducted independently by a 'nationally prominent, reputable polling firm,' there is nothing in the record before the Court that guarantees Rasmussen would conduct the polling or that the subcontractor would be unaffiliated with Mr. Norris or his campaign.").

32. Plaintiffs' ultimate aim in this lawsuit has always been to obtain the permanent invalidation of Act 728, as violative of the First Amendment, hence the filing of this First Amended Complaint, which establishes a record under which this Court can issue a final ruling in this case, based on the original predicate of the lawsuit: that Act 728 is unconstitutional if applied to prevent Plaintiffs from contracting to have exit polling conducted by a nationally prominent polling and survey research firm. Only the last-minute recusal of the judge who was originally assigned to this case led to the preliminary injunction motion being considered on a factual record different than the factual predicate set out in the Complaint.

**COUNT ONE**  
**RIGHTS OF FREE SPEECH AND PRESS**  
**U.S. CONST. AMENDS. I, XIV, 42 U.S.C. § 1983**  
**AS-APPLIED CHALLENGE TO A.C.A. § 7-1-103(A)(24)**

33. Plaintiffs reallege and incorporate paragraphs 1 through 32.

34. The legislative record reveals that the Arkansas legislature passed Act 728, adding A.C.A. § 7-1-103(a)(24) to the election code, solely to curb the practice of ostensibly “nonpartisan” political activists who were engaging in “voter support” effects within the 100-foot zone, involving the provision of food and drink and other active engagement with voters—activity that the legislature could reasonably have viewed as “designed to unfairly influence the way in which an individual might vote.” *Thurston v. League of Women Voters*, 687 S.W.3d 805, 810 (Ark. 2024).

35. However, the legislature’s failure to include an exception to this 100-foot blanket ban to allow exit polling, which had long been recognized as permitted under Arkansas law (outside six feet from the voting booth, see ¶ 17, *supra*), renders this statutory provision unconstitutional as applied to exit polling, under the First Amendment. As the U.S. Supreme Court has noted, “there is simply no evidence that political candidates have used . . . exit polling to commit such electoral abuses.” *Burson v. Freeman*, 504 U.S. 191, 208 (1992) (plurality opinion of Blackmun, J.).

36. The First Amendment right of both the press and of private individuals to obtain information has long been recognized. *See, e.g., Virginia St. Board of Pharmacy v. Virginia Citizens Council, Inc.*, 425 U.S. 748, 756-57 (1976); *Kleindienst v. Mandel*, 408 U.S. 753, 762-63 (1972). This right includes the right to

obtain political information through exit polling. *E.g.*, *Daily Herald Co. v. Munro*, 838 F.2d 380, 384 (9th Cir. 1988); *American Broadcasting Companies, Inc. v. Wells*, 669 F.Supp.2d 483, 487 (D.N.J. 2009); *American Broadcasting Co., Inc. v. Blackwell*, 479 F.Supp.2d 719, 734-35 (S.D. Ohio 2006).

37. By prohibiting exit pollsters from interviewing voters within the 10 to 25 feet from the polling place exit necessary for effective exit polling, Act 728 violates the First Amendment to the U.S. Constitution, which is incorporated against the State of Arkansas through the Due Process Clause of the Fourteenth Amendment. The flat requirement that *no one* besides voters who are in line can remain within 100 feet of the poll exit while voting is in progress is not narrowly tailored to serve any significant governmental interest.

38. In enacting this flat ban in 2021, the legislature articulated no governmental interest at all in restricting exit polling, which for two decades had been explicitly authorized under Arkansas law (via the opinions of two Attorneys General), without incident. The subject was never even mentioned in the Senate and House floor debates on Act 728 (**Exhibit F** and **Exhibit G**). The statute cannot be defended based on justifications concocted during litigation. “The justification must be genuine, not hypothesized or invented *post hoc* in response to litigation.” *United States v. Virginia*, 518 U.S. 515, 533 (1996) (equal protection challenge to single-sex status of the Virginia Military Institute).

39. It is clear from the legislative debates on Senate Bill 486, which became Act 728, that it was prompted not by any concerns about exit polling, but solely by

complaints about ostensibly “nonpartisan” activists who, in the guise of “voter support” efforts, had a regular practice of offering drinks, and even meals, to voters standing in line within this 100-foot distance (often setting up tables for that purpose, impinging on access to polling places), in an effort both to encourage early voting and evidently also to build voter support for the group (whose members wore T-shirts identifying their nonprofit organization).<sup>12</sup> There was no effort made by the

---

<sup>12</sup> See, e.g., **Exhibit F** (Senate debate) at 3 (“what we found during the last election cycle, that there were those who were setting up tables within the hundred foot” area); *id.* at 4 (bill “would prevent anybody from setting anything up within the hundred-foot line zone . . . from camping out or setting up tables or anything of that nature”); *id.* at 5 (“But to go into that hundred-foot zone and set up a table, and part of this, as it was testified in committee, is dealing with, you know, disability rights, as far as blocking any obstructions going in and out.”); *id.* at 7 (“this last election, I saw ‘nonpartisan’ people, campaigning directly in line, multiple times, under the guise of doing it for voter reasons”); *id.* at 8 (“But Senator, there are people that disobey, that break the rules. . . . So the fact is, if we can’t get people to be honest, then this is what happens. This is what has to be done. . . . We’re just saying, stop the electioneering, or coming in and trying to influence people’s votes, under the guise of something like that.”); *id.* at 9 (“The simple fact of the matter is, there are people that have claimed to be nonpartisan, and it’s hard to stop it. And so, unfortunately, what they’re saying is we’re just going to stop it wholly altogether!”); *id.* at 11 (bill “[p]revents groups or persons from setting up tables and remaining within a hundred feet of the polling site for unlawful purposes, which could lead to a violation of ADA. . . . Pulaski County received multiple complaints regarding campaign workers offering meal tickets to voters within the hundred foot zone. . . . Several nonpartisan groups set up food and information tables at vote centers in Pulaski County.”); **Exhibit G** (House debate) at 3 (“There were several instances where voters called to complain that there were people crowding around the entrance where they were entering and, you know, handing out water. I think there were sandwiches being handed out. But, you know, this—they were wearing their T-shirts for their organization that was doing this.”); *id.* (“Considering the complaints, and considering the fact that there is to be no electioneering within 100 feet of the voting location, this language had to be crafted, considering that people were not respecting that.”); *id.* at 5 (“But you don’t need to be hanging out in that hundred—camping out in that 100-foot perimeter that is considered sacrosanct on election day.”).

sponsors of the bill to narrowly tailor the measure to mitigate its destructive impact on exit polling. The sponsors declined to amend the bill despite an objection that the failure to narrowly tailor the bill would criminalize conduct unrelated to the concerns that had prompted the bill. As Senator Clarke Tucker observed:

[T]o the extent you're trying to prevent voter harassment or blocking of entrances, I'm totally in support of that.

But either way, the language is not tailored to the behavior that we're trying to target. And I think it is going to create criminal behavior that is not part of the intent.

Like, for example, if I'm just taking my kids to vote with me, they're entering and remaining in that space if there's a long line, which I always take my kids to vote with me. And my kids could be guilty of this misdemeanor, in the way that this law is written.

**Exhibit F** at 7-8.

40. Given their commitment to strictly enforce Act 728's flat ban on *everyone*, save for voters who are standing in line, from remaining present within 100 feet of the exit of a polling place, including exit pollsters, thereby making it impossible for Plaintiffs to obtain information thorough effective and reliable exit polling, for the benefit both of their campaign, affiliated media, researchers, and the public, Defendants, under color of law, have violated and continue to violate Plaintiffs' right of free speech and free press, in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are thus injured, and continue to be injured, in violation of 28 U.S.C. § 1983, and are entitled to declaratory and preliminary and permanent injunctive relief against the continued

enforcement and maintenance of Act 728 as applied to exit polling. Plaintiffs are also entitled to recover their attorneys' fees and expenses under 42 U.S.C. § 1988.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendants as follows:

A. A declaration that A.C.A. § 7-1-103(a)(24) is unconstitutional as applied to exit polling, on the basis that it imposes a severe burden on the First Amendment right to engage in effective exit polling, that the statute is not narrowly tailored to serve any significant governmental interest, and that the statute fails to leave open ample alternative channels for effective exit polling;

B. Orders preliminarily and permanently enjoining Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them, from enforcing A.C.A. § 7-1-103(a)(24) as applied to exit polling;

C. Nominal damages;

D. Costs and attorneys' fees under 42 U.S.C. § 1988; and

E. Any other relief this Court may grant in its discretion.

Dated: March 4, 2026

Respectfully submitted,

/s/ Chris Corbitt

Harry W. MacDougald\*  
Georgia Bar No. 453076  
Caldwell, Carlson, Elliott,  
& DeLoach, LLP  
6 Concourse Parkway, Ste. 2400  
Atlanta, GA 30328  
(404) 843-1956  
[hmacdougald@ccedlaw.com](mailto:hmacdougald@ccedlaw.com)

Chris Corbitt  
Arkansas Bar No. 2004089  
Corbitt Law Firm, PLLC  
P.O. Box 11200  
Conway, AR 72034  
(501) 255-0112  
[chris@corbittlawfirm.com](mailto:chris@corbittlawfirm.com)

\* *Admitted pro hac vice*

Clinton W. Lancaster  
Arkansas Bar No. 2011179  
900 S. Shackelford, Ste. 300  
Little Rock, AR 72211  
(501) 786-3593  
[clint@clintlancaster.com](mailto:clint@clintlancaster.com)

*Attorneys for Plaintiffs*

RETRIEVED FROM DEMOCRACYDOCKET.COM