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MONTANA FOURTEENTH JUDICIAL DISTRICT COURT
WHEATLAND COUNTY

ROBERT WILLEMS, PHYLLIS WILLEMS, TOM)	
BENNETT, BILL JONES, PHILIP WILSMAN,)	Cause No. DV-13-07
LINDA WILSMAN, JASON CARLSON, MICK)	
JIMMERSON, DWAYNE CROOK, MARY JO)	
CROOK, JAMES STUNTZ, RANDY BOLING,)	
ROD BOLING, BOB KELLER, GLORIA)	
KELLER, ROLAND TORGESON,)	
RUTH TORGESON, ED TIMPANO,)	DEFENDANTS' ANSWER
JENNIE RICKERT, TED HOGLAND,)	AND AFFIRMATIVE
KEITH KLUCK, PAM BUTCHER, TREVIS)	DEFENSES TO
BUTCHER, BOBBIE LEE COX, WILLIAM COX,)	PLAINTIFFS' COMPLAINT
and DAVID ROBERTSON,)	
)	
Plaintiffs,)	
v.)	
)	
STATE OF MONTANA, LINDA McCULLOCH,)	
in her capacity as Secretary of State for the State)	
of Montana,)	
)	
Defendants.)	

Defendants State of Montana and Linda McCulloch, in her official capacity,
answer and respond to the allegations in Plaintiffs' Complaint as follows:

PRELIMINARY STATEMENT

1. Paragraph 1 states legal conclusions to which a response is neither required nor appropriate. Paragraph 1 also contains statements of Plaintiffs' requested relief, which are not allegations of fact to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

2. Defendants admit the factual allegations in paragraph 2. Paragraph 2 also states legal conclusions to which a response is neither required nor appropriate.

3. Defendants admit the factual allegations in the third sentence of paragraph 3. Defendants deny the remaining allegations in paragraph 3.

4. Defendants deny the allegations in paragraph 4.

5. With the exception of the "January 9, 2013" date, Defendants admit the factual allegations in the first sentence of paragraph 5. The correct date is January 8, 2013. Defendants are without sufficient knowledge and information to admit or deny the allegations in the second sentence of paragraph 5, and on that basis deny them.

6. Defendants refer to the letter referenced in paragraph 6 for its content and deny the allegations in paragraph 6 to the extent they go beyond the letter.

7. Defendants refer to the letter referenced in paragraph 6 for its content and deny the allegations in paragraph 7 to the extent they go beyond the letter.

8. Defendants admit the factual allegations in paragraph 8.

9. Defendants deny the allegations in paragraph 9.

10. Defendants are without sufficient knowledge and information to admit or deny the allegations in paragraph 10, and on that basis deny them. Paragraph 10 states legal conclusions to which a response is neither required nor appropriate.

11. Defendants deny the allegations in paragraph 11.

12. Defendants admit the factual allegations in paragraph 12.

13. Defendants deny the allegations in paragraph 13.

14. Paragraph 14 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

15. Paragraph 15 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

16. Paragraph 16 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

17. Paragraph 17 contains statements regarding the scope of Plaintiffs' challenge, which are not allegations of fact to which an answer is required.

PARTIES

18. Defendants are without sufficient information to admit or deny the allegations in paragraph 18, and on that basis deny the same.

19. Defendants are without sufficient information to admit or deny the allegations in paragraph 19, and on that basis deny the same.

20. Defendants are without sufficient information to admit or deny the allegations in paragraph 20, and on that basis deny the same.

21. Defendants are without sufficient information to admit or deny the allegations in paragraph 21, and on that basis deny the same.

22. Defendants are without sufficient information to admit or deny the allegations in paragraph 22, and on that basis deny the same.

23. Defendants are without sufficient information to admit or deny the allegations in paragraph 23, and on that basis deny the same.

24. Defendants are without sufficient information to admit or deny the allegations in paragraph 24, and on that basis deny the same.

25. Defendants are without sufficient information to admit or deny the allegations in paragraph 25, and on that basis deny the same.

26. Defendants are without sufficient information to admit or deny the allegations in paragraph 26, and on that basis deny the same.

27. Defendants are without sufficient information to admit or deny the allegations in paragraph 27, and on that basis deny the same.

28. Defendants are without sufficient information to admit or deny the allegations in paragraph 28, and on that basis deny the same.

29. Defendants are without sufficient information to admit or deny the allegations in paragraph 29, and on that basis deny the same.

30. Defendants are without sufficient information to admit or deny the allegations in paragraph 30, and on that basis deny the same.

31. Defendants are without sufficient information to admit or deny the allegations in paragraph 31, and on that basis deny the same.

32. Defendants are without sufficient information to admit or deny the allegations in paragraph 32, and on that basis deny the same.

33. Defendants are without sufficient information to admit or deny the allegations in paragraph 33, and on that basis deny the same.

34. Defendants are without sufficient information to admit or deny the allegations in paragraph 34, and on that basis deny the same.

35. Defendants are without sufficient information to admit or deny the allegations in paragraph 35, and on that basis deny the same.

36. Defendants are without sufficient information to admit or deny the allegations in paragraph 36, and on that basis deny the same.

37. Defendants are without sufficient information to admit or deny the allegations in paragraph 37, and on that basis deny the same.

38. Defendants are without sufficient information to admit or deny the allegations in paragraph 38, and on that basis deny the same.

39. Defendants are without sufficient information to admit or deny the allegations in paragraph 39, and on that basis deny the same.

40. Defendants are without sufficient information to admit or deny the allegations in paragraph 40, and on that basis deny the same.

41. Defendants are without sufficient information to admit or deny the allegations in paragraph 41, and on that basis deny the same.

42. Defendants are without sufficient information to admit or deny the allegations in paragraph 42, and on that basis deny the same.

43. Defendants are without sufficient information to admit or deny the allegations in paragraph 43, and on that basis deny the same.

44. Defendants deny the allegations in paragraph 44. Paragraph 44 states legal conclusions to which a response is neither required nor appropriate.

45. Defendants admit the factual allegations in paragraph 45.

JURISDICTION & VENUE

46. In response to paragraph 46, Defendants refer to the Montana Constitution, Mont. Code Ann. § 27-8-101, *et seq.*, and § 27-19-101, *et seq.* for their content and deny the allegations of paragraph 46 to the extent they state or imply otherwise. Paragraph 46 states legal conclusions to which a response is neither required nor appropriate. Defendants deny that the Complaint alleges a justiciable case or controversy.

47. In response to paragraph 47, Defendants refer to Mont. Code Ann. § 22-2-126 for its content and deny the allegations of paragraph 47 to the extent they state or imply otherwise. Paragraph 47 states legal conclusions to which a response is neither required nor appropriate. Defendants are without sufficient information to admit or deny the factual allegations in paragraph 47, and on that basis deny the same. Defendants contest venue under Mont. Code Ann. § 25-2-201(3), on the basis that “the convenience of witnesses and the ends of justice would be promoted by” a transfer in venue to the First Judicial District.

STATEMENT OF FACTS

48. Defendants admit the factual allegations in paragraph 48.
49. Defendants admit the factual allegations in paragraph 49.
50. Defendants admit the factual allegations in paragraph 50.
51. Defendants admit the factual allegations in paragraph 51.
52. Defendants admit the factual allegations in paragraph 52.
53. Defendants admit the factual allegations in paragraph 53.
54. Defendants admit the factual allegations in paragraph 54.
55. Defendants admit the factual allegations in paragraph 55.
56. Defendants admit the factual allegations in paragraph 56.
57. Defendants admit the factual allegations in paragraph 57.
58. Defendants admit the factual allegations in paragraph 58.
59. Defendants admit the factual allegations in paragraph 59.
60. Defendants admit the factual allegations in paragraph 60.
61. Defendants admit the factual allegations in paragraph 61.
62. Defendants admit the factual allegations in paragraph 62.
63. Defendants deny the allegations in paragraph 63.
64. Defendants admit the factual allegations in paragraph 64.
65. Defendants admit the factual allegations in paragraph 65.
66. Defendants admit the factual allegations in paragraph 66.
67. Defendants admit the factual allegations in paragraph 67.
68. Defendants admit the factual allegations in paragraph 68.

69. Defendants admit the factual allegations in paragraph 69.
70. Defendants admit the factual allegations in paragraph 70.
71. Defendants admit the factual allegations in paragraph 71.
72. Defendants admit the factual allegations in paragraph 72.
73. Defendants admit the factual allegations in paragraph 73.
74. Defendants admit the factual allegations in paragraph 74.
75. Defendants admit the factual allegations in paragraph 75.
76. Defendants admit the factual allegations in paragraph 76.
77. Defendants admit the factual allegations in paragraph 77.
78. Defendants deny the allegations in paragraph 78.
79. Defendants deny the allegations in paragraph 79.
80. Defendants deny the allegations in paragraph 80.
81. Defendants admit the factual allegations in paragraph 81.
82. Defendants admit the factual allegations in paragraph 82.
83. Defendants deny the allegations in paragraph 83.
84. Defendants admit the factual allegations in paragraph 84.
85. Defendants admit the factual allegations in paragraph 85.
86. Defendants are without sufficient information to admit or deny the allegations in paragraph 86, and on that basis deny them.
87. Defendants are without sufficient information to admit or deny the allegations in paragraph 87, and on that basis deny them.

88. Defendants are without sufficient information to admit or deny the allegations in paragraph 88, and on that basis deny them.

89. Defendants are without sufficient information to admit or deny the allegations in paragraph 89, and on that basis deny them.

90. Defendants are without sufficient information to admit or deny the allegations in paragraph 90, and on that basis deny them.¹

100. Defendants admit the factual allegations in paragraph 100.

101. Defendants admit the factual allegations in paragraph 101.

102. Defendants deny the allegations in paragraph 102.

103. Defendants admit the factual allegations in paragraph 103. Paragraph 103 states legal conclusions to which a response is neither required nor appropriate.

104. Defendants deny the allegations in paragraph 104.

105. Defendants deny the allegations in paragraph 105.

106. Defendants deny the allegations in paragraph 106.

107. Defendants deny the allegations in paragraph 107.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

108. Defendants incorporate by reference all prior responses as set forth above.

¹ Plaintiffs' Complaint omits paragraphs 91-99.

109. Defendants refer to the constitutional provision cited in paragraph 109 for its content and deny the allegations of paragraph 109 to the extent they state or imply otherwise.

110. Paragraph 110 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

111. Paragraph 111 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

112. Defendants deny the allegations in paragraph 112.

113. Defendants deny the allegations in paragraph 113.

114. Defendants deny the allegations in paragraph 114.

115. Defendants deny the allegations in paragraph 115.

116. Defendants deny the allegations in paragraph 116.

117. Paragraph 117 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

SECOND CAUSE OF ACTION

118. Defendants incorporate by reference all prior responses as set forth above.

119. Defendants refer to the constitutional provision cited in paragraph 119 for its content and deny the allegations of paragraph 119 to the extent they state or imply otherwise.

120. Defendants admit the factual allegations in paragraph 120.

121. Defendants admit the factual allegations in paragraph 121.

122. Defendants admit the factual allegations in paragraph 122.

123. Defendants deny the allegations in paragraph 123. Paragraph 123 states legal conclusions to which a response is neither required nor appropriate.

124. Defendants deny the allegations in paragraph 124. Paragraph 124 states legal conclusions to which a response is neither required nor appropriate.

125. Defendants deny the allegations in paragraph 125.

126. Defendants deny the allegations in paragraph 126.

127. Defendants deny the allegations in paragraph 127.

128. Defendants deny the allegations in paragraph 128. Paragraph 128 states legal conclusions to which a response is neither required nor appropriate.

129. Paragraph 129 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

THIRD CAUSE OF ACTION

130. Defendants incorporate by reference all prior responses as set forth above.

131. Defendants refer to the constitutional provision cited in paragraph 131 for its content and deny the allegations of paragraph 131 to the extent they state or imply otherwise.

132. Paragraph 132 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

133. Defendants deny the allegations in paragraph 133.

134. Defendants admit the factual allegations in paragraph 134.

135. Defendants admit the factual allegations in paragraph 135.

136. Defendants admit the factual allegations in paragraph 136.

137. Defendants admit the factual allegations in paragraph 137.

138. Paragraph 138 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

139. Defendants deny the allegations in paragraph 139.

140. Paragraph 140 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

141. Defendants deny the allegations in paragraph 141.

142. Paragraph 142 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

FOURTH CAUSE OF ACTION

143. Defendants incorporate by reference all prior responses as set forth above.

144. Defendants refer to the constitutional provision cited in paragraph 144 for its content and deny the allegations of paragraph 144 to the extent they state or imply otherwise.

145. Defendants deny the allegations in paragraph 145.

146. Defendants deny the allegations in paragraph 146.

147. Paragraph 147 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

148. Paragraph 148 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

FIFTH CAUSE OF ACTION

149. Defendants incorporate by reference all prior responses as set forth above.

150. Defendants refer to the constitutional provision cited in paragraph 150 for its content and deny the allegations of paragraph 150 to the extent they state or imply otherwise.

151. Paragraph 151 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

152. Paragraph 152 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

153. Defendants deny the allegations in paragraph 153.

154. Defendants deny the allegations in paragraph 154.

155. Paragraph 155 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

156. Paragraph 156 states legal conclusions to which a response is neither required nor appropriate. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

157. Paragraph 157 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

SIXTH CAUSE OF ACTION

158. Defendants incorporate by reference all prior responses as set forth above.

159. Defendants refer to the statutory provision cited in paragraph 159 for its content and deny the allegations of paragraph 159 to the extent they state or imply otherwise. Paragraph 159 states legal conclusions to which a response is neither required nor appropriate.

160. Defendants deny the allegations in paragraph 160.

161. Defendants deny the allegations in paragraph 161.

162. Defendants deny the allegations in paragraph 162.

163. Paragraph 163 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

SEVENTH CAUSE OF ACTION

164. Defendants incorporate by reference all prior responses as set forth above.

165. Defendants refer to the statutory provision cited in paragraph 165 for its content and deny the allegations of paragraph 165 to the extent they state or imply otherwise. Paragraph 165 states legal conclusions to which a response is neither required nor appropriate.

166. Defendants deny the allegations in paragraph 166.

167. Defendants deny the allegations in paragraph 167.

168. Defendants deny the allegations in paragraph 168.

169. Paragraph 169 contains a statement of Plaintiffs' requested relief and is not an allegation to which an answer is required. To the extent a response is required to any factual allegations in this paragraph, Defendants deny the same.

170. Unless specifically admitted herein, Defendants deny any and all allegations set forth in the Complaint.

FIRST AFFIRMATIVE DEFENSE

Proper venue for this action lies in the First Judicial District under Mont. Code Ann. § 25-2-201(3).

SECOND AFFIRMATIVE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert seek injunctive and declaratory relief in this action.

FOURTH AFFIRMATIVE DEFENSE

The Complaint fails to establish the existence of a justiciable controversy.

FIFTH AFFIRMATIVE DEFENSE

The Court should exercise its discretion under Title 27, chapters 8 and 19, Mont. Code. Ann., and decline Plaintiffs' request to enter an injunction or declaratory judgment in this case.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to join as parties "all persons . . . who have or claim any interest which would be affected by the declaration," including Llew Jones, and thus declaratory judgment may not be granted pursuant to Mont. Code Ann. § 27-8-301.

PRAYER FOR RELIEF

Having answered Plaintiffs' Complaint, Defendants respectfully request that:

1. The Court transfer this action to the First Judicial District, or
2. The Court dismiss Plaintiffs' Complaint against Defendants with prejudice, and deny Plaintiffs any and all relief against Defendants, or

3. The Court enter a judgment declaring that the Commission's reassignment of Senator Hamlett to SD-15 was lawful, and

4. The Court award Defendants such other relief as it may deem just and equitable.

Respectfully submitted this 6th day of May, 2013.

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LAWRENCE VANDYKE
Montana Solicitor General
J. STUART SEGREST
Assistant Attorney General
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Helena, MT 59620-1401

By: 
LAWRENCE VANDYKE
Solicitor General

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing document to be mailed to:

Mr. Matthew G. Monforton
Montforton Law Offices, PLLC
32 Kelly Court
Bozeman, MT 59718

DATED: _____

5-6-13