

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**CAMPAIGN FOR SOUTHERN
EQUALITY, ET AL.**

PLAINTIFFS

V.

CIVIL ACTION NO. 3:14cv818-CWR-LRA

**PHIL BRYANT, in his official capacity
as Governor of the State of Mississippi,
ET AL.**

DEFENDANTS

**ANSWER AND DEFENSES OF GOVERNOR PHIL BRYANT
AND ATTORNEY GENERAL JIM HOOD**

Defendants Phil Bryant, in his official capacity as Governor of the State of Mississippi and Jim Hood, in his official capacity as Mississippi Attorney General (collectively the “State Defendants”) file this Answer and Defenses to the Plaintiffs’ Original Complaint for Declaratory and Injunctive Relief (“complaint”) [Docket No. 1] and state:

ANSWER

The State Defendants respond to the allegations in the complaint, paragraph-by-paragraph, as follows:

INTRODUCTION

1. Denied.
2. Denied as stated. The State Defendants admit only that the constitutional provisions, statutes, and judicial opinions referenced in paragraph 2 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 2 of the complaint are denied.

3. Denied as stated. The State Defendants admit only that the constitutional provisions and statutes referenced in paragraph 3 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 3 of the complaint are denied.

4. Denied as stated. The State Defendants admit only that the constitutional provisions and statutes referenced in paragraph 4 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 4 of the complaint are denied. The State Defendants deny that Plaintiffs are entitled to any relief whatsoever from the Court.

PARTIES

5. Denied as stated. The State Defendants admit only, upon information and belief, that the Plaintiff Campaign for Southern Equality is a not-for-profit corporation organized under the laws of North Carolina. The State Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 5 of the complaint; therefore, all remaining allegations contained in paragraph 5 of the complaint are denied.

6. Denied as stated. The State Defendants admit only, upon information and belief, that Plaintiff Rebecca Bickett is a Mississippi resident. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 6 of the complaint; therefore, all remaining allegations contained in paragraph 6 of the complaint are denied.

7. Denied as stated. The State Defendants admit only, upon information

and belief, that Plaintiff Andrea Sanders is a Mississippi resident. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 7 of the complaint; therefore, all remaining allegations contained in paragraph 7 of the complaint are denied.

8. Denied as stated. The State Defendants admit only, upon information and belief, that Plaintiff Jocelyn Pritchett is a Mississippi resident. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 8 of the complaint; therefore, all remaining allegations contained in paragraph 8 of the complaint are denied.

9. Denied as stated. The State Defendants admit only, upon information and belief, that Plaintiff Carla Webb is a Mississippi resident. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 9 of the complaint; therefore, all remaining allegations contained in paragraph 9 of the complaint are denied.

10. Denied as stated. The State Defendants admit only that Governor Phil Bryant is a duly-elected constitutional officer of the State of Mississippi possessing the powers and authorities of his office as prescribed by state law. Any and all remaining allegations contained in paragraph 10 of the complaint are denied.

11. Denied as stated. The State Defendants admit only that Attorney General Jim Hood is a duly-elected constitutional officer of the State of Mississippi possessing the powers and authorities of his office as prescribed by state law. Any and all remaining allegations contained in paragraph 11 of the complaint are

denied.

12. Denied as stated. The State Defendants admit only that Barbara Dunn is the duly-elected Circuit Clerk of Hinds County, Mississippi and the statutes referenced in paragraph 12 of the complaint prescribing her duties speak for themselves. Any and all remaining allegations contained in paragraph 12 of the complaint are denied.

JURISDICTION AND VENUE

13. Denied as stated. The State Defendants admit only that the constitutional provisions and statutes referenced in paragraph 13 of the complaint speak for themselves. Any and all remaining allegations in paragraph 13 of the complaint are denied.

14. Admitted.

15. Denied as stated. The State Defendants admit only that the statutes and court rules referenced in paragraph 15 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 15 of the complaint are denied.

16. Admitted.

FACTS

17. Denied as stated. The State Defendants admit only, upon information and belief, that the Plaintiff Campaign for Southern Equality is a not-for-profit corporation based in North Carolina. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations

asserted in paragraph 17 of the complaint, therefore, all remaining allegations contained in paragraph 17 of the complaint are denied.

18. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 18 of the complaint, therefore, all allegations contained in paragraph 18 of the complaint are denied.

19. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 19 of the complaint, therefore, all allegations contained in paragraph 19 of the complaint are denied.

20. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 20 of the complaint, therefore, all allegations contained in paragraph 20 of the complaint are denied.

21. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 21 of the complaint, therefore, all allegations contained in paragraph 21 of the complaint are denied.

22. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 22 of the complaint, therefore, all allegations contained in paragraph 22 of the complaint are denied.

23. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 23 of the complaint, therefore, all allegations contained in paragraph 23 of the complaint are denied.

24. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 24 of the complaint,

therefore, all allegations contained in paragraph 24 of the complaint are denied.

25. The State Defendants admit only, upon information and belief, that Plaintiffs Jocelyn Pritchett and Carla Webb are residents of Hinds County, Mississippi. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations asserted in paragraph 25 of the complaint, therefore, all remaining allegations contained in paragraph 25 of the complaint are denied.

26. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 26 of the complaint, therefore, all allegations contained in paragraph 26 of the complaint are denied.

27. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 27 of the complaint, therefore, all allegations contained in paragraph 27 of the complaint are denied.

28. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 28 of the complaint, therefore, all allegations contained in paragraph 28 of the complaint are denied.

29. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 29 of the complaint, therefore, all allegations contained in paragraph 29 of the complaint are denied.

30. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 30 of the complaint, therefore, all allegations contained in paragraph 30 of the complaint are denied.

31. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 31 of the complaint, therefore, all allegations contained in paragraph 31 of the complaint are denied.

32. The State Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations asserted in paragraph 32 of the complaint, therefore, all allegations contained in paragraph 32 of the complaint are denied.

B. The allegations included in paragraph or heading “B” on page 8 of the complaint are denied as stated. The State Defendants admit only that the laws referenced by paragraph or heading “B” on page 8 of the complaint speak for themselves. Any and all remaining allegations in paragraph or heading “B” on page 8 of the complaint are denied.

33. The State Defendants admit only that the laws and statutes referenced in paragraph 33 of the complaint speak for themselves.

34. The State Defendants admit only that the judicial opinion and constitutional provision referenced in paragraph 34 of the complaint speak for themselves.

C. The allegations included in paragraph or heading “C” on page 8 of the complaint are denied.

35. Denied as stated. The State Defendants admit only that the constitutional and statutory provisions referenced in paragraph 35 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 35 of the complaint are denied.

36. Denied as stated. The State Defendants admit only that the vital records form and statutes referenced in paragraph 36 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 36 of the complaint are denied.

37. Denied as stated. The State Defendants admit only that the statutes referenced in paragraph 37 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 37 of the complaint are denied.

38. Denied as stated. The State Defendants admit only that the laws and statutes referenced in paragraph 38 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 38 of the complaint are denied.

39. Denied as stated. The State Defendants admit only that the statutes referenced in paragraph 39 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 39 of the complaint are denied.

40. Denied as stated. The State Defendants admit only that the statutes referenced in paragraph 40 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 40 of the complaint are denied.

41. Denied as stated. The State Defendants admit only that the statutes referenced in paragraph 41 and footnote 1 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 41 and footnote 1 of the complaint are denied.

42. Denied as stated. The State Defendants admit only that “[m]arriage plays a unique role in American society, with significant social, economic and legal implications,” and that the constitution and statutes referenced in paragraph 42 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 42 of the complaint are denied.

43. Denied.

D. The allegations included in paragraph or heading “D” on page 12 of the complaint are denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied as stated. The State Defendants admit only that eighty-six percent of Mississippi voters voted to approve the inclusion of Section 263A in the Mississippi Constitution. Any and all remaining allegations contained in paragraph 47 of the complaint are denied.

The allegations included in paragraph or heading “E” on page 12 of the complaint are denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

CAUSES OF ACTION

CLAIM ONE: EQUAL PROTECTION

52. The State Defendants incorporate their responses to the previous paragraphs of the complaint by reference.

53. Denied as stated. The State Defendants admit only that the Plaintiffs have sued them in their official capacities. Any and all remaining allegations contained in paragraph 53 of the complaint are denied.

54. Denied as stated. The State Defendants admit only that the constitutional and statutory provisions referenced in paragraph 54 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 54 of the complaint are denied.

55. Denied as stated. The State Defendants admit only that the judicial opinions, constitutional and statutory provisions referenced in paragraph 55 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 55 of the complaint are denied.

56. Denied as stated. The State Defendants admit only that the constitutional and statutory provisions referenced in paragraph 56 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 56 of the complaint are denied.

CLAIM TWO: DUE PROCESS

57. The State Defendants incorporate their responses to the previous paragraphs of the complaint by reference.

58. Denied as stated. The State Defendants admit only that the Plaintiffs

have sued them in their official capacities. Any and all remaining allegations contained in paragraph 58 of the complaint are denied.

59. Denied as stated. The State Defendants admit only that the constitutional and statutory provisions referenced in paragraph 59 of the complaint speak for themselves. Any and all remaining allegations contained in paragraph 59 of the complaint are denied.

DECLARATORY AND INJUNCTIVE RELIEF

60. The State Defendants incorporate their responses to the previous paragraphs of the complaint by reference.

61. Denied.

62. Denied.

63. Denied.

PRAYERS FOR RELIEF

The State Defendants deny all allegations contained in the paragraph beginning with “WHEREFORE, Plaintiffs respectfully pray...” on page 16 of the complaint, including subparagraphs 1 through 5, and specifically aver that Plaintiffs are not entitled to any relief whatsoever.

Any and all allegations contained in the complaint that have not been expressly admitted herein are affirmatively denied, and the State Defendants demand strict proof thereof.

FIRST DEFENSE

Plaintiffs' complaint should be dismissed for lack of subject matter

jurisdiction.

SECOND DEFENSE

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

THIRD DEFENSE

The State Defendants affirmatively assert their immunity as to some or all of Plaintiffs' claims pursuant to the Eleventh Amendment to the United States Constitution.

FOURTH DEFENSE

The State Defendants affirmatively assert all common law and/or statutory immunities to which they may be entitled, including qualified immunity, as well as any other immunity-based defenses which are or may become available to the State Defendants upon further discovery.

FIFTH DEFENSE

Some or all of Plaintiffs' claims are barred for failure to properly exhaust their administrative remedies and/or satisfy the requisite statutory conditions precedent to asserting any cause of action against the State Defendants.

SIXTH DEFENSE

The State Defendants affirmatively assert all defenses to which they are, or may become entitled to through discovery in this action, under 42 U.S.C. § 1983, 42 U.S.C. § 1988, and/or any other applicable provisions of federal or state law.

SEVENTH DEFENSE

Some or all of Plaintiffs' claims are barred by principles of federal/state comity and/or judicial abstention doctrines, including, but not limited, to *Younger*, *Pullman*, *Burford* and/or *Colorado River* abstention.

EIGHTH DEFENSE

Some or all of Plaintiffs' claims are barred by their lack of standing, the doctrine of mootness, because they are not ripe for judicial review, and/or are insufficient so as to warrant an award of injunctive or declaratory relief.

NINTH DEFENSE

Some or all of Plaintiffs' claims are barred by the doctrines of laches, waiver and/or estoppel.

TENTH DEFENSE

Some or all of Plaintiffs' claims are barred by the applicable statute of limitations.

ELEVENTH DEFENSE

The State Defendants affirmatively asserts all defenses which are or may become available to them through further discovery under Fed. R. Civ. P. 8(c) and/or 12(b).

FOR THESE REASONS, the State Defendants respectfully request that their Answer and Defenses be received, request the Court to dismiss Plaintiffs' complaint with prejudice, at Plaintiffs' sole cost, and request that the Court thereafter grant them any such other relief to which they may be entitled, including, but not limited

to, an award of attorneys' fees pursuant to 42 U.S.C. § 1988, and/or any other applicable rule or statute.

THIS the 10th day of November, 2014.

Respectfully submitted,

PHIL BRYANT, in his official capacity as
Governor of the State of Mississippi, and
JIM HOOD, in his official capacity as
Mississippi Attorney General

BY: JIM HOOD, ATTORNEY GENERAL

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*Counsel for Defendants Phil Bryant, in his
official capacity as Governor of the State of
Mississippi, and Jim Hood, in his official
capacity as Mississippi Attorney General*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been filed electronically with the Clerk of Court using the Court's ECF system and thereby served on all counsel of record who have entered their appearance in this action.

THIS the 10th day of November, 2014.

s/Justin Matheny
Justin L. Matheny