

Honorable Robert J. Bryan

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BRIAN P. CARR,

Plaintiff,

v.

SAM REED, in his official capacity as Secretary of State of the State of Washington, and ROB McKENNA, in his official capacity as Attorney General of the State of Washington and representing in their official capacity as representatives of the State of Washington and, separately, as private individuals the Honorable ROBERT L. HARRIS, JOHN F. NICHOLS, BARBARA D. JOHNSON, KENNETH EIESLAND, RICH MELNICK, JOHN HAGENSEN, KELLI E. OSLER, JOEL PENOYAR, (J.) C.C. BRIDGEWATER, J. ROBIN HUNT, GERRY L. ALEXANDER, BARBARA MADSEN, MARY E. FAIRHURST, SUSAN OWENS and JAMES M. JOHNSON as well as other currently unnamed parties as determined by the Court,

Defendants.

No. C07-5260 RJB

ANSWER OF DEFENDANTS ROBERT L. HARRIS, JOHN F. NICHOLS, BARBARA D. JOHNSON, KENNETH EIESLAND, RICH MELNICK, JOHN HAGENSEN, AND KELLI E. OSLER

Defendants ROBERT L. HARRIS, JOHN F. NICHOLS, BARBARA D. JOHNSON, KENNETH EIESLAND, RICH MELNICK, JOHN HAGENSEN, and KELLI E. OSLER, by way of Answer to plaintiff's Complaint for Damages, admit, deny and allege the following:

PRELIMINARY ALLEGATIONS

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2 1. Answering paragraph 1 of plaintiff’s Complaint, defendants expressly deny that
3 they violated the plaintiff’s rights under the Fourteenth Amendment or that they violated any
4 other state or federal right of plaintiff.

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6 2. Answering paragraph 2 of plaintiff’s Complaint, defendants admit the allegations
7 in paragraph 2.

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9 3. Answering paragraph 3 of plaintiff’s Complaint, paragraph 3 does not appear to
10 contain an allegation requiring an answer from defendants. However, if paragraph 3 does require
11 an answer from defendants, defendants deny the allegations in paragraph 3.

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13 4. Answering paragraph 4 of plaintiff’s Complaint, defendants deny the allegations
14 in paragraph 4.

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16 5. Answering paragraph 5 of plaintiff’s Complaint, defendants deny the allegations
17 in paragraph 5.

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19 6. Answering paragraph 6 of plaintiff’s Complaint, defendants deny the allegations
20 in paragraph 6.

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22 7. Answering paragraph 7 of plaintiff’s Complaint, paragraph 7 does not appear to
23 contain an allegation requiring an answer from defendants, however if paragraph 7 does require
24 an answer from defendants, defendants deny paragraph 7.

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26 8. Answering paragraph 8 of plaintiff’s Complaint, defendants deny the allegations
27 in paragraph 8.

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29 9. Answering paragraph 9 of plaintiff’s Complaint, defendants deny the allegations
in paragraph 9.

1 18. Answering paragraph 18 of plaintiff's Complaint, paragraph 18 does not appear to
2 articulate allegations directed toward defendants, therefore no answer is given.

3 19. Answering paragraph 19 of plaintiff's Complaint, paragraph 19 does not appear to
4 articulate allegations directed toward defendants, therefore no answer is given.

5 20. Answering paragraph 20 of plaintiff's Complaint, defendants deny paragraph 20,
6 admitting only the defendants official location.

7 21. Answering paragraph 21 of plaintiff's Complaint, defendants deny paragraph 21.

8 22. Answering paragraph 22 of plaintiff's Complaint, paragraph 22 does not appear to
9 articulate allegations directed toward defendants, therefore no answer is given.

10 23. Answering paragraph 23 of plaintiff's Complaint, paragraph 23 does not appear to
11 articulate allegations requiring an answer by defendants, therefore no answer is given.

12 24. Answering paragraph 24 of plaintiff's Complaint, without admitting that subject
13 matter jurisdiction is proper in this court, defendants admit that they reside in Clark County and
14 therefore are within the geographic jurisdiction of this court.

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18 **COUNT I: COMMISSIONERS EXCEED THREE IN NUMBER**

19 25. Answering paragraph 25 of plaintiff's Complaint, defendants deny the allegations
20 in paragraph 25.

21 26. Answering paragraph 26 of plaintiff's Complaint, defendants deny the allegations
22 in paragraph 26. Defendants further assert that the court lacks subject matter jurisdiction over
23 the allegations in paragraph 26.

24 27. Answering paragraph 27 of plaintiff's Complaint, defendants deny the allegations
25 in paragraph 27.
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1 28. Answering paragraph 28 of plaintiff's Complaint, defendants deny the allegations
2 in paragraph 28.

3 29. Answering paragraph 29 of plaintiff's Complaint, defendants deny the allegations
4 in paragraph 29.

5 30. Answering paragraph 30 of plaintiff's Complaint, defendants deny the allegations
6 in paragraph 30.

7 31. Answering paragraph 31 of plaintiff's Complaint, defendants deny the allegations
8 in paragraph 31.

9 32. Answering paragraph 32 of plaintiff's Complaint, defendants deny the allegations
10 in paragraph 32.

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13 **COUNT 2: INTERFERENCE WITH RIGHT TO APPEAL**

14 33. Answering paragraph 33 of plaintiff's Complaint, defendants deny the allegations
15 in paragraph 33.

16 34. Answering paragraph 34 of plaintiff's Complaint, defendants deny the allegations
17 in paragraph 34.

18 35. Answering paragraph 35 of plaintiff's Complaint, defendants deny the allegations
19 in paragraph 35.

20 36. Answering paragraph 36 of plaintiff's Complaint, defendants deny the allegations
21 in paragraph 36.

22 37. Answering paragraph 37 of plaintiff's Complaint, defendants deny the allegations
23 in paragraph 37.

24 38. Answering paragraph 38 of plaintiff's Complaint, defendants deny the allegations
25 in paragraph 38.

1 39. Answering paragraph 39 of plaintiff's Complaint, defendants deny the allegations
2 in paragraph 39. The defendants further assert that the court lacks subject matter jurisdiction
3 over the allegations in paragraph 39.

4 40. Answering paragraph 40 of plaintiff's Complaint, defendants deny the allegations
5 in paragraph 40.

6 41. Answering paragraph 41 of plaintiff's Complaint, defendants deny the allegations
7 in paragraph 41.

8 42. Answering paragraph 42 of plaintiff's Complaint, defendants deny the allegations
9 in paragraph 42.

10 43. Answering paragraph 43 of plaintiff's Complaint, defendants deny the allegations
11 in paragraph 43.

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14 **COUNT 3: REQUIREMENTS OF STATUTE IGNORED**

15 44. Answering paragraph 44 of plaintiff's Complaint, defendants deny the allegations
16 in paragraph 44.

17 45. Answering paragraph 45 of plaintiff's Complaint, defendants deny the allegations
18 in paragraph 45.

19 46. Answering paragraph 46 of plaintiff's Complaint, defendants deny the allegations
20 in paragraph 46.

21 47. Answering paragraph 47 of plaintiff's Complaint, defendants deny the allegations
22 in paragraph 47.

23 48. Answering paragraph 48 of plaintiff's Complaint, defendants deny the allegations
24 in paragraph 48. Further, the defendants assert that the court lacks subject matter jurisdiction
25 over the allegations in paragraph 48.
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1 49. Answering paragraph 49 of plaintiff's Complaint, defendants deny the allegations
2 in paragraph 49. Further, the defendants assert that the court lacks subject matter jurisdiction
3 over the allegations in paragraph 49.

4 50. Answering paragraph 50 of plaintiff's Complaint, defendants deny the allegations
5 in paragraph 50.

6 51. Answering paragraph 51 of plaintiff's Complaint, defendants deny the allegations
7 in paragraph 51.

8 52. Answering paragraph 52 of plaintiff's Complaint, defendants deny the allegations
9 in paragraph 52.

10 53. Answering paragraph 53 of plaintiff's Complaint, defendants deny the allegations
11 in paragraph 53.

12 54. Answering paragraph 54 of plaintiff's Complaint, defendants deny the allegations
13 in paragraph 54. Further, the defendants assert that the court lacks subject matter jurisdiction
14 over the allegations in paragraph 54.

15 55. Answering paragraph 55 of plaintiff's Complaint, defendants deny the allegations
16 in paragraph 55. Further, the defendants assert that the court lacks subject matter jurisdiction
17 over the allegations in paragraph 55.

18 **COUNT 4: FAMILY COURT COMMISSIONERS ISSUE RESTRAINING ORDERS**

19 56. Answering paragraph 56 of plaintiff's Complaint, defendants deny the allegations
20 in paragraph 56.

21 57. Answering paragraph 57 of plaintiff's Complaint, defendants deny the allegations
22 in paragraph 57.

1 58. Answering paragraph 58 of plaintiff's Complaint, defendants deny the allegations
2 in paragraph 58.

3 59. Answering paragraph 59 of plaintiff's Complaint, defendants deny the allegations
4 in paragraph 59.

5 60. Answering paragraph 60 of plaintiff's Complaint, defendants deny the allegations
6 in paragraph 60.

7 61. Answering paragraph 61 of plaintiff's Complaint, defendants deny the allegations
8 in paragraph 61.

9 62. Answering paragraph 62 of plaintiff's Complaint, defendants deny the allegations
10 in paragraph 62.

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13 **COUNT 5: NO RIGHT OF APPEAL**

14 63. Answering paragraph 63 of plaintiff's Complaint, defendants deny the allegations
15 in paragraph 63.

16 64. Answering paragraph 64 of plaintiff's Complaint, defendants deny the allegations
17 in paragraph 64.

18 65. Answering paragraph 65 of plaintiff's Complaint, paragraph 65 does not appear to
19 articulate allegations directed toward defendants, therefore no answer is given.

20 66. Answering paragraph 66 of plaintiff's Complaint, paragraph 66 does not appear to
21 articulate allegations directed toward defendants, therefore no answer is given.

22 67. Answering paragraph 67 of plaintiff's Complaint, defendants deny the allegations
23 in paragraph 67.

24 68. Answering paragraph 68 of plaintiff's Complaint, defendants deny the allegations
25 in paragraph 68.

1 69. Answering paragraph 69 of plaintiff's Complaint, paragraph 69 does not appear to
2 articulate allegations directed toward defendants, therefore no answer is given.

3 70. Answering paragraph 70 of plaintiff's Complaint, paragraph 70 does not appear to
4 articulate allegations directed toward defendants, therefore no answer is given.

5 **COUNT 6: SEXUAL BIAS IN RCW 26.50 PROCESS**

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7 71. Answering paragraph 71 of plaintiff's Complaint, defendants deny the allegations
8 in paragraph 71.

9 72. Answering paragraph 72 of plaintiff's Complaint, defendants deny the allegations
10 in paragraph 72.

11 73. Answering paragraph 73 of plaintiff's Complaint, defendants deny the allegations
12 in paragraph 73. Defendants further assert that the court lacks subject matter jurisdiction over
13 the allegations in paragraph 73.
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15 74. Answering paragraph 74 of plaintiff's Complaint, paragraph 74 does not appear to
16 require an answer by defendants. However, if paragraph 74 does require an answer from
17 defendants, defendants deny the allegations in paragraph 74.

18 75. Answering paragraph 75 of plaintiff's Complaint, paragraph 75 does not appear
19 to require an answer by defendants. However, if paragraph 75 does require an answer from
20 defendants, defendants deny the allegations in paragraph 75.
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22 76. Answering paragraph 76 of plaintiff's Complaint, paragraph 76 does not appear to
23 require an answer by defendants. However, if paragraph 76 does require an answer from
24 defendants, defendants deny the allegations in paragraph 76.
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1 77. Answering paragraph 77 of plaintiff's Complaint, paragraph 77 does not appear to
2 require an answer by defendants. However, if paragraph 77 does require an answer from
3 defendants, defendants deny the allegations in paragraph 77.

4 78. Answering paragraph 78 of plaintiff's Complaint, paragraph 78 does not appear to
5 require an answer by defendants. However, if paragraph 78 does require an answer from
6 defendants, defendants deny the allegations in paragraph 78.

7 79. Answering paragraph 79 of plaintiff's Complaint, paragraph 79 does not appear to
8 require an answer by defendants. However, if paragraph 79 does require an answer from
9 defendants, defendants deny the allegations in paragraph 79.

10 80. Answering paragraph 80 of plaintiff's Complaint, paragraph 80 does not appear to
11 require an answer by defendants. However, if paragraph 80 does require an answer from
12 defendants, defendants deny the allegations in paragraph 80.

13 81. Answering paragraph 81 of plaintiff's Complaint, defendants deny the allegations
14 in paragraph 81.

15 82. Answering paragraph 82 of plaintiff's Complaint, defendants deny the allegations
16 in paragraph 82.

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20 **COUNT 7: RESTRICTIONS ON CANDIDATES FOR COURT JUSTICES**

21 83. Answering paragraph 83 of plaintiff's Complaint, defendants deny the allegations
22 in paragraph 83.

23 84. Answering paragraph 84 of plaintiff's Complaint, paragraph 84 does not appear to
24 contain allegations directed toward defendants, therefore no answer is given.

25 85. Answering paragraph 85 of plaintiff's Complaint, defendants deny the allegations
26 in paragraph 85.

1 86. Answering paragraph 86 of plaintiff's Complaint, paragraph 86 does not appear to
2 require an answer by defendants. However, if paragraph 86 does require an answer from
3 defendants, defendants deny the allegations in paragraph 86.

4 87. Answering paragraph 87 of plaintiff's Complaint, paragraph 87 does not appear to
5 require an answer from defendants.

6 88. Answering paragraph 88 of plaintiff's Complaint, paragraph 88 does not appear to
7 require an answer from defendants.
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9 **PLAINTIFF'S PRAYER FOR RELIEF**

10 1. Defendants deny that plaintiff is entitled to any of the relief requested in his
11 Complaint.
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13 **DEFENDANTS' ADDITIONAL AND AFFIRMATIVE DEFENSES**

- 14 1. Plaintiff's complaint fails to state a claim upon which relief can be granted.
15 2. The Court lacks subject matter jurisdiction over one or more of plaintiff's claims.
16 3. Plaintiff's claims are barred by the doctrine of Judicial Immunity.
17 4. Defendants reserve the right to amend their affirmative defenses as warranted by
18 continuing discovery and investigation of plaintiff's claims.
19 5. Plaintiff's claims are barred by the application of collateral estoppel and/or res
20 judicata.
21 6. Plaintiff's claims are barred by the *Rooker-Feldman* doctrine.
22 7. Most, if not all, of the specific remedial measures that plaintiff requests this Court
23 to award are beyond the jurisdiction and/or authority of federal courts.
24 8. Plaintiff lacks standing to bring some of the claims asserted in this case.
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DEFENDANTS' DEMAND FOR JUDGMENT

Defendants, Clark County Juvenile Court and Clark County, respectfully request the following relief:

1. Judgment in their favor and against the plaintiff, dismissing plaintiff's complaint with prejudice and without costs to defendants.
2. An award of all attorney's fees, expenses and costs incurred in defending the action.
3. Such other relief as the Court may deem just and appropriate.

DATED this 23rd day of July, 2007.

s/Bernard F. Veljacic, WSBA #28702
Attorney for Defendants
Clark County Prosecuting Attorney, Civil Division
PO Box 5000
Vancouver WA 98666-5000
Telephone(360) 397-2478
Facsimile (360) 397-2184
bernard.veljacic@clark.wa.gov

CERTIFICATE OF SERVICE

I, Mindy Lamberton, hereby certify that on July 23, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, who will electronically send notice to the plaintiff.

s/Mindy Lamberton
Clark County Prosecutor's Office
Civil Division