

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**GEORGIA STATE CONFERENCE OF *
THE NAACP, et al., ***

Plaintiffs, *

v. *

**BRIAN KEMP, in his official capacity *
as Secretary of State for the State of *
Georgia, ***

Defendants. *

CA No. 1:17cv01427-TCB

DEFENDANT BRIAN KEMP’S ANSWER AND DEFENSES

Comes Now, Defendant Secretary of State Brian Kemp, by and through the Attorney General for the State of Georgia, and files this Answer and Defenses to the allegations of Plaintiffs’ Complaint as follows:

FIRST DEFENSE

Plaintiffs’ Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

SECOND DEFENSE

Defendant denies that Plaintiffs have been subjected to the deprivation of any right, privilege, or immunities under the Constitution or laws of the United States.

RESPONSES

Answering the specific allegations of the Complaint, Defendant responds as follows:

1. In response to paragraph 1 of the Complaint, Defendant admits only that Act No. 251 (2015 Ga. L. 1413) (“H.B. 566”) redistricted several Georgia House Districts, including districts 105 and 111. Defendant denies the remaining allegations in Paragraph 1.
2. In response to paragraph 2 of the Complaint, Defendant denies the allegations therein.
3. In response to paragraph 3 of the Complaint, Defendant denies the allegations therein.
4. In response to paragraph 4 of the Complaint, Defendant denies the allegations therein.
5. In response to paragraph 5 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.
6. In response to paragraph 6 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

7. In response to paragraph 7 of the Complaint, Defendant admits that the majority of the Georgia legislature is Republican and white. Defendant admits further that all incumbents, both Republicans and Democrats, were given the opportunity to make adjustments to their districts so long as all affected members consented to the changes. Defendant denies the remaining allegations in paragraph 7.

8. In response to paragraph 8 of the Complaint, Defendant denies the allegations therein.

9. In response to paragraph 9 of the Complaint, Defendant admits only that Georgia maintains voter registration by race but not by party. Defendant denies the remaining allegations in paragraph 9.

10. In response to paragraph 10 of the Complaint, Defendant denies the allegations therein.

11. In response to paragraph 11 of the Complaint, Defendant denies the allegations therein.

12. In response to paragraph 12 of the Complaint, Defendant admits only that in 2016 white Republican incumbents defeated African-American Democratic challengers in Districts 105 and 111. Defendant denies the remaining allegation in paragraph 12.

13. In response to paragraph 13 of the Complaint, Defendant admits only that H.B. 566 was a “mid-census cycle redistricting plan.” Defendant denies the remaining allegation in paragraph 13.

14. In response to paragraph 14 of the Complaint, Defendant denies that Plaintiffs are entitled to any relief.

15. In response to paragraph 15 of the Complaint, Defendant admits the allegations therein.

16. In response to paragraph 16 of the Complaint, Defendant admits the allegations therein.

17. In response to paragraph 17 of the Complaint, Defendant admits the allegations therein.

18. In response to paragraph 18 of the Complaint, Defendant admits the allegations therein.

19. In response to paragraph 19 of the Complaint, Defendant admits the allegations therein.

20. In response to paragraph 20 of the Complaint, Defendant admits only that the Georgia State Conference of the NAACP is a non-partisan, interracial, nonprofit membership organization. Defendant is without knowledge or information sufficient to form a belief as to the truth of the

remaining allegations regarding the organization's mission and its membership, and therefore denies same. Defendant further denies that its members were subjected to race-and partisan-based redistricting in violation of the Constitution.

21. In response to paragraph 21 of the Complaint, Defendant admits that Plaintiff Lavelle Lemon is African-American and resides within Georgia House District 111 in Henry. Defendant denies the remaining allegations in paragraph 21.

22. In response to paragraph 22 of the Complaint, Defendant admits that Plaintiff Marlon Reid is African-American and resides within Georgia House District 105 in Gwinnett County. Defendant denies the remaining allegations in paragraph 22.

23. In response to paragraph 23 of the Complaint, Defendant admits that Plaintiff Lauretha Celeste Sims is African-American and resides within Georgia House District 111 in Henry County. Defendant denies the remaining allegations in paragraph 23.

24. In response to paragraph 24 of the Complaint, Defendant admits that Patricia Smith is African-American and resides within Georgia House

- District 105 in Gwinnett County. Defendant denies the remaining allegations in paragraph 24.
25. In response to paragraph 25 of the Complaint, Defendant admits that Coley Tyson is African-American and resides in Georgia House District 105. Defendant denies the remaining allegations in paragraph 25.
26. In response to paragraph 26 of the Complaint, Defendant admits the allegations therein.
27. In response to paragraph 27 of the Complaint, Defendant admits that Secretary of State Kemp is the chief election officer for the State of Georgia and his duties are outlined in O.C.G.A. §21-2-50. Defendant denies all remaining allegations in paragraph 27.
28. In response to paragraph 28 of the Complaint, Defendant admits the allegations therein.
29. In response to paragraph 29 of the Complaint, Defendant admits that legislative districts are typically redrawn after each census but denies that redistricting in Georgia is typically limited to one redistricting after each census.
30. In response to paragraph 30 of the Complaint, Defendant admits that population changes after each decennial census require new redistricting

plans but denies that redistricting in Georgia is typically limited to one redistricting after each census.

31. In response to paragraph 31 of the Complaint, Defendant admits that state legislative elections are partisan and feature a majority vote requirement in the primary and general election. Defendant denies that these features necessarily make it more difficult for minority voters to elect candidates of choice.

32. In response to paragraph 32 of the Complaint, Defendant states that this paragraph consists of legal conclusions for which no response is needed. To the extent a response is required, the cases speak for themselves.

33. In response to paragraph 33 of the Complaint, Defendant states that this paragraph consists of legal conclusions for which no response is needed. To the extent a response is required the cited documents speak for themselves.

34. In response to paragraph 34 of the Complaint, Defendant states that this paragraph consists of legal conclusions for which no response is needed. To the extent a response is required the cases speak for themselves.

35. In response to paragraph 35 of the Complaint, Defendant admits only that approximately 62.8% of Georgia's citizen voting age population is white,

- 31.6% is African-American, 4.4% is Hispanic, and 2.6% is Asian-American. Defendant denies all remaining allegations in paragraph 35.
36. In response to paragraph 36 of the Complaint, Defendant admits the allegations therein only as of the time that the complaint in this action was filed and not currently.
37. In response to paragraph 37 of the Complaint, Defendants admit only that at the time the complaint was filed, there were 119 Republican state house members in Georgia, of whom 118 were white and one Hispanic, and that there were 61 Democrats in the Georgia House of whom 46 were African-American, 13 were white, 1 Asian-American and 1 Hispanic. Defendant denies that these numbers are currently accurate and denies all remaining allegations in paragraph 37.
38. In response to paragraph 38 of the Complaint, Defendant admits only that the following post-2010 redistricting plans have been adopted by the Georgia Legislature: Act No. 1EX (2011); Act No. 277 (2012); and Act No. 251 (2015). Defendant denies all remaining allegations in paragraph 38 of the Complaint.
39. In response to paragraph 39 of the Complaint, Defendant admits that Act No. 1EX (2011) was the first post-2010 redistricting plan for the Georgia

House of Representatives, and that it was adopted in August, 2011.

Defendant denies that the vote on Act No. 1EX (2011) was a straight party line vote, but admits that few Republicans voted against the plan and that few Democrats voted in favor of the plan. Defendant denies all remaining allegations in paragraph 39.

40. In response to paragraph 40 of the Complaint, Defendant admits that Act No. 277 was passed in February 2012. Defendant admits further that Act No. 277 modified the boundaries of 15 Georgia House Districts.

Defendant denies that the changes impacted 19 counties, however the entirety of the 15 House Districts include a total of 19 counties.

Defendant denies that the vote on Act No. 277 was a straight party line vote, but admits that few Republicans voted against the plan and that few Democrats voted in favor of the plan. Defendant denies all remaining allegations in paragraph 40.

41. In response to paragraph 41 of the Complaint, Defendant admits the allegations therein.

42. In response to paragraph 42 of the Complaint, Defendant admits the allegations therein.

43. In response to paragraph 43 of the Complaint, Defendant admits that H.B. 566 amended the boundaries of 17 House Districts. Defendant denies that changes were made in all of the counties listed. The changes made were limited to Chatham, Fulton, Gwinnett, Hall, Henry, Lowndes, Newton, and Spalding counties. However, the 17 House Districts, in their entirety, do include all of the counties listed.

44. In response to paragraph 44 of the Complaint, Defendant admits only that H.B. 566 was adopted by the Georgia House of Representatives by unanimous vote, and also adopted by the Georgia Senate. Defendant denies the remaining allegations in paragraph 44.

45. In response to paragraph 44 of the Complaint, Defendant admits only that Senator Vincent Fort is African-American and that Representative Nix is white and chaired the House Reapportionment Committee in 2015. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 45 and therefore denies same.

46. In response to paragraph 46 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations therein and therefore denies same.

47. In response to paragraph 47 of the Complaint, Defendant admits only that H.B. 566 passed in the Senate by a margin on 39-14. Defendant denies that the vote was strictly along party lines and denies that all African-American Senators opposed H.B. 566. Defendant admits further that of the State's thirteen (13) African-American Senators in 2015, eight (8) voted against H.B. 566, four (4) voted in favor of H.B. 566, and one (1) was excused from the vote. Defendant admits further that one (1) white Democrat also voted for H.B. 566. Finally, Defendant admits that two (2) white Republican Senators voted against H.B. 566. Defendant denies all remaining allegations in paragraph 47.

48. In response to paragraph 48 of the Complaint, Defendant denies the allegations therein.

49. In response to paragraph 49 of the Complaint, Defendant denies the allegations therein.

50. In response to paragraph 50 of the Complaint, Defendant admits only that no public hearings were held on H.B. 566. Defendant denies the remaining allegations in paragraph 50.

51. In response to paragraph 51 of the Complaint, Defendant denies the allegations therein.

52. In response to paragraph 52 of the Complaint, Defendant denies the allegations therein.

53. In response to paragraph 53 of the Complaint, Defendant admits only that H.B. 515, redistricting a number of the Georgia House of Representative Districts, was introduced in the 2017 legislative session but was not enacted. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore denies same.

54. In response to paragraph 54 of the Complaint, Defendant admits the allegations therein.

55. In response to paragraph 55 of the Complaint, Defendant admits only that during the 2012 and 2014 election cycles House District 105 had a voting age population that was 48.4% white, 32.4% African-American, 12.6% Hispanic, and 4.6% Asian. Defendant denies the remaining allegations in paragraph 55.

56. In response to paragraph 56 of the Complaint, Defendant admits the allegations therein.

57. In response to paragraph 57 of the Complaint, Defendant admits the allegations therein.

58. In response to paragraph 58 of the Complaint, Defendant admits the allegations therein.

59. In response to paragraph 59 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

60. In response to paragraph 60 of the Complaint, Defendant admits that H.B. 566 amended House District 105 by putting Precinct Lawrenceville M back together by moving out the part of that precinct that had been in H.D. 105. Defendant admits further that H.B. 566 moved all of Precinct Harbins C into H.D. 105 and moved part of Precinct Harbins A into H.D. 105. Finally, Defendant admits that H.B. 566 moved that part of Precinct Lawrenceville D that consists of a 72.5% African-American voting age population, into H.D. 105. Defendant admits that the numbers and percentages included in Table 1 accurately reflect the census voting age population figures for House District 105 in 2012 and currently, with the “other” category representing all persons not included in the White non-Hispanic, African-American non-Hispanic, and Hispanic categories. Defendant denies that all “others” are minority voters.

61. In response to paragraph 61 of the Complaint, Defendant admits only that House District 105's voting age population is 52.7% white, 30.4% African-American, 10.8% Hispanic, and 4.2% Asian. Defendant denies that the "combined" minority voting age population is 47.3%.

62. In response to paragraph 62 of the Complaint, Defendant admits that post H.B. 566, the white voting age population of House District 105 increased by 4.3% and that the African-American voting age population decreased by 2%. Defendant denies that the "combined" minority voting age population decreased by 4.3%.

63. In response to paragraph 63 of the Complaint, Defendant admits the allegations therein.

64. In response to paragraph 64 of the Complaint, Defendant admits the allegations therein.

65. In response to paragraph 65 of the Complaint, Defendant admits the allegations therein.

66. In response to paragraph 66 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

67. In response to paragraph 67 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

68. In response to paragraph 68 of the Complaint, Defendant admits the allegations therein.

69. In response to paragraph 69 of the Complaint, Defendant admits only that under Act No. 277 (2012), House District 111's voting age population was 56.1% white, 33.2% African-American, 5.6% Hispanic, and 3.3% Asian. Defendant denies that the "combined" minority voting age population was 43.9%.

70. In response to paragraph 70 of the Complaint, Defendant admits the allegations therein.

71. In response to paragraph 71 of the Complaint, Defendant admits the allegations therein.

72. In response to paragraph 72 of the Complaint, Defendant admits the allegations therein.

73. In response to paragraph 73 of the Complaint, Defendant admits the allegations therein.

74. In response to paragraph 74 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

75. In response to paragraph 75 of the Complaint, Defendant denies the allegations therein.

76. In response to paragraph 76 of the Complaint, Defendant admits the allegations therein.

77. In response to paragraph 77 of the Complaint, Defendant denies the allegations as written. Defendant admits that after H.B. 566 the voting age population in House District 111 is 58.1% white, 31% African-American, 5.2% Hispanic, and 3.7% Asian. Defendant denies that the “combined” minority voting age population is 41.9%. Defendant further denies that Table 2 accurately reports the increase and decrease in white and African-American voting age population changes for House District 111 since HB 515 was never enacted. Defendant further denies that all “others” are minority voters.

78. In response to paragraph 78 of the Complaint, Defendant admits the allegations therein.

79. In response to paragraph 79 of the Complaint, Defendant admits the allegations therein.

80. In response to paragraph 80 of the Complaint, Defendant admits the allegations therein.

81. In response to paragraph 81 of the Complaint, Defendant admits the allegations therein.

82. In response to paragraph 82 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

83. In response to paragraph 83 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

84. In response to paragraph 84 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

85. In response to paragraph 85 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

86. In response to paragraph 86 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.

87. No response is needed for paragraph 87 of Plaintiffs' Complaint.

88. In response to paragraph 88 of the Complaint, Defendant admits the allegations therein.

89. In response to paragraph 89 of the Complaint, Defendant admits only that Plaintiffs have accurately quoted Sec. 1 of the Fourteenth Amendment.

90. In response to paragraph 90 of the Complaint, Defendant denies that discriminatory purpose alone is sufficient to establish a violation of Section 2 of the Voting Rights Act, and further denies that H.B. 566 was enacted with a discriminatory purpose.

91. In response to paragraph 91 of the Complaint, Defendant denies the allegations therein.

92. In response to paragraph 92 of the Complaint, Defendant denies the allegations therein.

93. In response to paragraph 93 of the Complaint, Defendant denies the allegations therein.

94. In response to paragraph 94 of the Complaint, Defendant denies the allegations therein.

95. No response is needed for paragraph 95 of Plaintiffs' Complaint.

96. In response to paragraph 96 of the Complaint, Defendant denies the allegations therein.

97. In response to paragraph 97 of the Complaint, Defendant denies the allegations therein.

98. In response to paragraph 98 of the Complaint, Defendant denies the allegations therein.

99. In response to paragraph 99 of the Complaint, Defendant denies the allegations therein.

100. In response to paragraph 100 of the Complaint, Defendant denies the allegations therein.

101. No response is needed for paragraph 101 of Plaintiffs' Complaint.

102. In response to paragraph 102 of the Complaint, Defendant states that this paragraph consists of a series of legal conclusions for which no response is needed. Moreover, as Plaintiffs' partisan gerrymander claim has been dismissed no further response is needed. To the extent a response is needed, Defendant denies the allegations therein.

103. In response to paragraph 103 of the Complaint, Defendant denies the allegations therein.
104. In response to paragraph 104 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies same.
105. In response to paragraph 105 of the Complaint, Defendant denies the allegations therein.
106. In response to paragraph 106 of the Complaint, Defendant denies the allegations therein.
107. As to paragraphs (a) through (i) in Plaintiffs' "PRAYER FOR RELIEF," Defendant denies that Plaintiffs are entitled to any remedy, relief, damages, fees, or costs in this action.
108. All other factual averments, legal conclusions or claims for relief not expressly admitted are denied.
109. WHEREFORE, having answered Plaintiffs' Complaint, and stated defenses and objections, Defendant respectfully requests Plaintiffs' claims be dismissed, Plaintiffs' prayers for relief be denied in each and every particular with all costs cast upon Plaintiffs, and for such other relief as this Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that the forgoing Defendant's Answer and Defenses was prepared in 14-point Times New Roman in compliance with Local Rules 5.1(C) and 7.1(D).

Certificate of Service

I hereby certify that on September 15, 2017, I electronically filed this ANSWER using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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I hereby certify that I have mailed by United States Postal Service, postage prepaid, the document to the following non-CM/ECF participants: NONE

This 15th day of September, 2017.

/s/Cristina Correia
Cristina Correia 188620
Assistant Attorney General