UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

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League of Women Voters of South Dakota, 4:22-cv-04085-RAL

League of Women Voters of the United States,

Susan Randall, and Kathryn Fahey,

Plaintiffs,

v. :

South Dakota Governor Kristi L. Noem, in her official capacity, South Dakota Attorney General John Doe, in his official capacity, and South Dakota Secretary of State Steve Barnett, in his official capacity,

ANSWER TO FIRST AMENDED COMPLAINT (DOC. 3)

Defendants.

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Defendants answer Plaintiffs' First Amended Complaint (Doc. 3) as follows:

1. Plaintiffs' complaint fails to state a claim upon which relief may be granted.

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- 2. Defendants deny every allegation not specifically admitted or qualified in this answer.
 - 3. Defendants admit the allegations in paragraphs 17, 18, 28, 29, 30, 33, 34, and 36.
- 4. Defendants admit the allegation in paragraph 19 that Plaintiff League of Women Voters of South Dakota and League of Women Voters of the United States are political organizations, but deny the rest of the paragraph.
- 5. Defendants admit the allegations in paragraphs 47 and 48 that Plaintiff Susan Randall and Plaintiff Kathryn Fahey would not be permitted to circulate petitions in South Dakota as non-residents, but deny the other allegations in paragraphs 47-48.

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- 6. Defendants admit in paragraph 44 that for the year 2022, the number of signatures needed for an initiated measure petition is 16,961; 16,961 signatures for a referred petition; and 33,921 signatures for an initiated constitutional amendment petition, but deny the rest of the paragraph.
- 7. Defendants admit that paragraphs 3, 4, 9, 10, 11, 12, 13, 32, 50, 71, 78, 86, and 93 contain accurate quotations to their cited authority, but deny the remaining allegations, insinuations, characterizations, and commentary.
- 8. Defendants specifically deny that SB 180 is unconstitutional, that Plaintiffs have suffered any federal or state constitutional injury, and that Plaintiffs are entitled to any relief enjoining the enforcement of SB 180.

Affirmative Defenses

- 9. Defendants affirmatively allege that Plaintiffs lack standing to maintain this lawsuit due to the absence of injury, causation, and redressability.
- 10. Defendants affirmatively allege that the Court lacks jurisdiction because there is no justiciable case or controversy that is ripe for adjudication.
- 11. Defendants affirmatively allege that this action is barred by the Eleventh Amendment to the United States Constitution.
- 12. Defendants affirmatively allege that this action is barred by the doctrine of sovereign immunity, which immunity has not been waived by the State of South Dakota for suits in federal court. SDCL §§ 3-21-7 and 3-21-10.
- 13. Defendants allege that this action is barred by Article III, § 27 of the South Dakota Constitution and SDCL §§ 21-32-17 and 21-32A-2.

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Wherefore, Defendants respectfully request that the Court dismiss Plaintiffs' complaint with prejudice, award Defendants' costs, and grant any other relief that the Court deems just and equitable.

Dated this 18th day of August, 2022.

WOODS, FULLER, SHULTZ & SMITH, P.C.

By /s/ James E. Moore

James E. Moore
Justin G. Smith
Jacquelyn A. Bouwman
P.O. Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
James.Moore@woodsfuller.com
Justin.Smith@woodsfuller.com
Jacquelyn.Bouwman@woodsfuller.com

Clifton E. Katz Assistant Attorney General Office of the Attorney General 1302 East Highway 14, Suite 1 Pierre, SD 57501 Phone (605) 773-3215 Clifton.Katz@state.sd.us

Attorneys for Defendants