

**IN THE SUPERIOR COURT OF HENRY COUNTY
STATE OF GEORGIA**

ELIZABETH MATHIS)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE NO.
vs.)	
)	
HENRY COUNTY BOARD OF)	
ELECTIONS AND REGISTRATION,)	
JANET SHELLNUTT, in her official)	
capacity as Director of Elections of the)	
Henry County Board of Elections and)	
Registration, and HENRY COUNTY)	
REPUBLICAN PARTY,)	
)	
Defendants.)	

**ANSWER TO VERIFIED PETITION FOR DECLARATORY JUDGMENT,
MANDAMUS, AND OTHER INJUNCTIVE RELIEF**

The Henry County Board of Elections and Registration and Janet Shellnutt, in her official capacity as the Director of Elections of the Henry County Board of Elections and Registration (collectively "these Defendants"), Defendants in the above-styled action, file this Answer to Elizabeth Mathis's Verified Petition for Declaratory Judgment, Mandamus, and Other Injunctive Relief (the "Petition"), Plaintiff in the above-styled action, and respectfully show this Court as follows:

FIRST DEFENSE

Plaintiff's Petition fails to state a claim upon which relief can be granted and should be dismissed.

SECOND DEFENSE

Plaintiff lacks standing to bring some or all of these claims.

THIRD DEFENSE

This Court lacks subject matter jurisdiction over some or all of these claims.

FOURTH DEFENSE

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

FIFTH DEFENSE

Some or all of Plaintiff's claims are barred by reason of laches.

SIXTH DEFENSE

Some or all of Plaintiff's claims have been waived.

SEVENTH DEFENSE

Some or all of Plaintiff's claims are barred by reason of estoppel.

EIGHTH DEFENSE

Some or all of Plaintiff's claims are barred because Plaintiff has failed to satisfy the requisites for equitable relief.

NINTH DEFENSE

Plaintiff is not entitled to declaratory relief as the parties' rights and obligations have already accrued and Plaintiff is no longer in a position where she is undecided as to future action.

TENTH DEFENSE

The authority of this Court to exercise its discretionary power to grant an injunction is not warranted because the present action does not establish either a clear right to relief sought or an urgent case.

ELEVENTH DEFENSE

Plaintiff has failed to satisfy the requisites for the issuance of a writ of mandamus.

TWELFTH DEFENSE

Some or all of the Plaintiff's claims are barred under the doctrine of sovereign immunity.

THIRTEENTH DEFENSE

Plaintiff's claim for attorneys' fees fails because these Defendants have not acted in bad faith, have not been stubbornly litigious, and have not caused Plaintiff unnecessary trouble and expense.

FOURTEENTH DEFENSE

These Defendants reserve the right to assert any additional defenses available under the facts or under applicable law.

FIFTEENTH DEFENSE

These Defendants respond to the specific allegations in Plaintiff's Petition as follows:

PARTIES, JURISDICTION, AND VENUE

1.

These Defendants admit the allegations in Paragraph 1 of the Petition.

2.

These Defendants admit the allegations in Paragraph 2 of the Petition.

3.

These Defendants admit the allegations in Paragraph 3 of the Petition.

4.

These Defendants are without knowledge sufficient to admit or deny the allegations in Paragraph 4 of the Petition.

5.

These Defendants admit the allegations in Paragraph 5 of the Petition, but deny that Plaintiff is entitled to any relief whatsoever.

FACTUAL BACKGROUND

6.

These Defendants admit the allegations in Paragraph 6 of the Petition.

7.

These Defendants admit the allegations in Paragraph 7 of the Petition.

8.

These Defendants deny the allegations in Paragraph 8 of the Petition.

9.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit B speak for themselves, and deny the remaining allegations as stated in Paragraph 9 of the Petition.

10.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit B speak for themselves, and deny the remaining allegations as stated in Paragraph 10 of the Petition.

11.

These Defendants admit the allegations in Paragraph 11 of the Complaint.

12.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit B speak for themselves, and deny the remaining allegations as stated in Paragraph 12 of the Petition.

13.

These Defendants admit the allegations in Paragraph 13 of the Complaint.

14.

These Defendants state that the referenced legal authority speaks for itself and deny the remaining allegations as stated in Paragraph 14 of the Petition.

15.

These Defendants state that Paragraph 15 states a legal conclusion to which no response is required and to the extent a response is required, it is admitted, but states that in addition, a State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure neither has the purpose nor will have the effect of denying or abridging the right to vote on account

of race or color, or in contravention of the guarantees set forth in 42 U.S.C. § 1973b(f)(2).

16.

These Defendants admit the allegations in Paragraph 16 of the Petition.

17.

These Defendants admit the allegations in Paragraph 17 of the Petition.

18.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit D speak for themselves, and deny the remaining allegations as stated in Paragraph 18 of the Petition.

19.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit D speak for themselves, and deny the remaining allegations as stated in Paragraph 19 of the Petition.

20.

These Defendants state that the documents attached to Plaintiff's Petition as Exhibit E speak for themselves, and deny the remaining allegations as stated in Paragraph 20 of the Petition.

21.

These Defendants state that the referenced legal authority speaks for itself

and deny the remaining allegations as stated in Paragraph 21 of the Petition.

22.

These Defendants deny the allegations in Paragraph 22 of the Petition.

23.

These Defendants deny the allegations in Paragraph 23 of the Petition.

24.

These Defendants state that Paragraph 24 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

25.

These Defendants state that Paragraph 25 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

26.

These Defendants state that Paragraph 26 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

27.

These Defendants state that Paragraph 27 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

28.

These Defendants state that the Local Acts relating to the Henry County Board of Commissioners speak for themselves, and deny the remaining allegations in Paragraph 28 of the Petition.

29.

These Defendants state that Paragraph 29 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

30.

These Defendants state that Paragraph 30 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

31.

These Defendants deny the allegations in Paragraph 31 of the Petition.

COUNT ONE
DECLARATION THAT THE LOCAL ACT IS VOID AND
THAT PLAINTIFF HAS QUALIFIED FOR THE ELECTION

32.

These Defendants incorporate their responses to the preceding paragraphs of the Petition as if fully restated herein.

33.

These Defendants state that Paragraph 33 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

34.

These Defendants deny the allegations in Paragraph 34 of the Petition.

35.

These Defendants deny the allegations in Paragraph 35 of the Petition.

COUNT TWO
DECLARATION THAT OFFICE OF CHAIRMAN OF THE BOARD
IS NOT AN "OTHER" OFFICE UNDER THE LOCAL ACT
FOR SITTING COMMISSIONERS

36.

These Defendants incorporate their responses to the preceding paragraphs of the Petition as if fully restated herein.

37.

These Defendants state that Paragraph 37 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

38.

These Defendants deny the allegations in Paragraph 38 of the Petition.

39.

These Defendants deny the allegations in Paragraph 39 of the Petition.

COUNT THREE
MANDAMUS TO CERTIFY THAT
PLAINTIFF HAS QUALIFIED FOR ELECTION

40.

These Defendants incorporate their responses to the preceding paragraphs of the Petition as if fully restated herein.

41.

These Defendants deny the allegations in Paragraph 41 of the Petition.

42.

These Defendants deny the allegations in Paragraph 42 of the Petition.

43.

These Defendants deny the allegations in Paragraph 43 of the Petition.

44.

These Defendants admit the allegations in Paragraph 44 of the Petition.

45.

These Defendants state that Paragraph 45 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

COUNT FOUR
MANDAMUS COMPELLING BOARD OF ELECTIONS
TO FOLLOW 2004 RULING

46.

These Defendants incorporate their responses to the preceding paragraphs of the Petition as if fully restated herein.

47.

These Defendants deny the allegations in Paragraph 47 of the Petition.

48.

These Defendants state that Paragraph 48 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

49.

These Defendants state that Paragraph 49 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

50.

These Defendants deny the allegations in Paragraph 50 of the Petition.

51.

These Defendants state that Paragraph 51 states a legal conclusion to which no response is required and to the extent a response is required, it is denied.

COUNT FIVE
TEMPORARY RESTRAINING ORDER AND OTHER INJUNCTIVE RELIEF

52.

These Defendants incorporate their responses to the preceding paragraphs of the Petition as if fully restated herein.

53.

These Defendants deny the allegations in Paragraph 53 of the Petition.

54.

These Defendants deny the allegations in Paragraph 54 of the Petition.

55.

These Defendants deny the allegations in Paragraph 55 of the Petition.

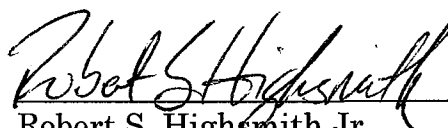
WHEREFORE, having fully answered, these Defendants respectfully pray as follows:


- (A) that Plaintiff's Petition be dismissed with prejudice in its entirety;
- (B) that all claims and allegations contained in paragraphs (1) through (10) of Plaintiff's "Wherefore" clause be rejected and dismissed with prejudice in their entirety;
- (C) that all costs, expenses and reasonable attorneys' fees be awarded to Henry County;

(D) that these Defendants be awarded such other and further relief as this Court deems appropriate.

Respectfully submitted this 29th day of April, 2008.

HOLLAND & KNIGHT LLP


Robert S. Highsmith Jr.
Georgia Bar No. 352777
Sarah C. Leopold
Georgia Bar No. 142618


w/express
permission

Attorneys for the Henry County Board of
Elections and Registration and Janet
Shellnutt, in her official capacity as Director
of Elections of the Henry County Board of
Elections and Registration

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1201 West Peachtree Street, N.E.
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(404) 881-0470 (fax)

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Registration, and HENRY COUNTY)	
REPUBLICAN PARTY,)	
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day caused to be served a true and correct copy of the foregoing **ANSWER TO VERIFIED PETITION FOR DECLARATORY JUDGMENT, MANDAMUS, AND OTHER INJUNCTIVE RELIEF** upon counsel of record via hand delivery to the following addresses:

George W. "Buddy" Darden
Stefan C. Passantino
Amol S. Naik
McKenna, Long & Aldrich
303 Peachtree Street, NE, Suite 5300
Atlanta, Georgia 30308

Henry County Republican Party
66 Veteran's Drive
McDonough, Georgia 30253

Georgia State Election Board
c/o Hon. Karen Handel, Chairperson
214 State Capitol
Atlanta, Georgia 30334

Office of the Attorney General
c/o Hon. Thurbert Baker
40 Capitol Square
Atlanta, Georgia 30334

This 29th day of April, 2008.

Sarah Leopold
Sarah C. Leopold
Georgia State Bar No. 142618
Express permission

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VERIFICATION

Janet Shellnutt, being duly sworn, deposes and says that she is the Director of Elections of the Henry County Board of Elections and Registration, and signs the foregoing Verification for the Answer to Petition for Declaratory Judgment, Mandamus, and Other Injunctive Relief, on behalf of the Henry County Board of Elections and Registration and Janet Shellnutt, in her official capacity as Director of Elections of the Henry County Board of Elections and Registration in the above-referenced case; that all matters stated in the foregoing document are not within the personal knowledge of the affiant and that there is no one individual with the Henry County Board of Elections and Registration who has knowledge of all such matters; and that the facts stated in the foregoing document have been assembled by the staff and members of the Henry County Board of Elections and Registration and the affiant is informed that the facts state in the foregoing document are true and correct to the best of their information and belief.

This 29th day of April, 2008.

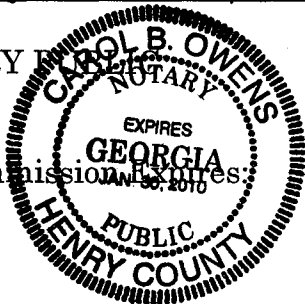
Janet Shellnutt

Sworn to and subscribed before me

this 29th day of April, ²⁰⁰⁸ 2007.

Carol B. Owens

NOTARY PUBLIC



My Commission Expires