

TENNESSEANS FOR SENSIBLE  
ELECTION LAWS,  
  
Plaintiff,  
  
v.  
  
HERBERT H. SLATERY III,  
in his official capacity as  
TENNESSEE ATTORNEY GENERAL  
  
and  
  
GLENN FUNK, in his official capacity  
as DISTRICT ATTORNEY GENERAL  
FOR THE 20<sup>th</sup> JUDICIAL DISTRICT OF  
TENNESSEE,  
  
Defendants.

**ANSWER**

## I. INTRODUCTION

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 1, and therefore they are denied.
2. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 2, and therefore they are denied.
3. Defendants submit that the statutes cited in paragraph no. 3 speak for themselves.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 4, and therefore they are denied.

5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 5, and therefore they are denied.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 6, and therefore they are denied.

7. The allegations in paragraph no. 7 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 8, and therefore they are denied.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 9, and therefore they are denied.

10. Defendants admit the allegations of paragraph no. 10 to the extent that they assert Plaintiffs' stated purpose in bringing this action but deny them for all other purposes.

11. The allegations in paragraph no. 11 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

12. The allegations in paragraph no. 12 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

13. The allegations in paragraph no. 13 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

14. The allegations in paragraph no. 14 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

15. The allegations in paragraph no. 15 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

## **II. PARTIES**

16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 16, and therefore they are denied.

17. Defendants submit that the statutes cited in paragraph no. 17 speak for themselves.

18. Defendants submit that the statutes cited in paragraph no. 18 speak for themselves.

## **III. JURISDICTION, AUTHORITY, AND VENUE**

19. Denied.

20. Denied with regard to the court's authority to issue declaratory judgments or injunctions against criminal statutes.

21. Defendants admit that venue is proper only if jurisdiction exists.

## **IV. FACTUAL ALLEGATIONS**

22. Defendants admit the allegations of paragraph no. 22 to the extent that they assert Plaintiffs' stated purpose in bringing this action but deny them for all other purposes.

23. Defendants admit that Representative Griffey introduced Tennessee House Bill 1585.

Defendants submit that the bill speaks for itself.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 24, and therefore they are denied.

25. The allegations in paragraph no. 25 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 26, and therefore they are denied.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 27, and therefore they are denied.

28. The allegations in paragraph no. 28 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

29. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph no. 29, and therefore they are denied. Some of the allegations in paragraph no. 29 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

30. Defendants submit that the cited Attorney General Opinion speaks for itself and deny Plaintiff's interpretation and characterization thereof.

31. Denied.

## **V. CAUSES OF ACTION**

### **1. Violation of the First and Fourteenth Amendments (Viewpoint Discrimination)**

32. Defendants repeat and reference all of the above responses to Plaintiffs' allegations of the First Amended Complaint as though fully set forth herein.

33. The allegations in paragraph no. 33 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

34. The allegations in paragraph no. 33 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

### **2. Violation of the First and Fourteenth Amendments (Content-Based and Identity-Based Discrimination)**

35. Defendants repeat and reference all of the above responses to Plaintiffs' allegations of the First Amended Complaint as though fully set forth herein.

36. The allegations in paragraph no. 36 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

37. The allegations in paragraph no. 37 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

### **3. Violation of the First and Fourteenth Amendments (Freedom of Speech)**

38. Defendants repeat and reference all of the above responses to Plaintiffs' allegations of the First Amended Complaint as though fully set forth herein.

39. The allegations in paragraph no. 39 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

40. The allegations in paragraph no. 40 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

41. The allegations in paragraph no. 41 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

42. Defendants repeat and reference all of the above responses to Plaintiffs' allegations of the First Amended Complaint as though fully set forth herein.

43. The allegations in paragraph no. 43 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

44. The allegations in paragraph no. 44 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

45. The allegations in paragraph no. 45 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

46. Defendants repeat and reference all of the above responses to Plaintiffs' allegations of the First Amended Complaint as though fully set forth herein.

47. The allegations in paragraph no. 47 constitute arguments of law and not well-pleaded facts, for which no response is required. To the extent a response is required, Defendants deny the validity of Plaintiff's legal arguments.

48. All legal allegations not specifically addressed herein are denied.

### **PRAYER FOR RELIEF**

State Defendants deny that Plaintiffs are entitled to the relief prayed for in paragraph nos. (1), (2), (3), (4), and (5) of their Prayer for Relief.

### **Affirmative and Other Defenses**

1. The Court lacks subject-matter jurisdiction over the claims asserted in Plaintiff's Complaint.

2. Plaintiff lacks standing to assert its claims.

3. No act, omission, or law, policy, practice, or custom of State Defendants has deprived Plaintiffs of rights secured by the United States Constitution.

4. Plaintiff's claims are non-justiciable.

5. Plaintiff's claims are not ripe for review.

6. Defendants are entitled to, and seek herein to recover their attorneys' fees and expenses incurred in this action as provided for by 42 U.S.C. § 1988.

7. Defendants reserve their right to amend this Answer as provided by the Tennessee Rules of Civil Procedure in order to assert additional affirmative defenses or averments which might become relevant as facts are discovered.

Respectfully submitted,

HERBERT H. SLATTERY III  
Attorney General and Reporter

/s/ Kelley L. Groover \_\_\_\_\_

ALEXANDER S. RIEGER (BPR 029362)

KELLEY L. GROOVER (BPR 034738)

Assistant Attorneys General

Public Interest Division

Office of the Attorney General

P.O. Box 20207

Nashville, TN 37202-0207

(615) 741-2408



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was sent by electronic mail transmission and/or first class U.S. mail, postage prepaid to:

Daniel A. Horwitz  
1803 Broadway, Suite #531  
Nashville, TN 37203  
daniel.a.horwitz@gmail.com

G.S. Hans  
STANTON FOUNDATION FIRST AMENDMENT  
CLINIC VANDERBILT LAW SCHOOL  
131 21st Avenue South  
Nashville, TN 37203  
gautam.hans@vanderbilt.edu

/s/Kelley L. Groover