

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA**

JAMILA JOHNSON, *et al.*

Plaintiffs,

v.

KYLE ARDOIN, IN HIS OFFICIAL
CAPACITY AS LOUISIANA SECRETARY
OF STATE,

Defendant.

Case No.: 3:18-cv-00625-SDD-EWD

**ORIGINAL ANSWER TO PLAINTIFFS' AMENDED COMPLAINT AND
AFFIRMATIVE DEFENSES**

NOW INTO COURT, through undersigned counsel, comes Defendant, Kyle Ardoin, in his official capacity as Louisiana Secretary of State, who responds to the Plaintiffs' Amended Complaint filed on August 21, 2018 by denying each and every allegation contained in those pleadings, except as specifically admitted below. Furthermore, Plaintiffs' Original Complaint, ECF No. 1, has been wholly superseded by the Amended Complaint. To the extent that the Original Complaint has not been superseded, the Secretary denies each and every allegation contained therein.

The State of Louisiana does not deny its past. That is why, for at least the past 25 years, the Secretary of State and other Louisiana election officials have implemented and operated programs and practices that ensure that all Louisiana citizens have an opportunity to participate in elections and to vote for the candidates of their choice. With respect to this litigation, the U.S. Department of Justice reviewed the congressional redistricting plan that the Plaintiffs now challenge and found the plan both unobjectionable and authorized the State to proceed with elections under the pre-cleared plan. Subsequently, the United States Supreme Court in *Shelby*

County v. Holder, determined that the coverage formula for jurisdictions under Section 4 of the Voting Rights Act of 1965 was unconstitutional because it was unsupported and unjustified by recent history. 570 U.S. 529, 551 (2013). With this background in mind, the Secretary of State Answers as follows:

ANSWERS TO PLAINTIFFS' AMENDED COMPLAINT

1. The allegations in Paragraph 1 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied.
2. The allegations in Paragraph 2 are admitted to the extent that the population of Louisiana increased from 2000 to 2010 and the State of Louisiana lost one congressional seat after the 2010 census. The remainder of the allegations in Paragraph 2 contain various census figures that speak for themselves and are the best evidence of their contents; to the extent a response is required, these allegations are denied
3. The allegations in Paragraph 3 are denied.
4. The allegations in Paragraph 4 are admitted to the extent that Louisiana's Second Congressional District was at the time of filing, and is currently, represented by Cedric Richmond. The remainder of the allegations in Paragraph 4 are legal conclusions, which require no response. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 4 that reference legal jurisprudence are denied as they are legal conclusions and the text of the jurisprudence is the best evidence of its contents.
5. The allegations in Paragraph 5 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the current

redistricting plan for congressional elections speaks for itself and requires no admission or denial.

6. The allegations in Paragraph 6 are denied
7. The allegations in Paragraph 7 are denied.
8. The census and underlying demographic information are the best evidence of its contents; to the extent a response is required these allegations are denied.
9. The allegations in Paragraph 9 are legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 9 footnote 1 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
10. The allegations in Paragraph 10 are denied.
11. The allegations in Paragraph 11 essentially contain a prayer for relief and no answer is required. To the extent a response is required, the Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.
12. The allegations in Paragraph 12 are denied, as this Court sitting alone does not have jurisdiction over Plaintiffs' claims. A three-judge court is required to hear these claims pursuant to 28 U.S.C. § 2284.
13. The allegations in Paragraph 13 are admitted to the extent that federal courts in general have jurisdiction to grant injunctive and declaratory relief. However, the Secretary of State denies that this Court sitting alone has jurisdiction over Plaintiffs' claims. A three-judge court is required to hear these claims pursuant to 28 U.S.C. § 2284.
14. The allegations in paragraph 14 are admitted.

15. The allegations in Paragraph 15 are denied for lack of knowledge sufficient to form a response thereto.
16. The allegations in Paragraph 16 are denied for lack of knowledge sufficient to form a response thereto.
17. The allegations in Paragraph 17 are denied for lack of knowledge sufficient to form a response thereto.
18. The allegations in Paragraph 18 are denied for lack of knowledge sufficient to form a response thereto.
19. The allegations in Paragraph 19 are denied for lack of knowledge sufficient to form a response thereto.
20. The allegations in Paragraph 20 are denied for lack of knowledge sufficient to form a response thereto.
21. The allegations in Paragraph 21 are denied for lack of knowledge sufficient to form a response thereto.
22. The allegations in Paragraph 22 are denied for lack of knowledge sufficient to form a response thereto.
23. The allegations in Paragraph 23 are denied for lack of knowledge sufficient to form a response thereto.
24. The allegations in Paragraph 24 are denied for lack of knowledge sufficient to form a response thereto.
25. The allegations in Paragraph 25 are denied for lack of knowledge sufficient to form a response thereto.

26. The allegations in Paragraph 26 are denied as Kyle Ardoin is not the “acting” Secretary of State of Louisiana. It is admitted that Kyle Ardoin is the duly elected Louisiana Secretary of State. The remainder of the allegations in Paragraph 26 are denied as the laws and Constitution of Louisiana are the best evidence of their contents.
27. The allegations in Paragraph 27 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
28. The allegations in Paragraph 28 contain legal conclusions to which no response is required. The allegations in Paragraph 28 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
29. The allegations in Paragraph 29 contain legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 29 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
30. The allegations in Paragraph 30 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
31. The allegations in Paragraph 31 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
32. The allegations in Paragraph 32 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the

allegations in Paragraph 32 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.

33. The allegations relative to the passage of Act 2 in Paragraph 33 are denied as written. The legislative records are the best evidence of their contents. Further, the allegation that the “vast majority of African-American legislators voted against the Plan” is denied.
34. The allegations in Paragraph 34 are denied for lack of knowledge sufficient to form an opinion. Further, the allegations in Paragraph 34 that reference legislative history are denied as the text of the legislative records are the best evidence of their contents.
35. The allegations in Paragraph 35 are denied for lack of knowledge sufficient to form an opinion. Further, the allegations in Paragraph 35 that reference legislative history are denied as the text of the legislative records are the best evidence of its contents. Furthermore, the allegations in footnote 2 are denied.
36. The allegations in Paragraph 36 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. The current redistricting plan for congressional elections as well as the demographics of that plan speaks for itself and requires no admission or denial.
37. The allegations in Paragraph 37 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the current redistricting plan for congressional elections speaks for itself and requires no admission or denial.
38. The allegations in Paragraph 38 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. The

demographics of the congressional districts speaks for itself and requires no admission or denial.

39. The allegations in Paragraph 39 are denied.
40. The allegations in Paragraph 40 are denied.
41. The allegations in Paragraph 41 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 41 that reference African American voting practices are denied as the voting practices of various demographic groups speak for themselves.
42. The allegations in Paragraph 42 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 42 that reference white voting practices are denied as the voting practices of various demographic groups speak for themselves.
43. The allegations in Paragraph 43 referencing specific demographic voting patterns are denied as the voting patterns of various demographic groups speak for themselves.
44. The allegations in Paragraph 44 are denied. The allegations in Paragraph 44 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
45. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 45 are denied.
46. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 46 are denied.

47. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 47 are denied.
48. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 48 are denied. Furthermore, the allegations in Paragraph 48 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
49. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 49 are denied. Furthermore, the allegations in Paragraph 49 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
50. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 50 are denied.
51. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 51 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
52. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the

allegations are denied. Furthermore, the allegations in Paragraph 52 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.

53. The allegations in Paragraph 53 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied, as the text of both the statutes and jurisprudence referenced are the best evidence of their contents.

54. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 54 are denied. Furthermore, the allegations in Paragraph 54 that reference legal jurisprudence are denied as the jurisprudence is the best evidence of its contents.

55. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 55 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations are denied as the text of the laws of Louisiana are the best evidence of their contents.

56. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 56 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied as the text of the laws of Louisiana are the best evidence of their contents.

57. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 57 are legal

conclusions, therefore no response is required. To the extent a response is required, the allegations are denied as the text of the statute is the best evidence of its contents.

58. The allegations in Paragraph 58 are denied.
59. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 59 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 59 that reference legal jurisprudence and statutes are denied as the text of the jurisprudence and the statutes are the best evidence of their contents.
60. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations are denied.
61. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations are denied.
62. The allegations in Paragraph 62 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 62 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
63. The allegations in Paragraph 63 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Also, the Secretary has insufficient knowledge as to the source of the Department of Justice findings, therefore

no response is required. Furthermore, the allegations in Paragraph 73 that reference statutes are denied as the text of the statute is the best evidence of its contents.

64. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. The allegations in Paragraph 64 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 64 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.

65. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 65 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 65 that reference legal jurisprudence and/or the laws of Louisiana are denied as the text of the jurisprudence and laws are the best evidence of their contents

66. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 66 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 66 are denied for lack of knowledge sufficient to form an opinion.

67. The allegations in Paragraph 67 are denied.

68. The allegations in Paragraph 68 are denied.

69. The allegations in Paragraph 69 are denied for lack of knowledge sufficient to form an opinion.

70. The allegations in Paragraph 70 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 70 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
71. The allegations in Paragraph 71 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 71 that reference statutes are denied as the text of the statutes are the best evidence of its contents.
72. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 72 are denied for lack of knowledge sufficient to form an opinion.
73. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 73 are denied for lack of knowledge sufficient to form an opinion.
74. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 74 are also denied for lack of knowledge sufficient to form an opinion.
75. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 75 are denied for lack of knowledge sufficient to form an opinion.
76. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the

allegations in Paragraph 76 are denied for lack of knowledge sufficient to form an opinion.

77. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 77 are denied for lack of knowledge sufficient to form an opinion. Furthermore, the allegations in Paragraph 77 that reference elections outcomes are denied as the election returns kept by Louisiana are the best evidence of its contents.
78. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 78 are denied for lack of knowledge sufficient to form an opinion.
79. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 79 are denied. Furthermore, the allegations in Paragraph 86 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
80. The allegations in Paragraph 80 are legal conclusions, therefore no response is required. Furthermore, the allegations in Paragraph 80 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
81. The allegations in Paragraph 81 are denied.
82. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. Further, the census figures that speak for themselves and are the best

evidence of their contents. To the extent a response is required, the allegations in Paragraph 82 are denied for lack of knowledge sufficient to form an opinion.

83. The allegations in Paragraph 83 are denied.
84. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 84 are denied for lack of knowledge sufficient to form an opinion.
85. The allegations in Paragraph 85 are denied.
86. The allegations in Paragraph 86 are denied.
87. The allegations in Paragraph 87 are denied.
88. The allegations in Paragraph 88 are denied.
89. The allegations in Paragraph 89 are denied.
90. The Secretary of State hereby re-asserts and incorporates by reference all previous answers given in all previous paragraphs.
91. The allegations in Paragraph 91 are legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
92. The allegations in Paragraph 92 are denied.
93. The allegations in Paragraph 93 are denied.
94. The allegations in Paragraph 94 are denied.
95. The allegations in Paragraph 95 are denied.
96. The allegations in Paragraph 96 are denied.
97. The allegations in Paragraph 97 are denied.

The allegations in the next paragraph consist of a prayer for relief and no answer is required. To the extent a response is required, the Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.

IN FURTHER ANSWER, THE SECRETARY OF STATE SUBMITS THE FOLLOWING DEFENSES:

98. The Plaintiffs have failed to state a claim against the Secretary upon which relief can be granted.
99. The Plaintiffs lack standing to bring this action.
100. This Court lacks jurisdiction without a court of three judges. *See* 28 U.S.C. § 2284.
101. The equitable doctrine of laches bars Plaintiffs claims that were brought seven years and three (now four) election cycles after implementation of the 2011 congressional reapportionment plan.
102. The Fourteenth and Fifteenth Amendments of the United States Constitution barred the State of Louisiana from drawing two majority-minority districts in Louisiana. *See, e.g., Hays v. State of Louisiana*, 839 F. Supp. 1188 (W.D. La. 1993).
103. The equal protection component of the Fifth Amendment's due process clause, *see, e.g., Bolling v. Sharpe*, 347 U.S. 497, 498-500 (1954) (holding that the rights against discrimination enshrined by the Fourteenth Amendment against the states are binding against the federal government under the due process clause of the Fifth Amendment) prevents this Court from implementing any reapportionment plan that the State Legislature could not legally implement.
104. The Plaintiffs' claims and requests for relief are barred, in whole or in part, by waiver.
105. The Plaintiffs' claims and request for relief are barred, in whole or in part, by the doctrine of estoppel.

106. Additional defenses may not be alleged herein due to the unavailability of all the facts, after reasonable inquiry, necessary to determine what additional defenses may be available, and therefore the Secretary reserves the right to amend his Answer to allege additional defenses, if subsequent investigation so warrants.
107. The Secretary specifically denies those allegations in the Amended Complaint which are not specifically admitted herein.

WHEREFORE, the Secretary of State prays as follows:

- 1) That this Answer be deemed good and sufficient;
- 2) That, after all proceedings are had, there be judgment rendered in his favor, dismissing Plaintiffs' claims with prejudice and at their costs;
- 3) For all general and equitable relief that justice requires, including but not limited to an award of Defendant's attorneys' fees and reasonable costs.

Dated: September 23, 2019

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 23rd day of September 2019, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ Angelique Duhon Freel
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