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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

JOE LAMM, RAVALLI COUNTY  
REPUBLICAN CENTRAL  
COMMITTEE, JEFF WAGNER,  
SYLVIA WAGNER, FIONA NAVE,  
and BRENT NAVE,

*Plaintiffs,*

v.

STEPHEN BULLOCK, in his official  
capacity as Governor of Montana; and  
CORY STAPLETON, in his official  
capacity as Secretary of State of Montana,

Case No. CV-20-67-H-DLC

(Consolidated with  
Case No. CV-20-66-H-DLC)

**GOVERNOR BULLOCK'S  
ANSWER TO PLAINTIFFS'  
COMPLAINT**

*Defendants.*

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Governor Steve Bullock answers Joe Lamm, Ravalli County Republic Central Committee, Jeff Wagner, Sylvia Wagner, Fiona Nave, and Brent Nave's (Plaintiffs') Verified Complaint for Declaratory and Injunctive Relief (CV-20-67-H-DLC Doc. 1) as follows:<sup>1</sup>

### **INTRODUCTION**

1. This paragraph does not contain any factual allegations requiring a response.

### **JURISDICTION AND VENUE**

2. This paragraph states legal conclusions for which a response is not required.

3. This paragraph states legal conclusions for which a response is not required.

4. Admit the Governor resides within the District of Montana and issued the August 6, 2020, directive on the general election within that District. To the extent this paragraph states a legal conclusion, no response is required.

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<sup>1</sup> The following numbered paragraphs correspond to the numbered paragraphs in Plaintiffs' Complaint unless otherwise specified.

## **PARTIES**

5. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

6. The Governor admits the Ravalli County Republic Central Committee is the county Republican party for Ravalli County, Montana. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

7. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

8. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

9. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

10. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

11. Admit.

12. Admit Corey Stapleton is the Montana Secretary of State. The remainder of this paragraph states legal conclusions for which no response is required.

## FACTS

13. This paragraph states a legal conclusion for which no response is required.

14. This paragraph states a legal conclusion for which no response is required.

15. This paragraph states a legal conclusion for which no response is required.

16. This paragraph states a legal conclusion for which no response is required.

17. This paragraph states a legal conclusion for which no response is required.

18. This paragraph states a legal conclusion for which no response is required.

19. This paragraph states a legal conclusion for which no response is required.

20. This paragraph states a legal conclusion for which no response is required.

21. This paragraph states a legal conclusion for which no response is required.

22. This paragraph states a legal conclusion for which no response is required.

23. This paragraph states a legal conclusion for which no response is required.

24. This paragraph states a legal conclusion for which no response is required.

25. This paragraph states a legal conclusion for which no response is required.

26. This paragraph states a legal conclusion for which no response is required.

27. Admit Governor Bullock issued the August 6 Directive regarding mail ballot elections and early voting for the 2020 general election. The remaining allegations in this paragraph state a legal conclusion for which no response is required.

28. The August 6 Directive speaks for itself. The Governor denies Plaintiffs' characterization of the Directive to the extent it is inconsistent.

29. The August 6 Directive speaks for itself. The Governor denies Plaintiffs' characterization of the Directive to the extent it is inconsistent.

30. Admit.

31. Admit Montana has implemented many measures to protect the public from COVID-19, and that the COVID-19 pandemic is a significant concern. The

Governor lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' allegations regarding actions in other states, and therefore denies the same.

32. Admit.

33. The Governor admits his measures have contributed to keeping people safe from COVID-19, but denies the implication of this allegation that the risks from the pandemic have abated or ended. The Governor lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' allegations regarding what has taken place elsewhere in the United States, and therefore denies the same. The allegations in this paragraph are otherwise denied.

34. The Governor admits his measures have contributed to keeping people safe from COVID-19, but denies the implication of this allegation that the risks from the pandemic have abated or ended. The May 19, 2020, Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent.

35. Admit.

36. The May 19, 2020, Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent.

37. The May 19, 2020, Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent.

38. Admit.

39. Deny.

40. Admit voters can and should mitigate their risk if they choose to vote in-person by taking infection control measures including social distancing, use of a face covering, handwashing, etc. The Governor denies the implication of this paragraph that these measures eliminate all risk of contracting COVID-19, particularly if not all voters and election workers follow these protocols.

41. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

42. Deny.

43. This paragraph states a legal conclusion for which no response is required.

44. The August 6 Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent. To the extent this paragraph states a legal conclusion, no response is required. The allegations in this paragraph are otherwise denied.

45. The August 6 Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent.

46. The August 6 Directive speaks for itself. The Governor denies Plaintiffs' characterizations of that Directive to the extent they are inconsistent.

47. Deny.

48. The cited report speaks for itself. The Governor denies Plaintiffs' characterizations of that report to the extent they are inconsistent.

49. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same. The Governor denies that 1,296 cases of "documented voter fraud" out of millions of ballots cast can fairly be characterized as a "high" number.

50. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

51. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

52. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

53. The Governor lacks sufficient knowledge or information to form a belief about the substance of the allegations in this paragraph, and therefore denies the same.

54. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

55. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.



56. The Governor lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

57. The Governor denies there is any evidence of voters being unduly influenced or having their ballots filled out without their consent in Montana, even though most Montanans already vote by absentee ballot. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

58. The Governor denies there is any evidence of fraudulently mailed ballots in Montana, even though most Montanans already vote by absentee ballot. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' allegations in this paragraph, and therefore denies the same.

59. The Governor denies that voters in Montana are likely to be disenfranchised in counties that use mail-ballot voting procedures. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

60. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

61. The Governor lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

62. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

63. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

64. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

65. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

66. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

67. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

68. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

69. The Governor admits that Native American communities sometimes lack adequate access to reliable services, including postal delivery. The allegations in this paragraph are otherwise denied.

70. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

71. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

72. Deny.

73. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

74. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

75. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

76. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

77. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

78. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

79. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

80. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

81. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

82. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

83. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

84. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

85. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

86. The Governor denies there is any evidence election workers in Montana have been or will be unable to process mail votes, as the primary election demonstrated. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

87. The Governor denies there is any evidence election workers in Montana have been or will be unable to process mail votes, as the primary election demonstrated. The Governor otherwise lacks sufficient knowledge or information to

form a belief about the truth of Plaintiffs' speculative allegations in this paragraph, and therefore denies the same.

88. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

89. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

90. Deny.

91. While the Governor admits humans are always capable of error, Plaintiffs' speculative allegations in this paragraph are otherwise denied.

92. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

93. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

94. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

95. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

96. To the extent that the allegations of this paragraph reference USPS documents, those documents speak for themselves. The Governor denies Plaintiffs' characterizations of them to the extent they are inconsistent. The Governor lacks

sufficient knowledge or information to form a belief about the remainder of the allegations as written, but denies the implied allegation that the mail is not sufficient for delivering ballots.

97. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

98. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

99. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

100. The Governor denies Montana, where most voters already vote by absentee ballot, is undergoing a “swift transition” or is otherwise likely to suffer alleged breakdowns or failures. The Governor lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs’ allegations regarding events in other states, and therefore denies the same.

101. The Governor denies Plaintiffs’ speculative allegations.

102. The Governor denies Plaintiffs’ speculative allegations.

103. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

104. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

105. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

106. The Governor lacks sufficient knowledge or information to form a belief about the truth of the speculative allegations in this paragraph, and therefore denies the same.

107. Admit MACo sent the Governor a letter requesting mail-ballot procedures for the general election, and that the primary election was indeed a success. The allegations in this paragraph are otherwise denied.

108. Deny.

109. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

110. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

111. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

112. The Governor affirmatively alleges that Montana has adopted multiple safeguards, of which signature verification is only one, to prevent fraud. The allegations in this paragraph are otherwise denied.

## **CLAIMS**

### **COUNT I**

113. The Governor incorporates his answer to the preceding paragraphs as if set forth here.

114. This paragraph states a legal conclusion for which no response is required.

115. The Governor admits federal candidates are on the November 3, 2020, general election ballot, including the Governor. The Governor lacks sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

116. This paragraph states a legal conclusion for which no response is required.

117. This paragraph states a legal conclusion for which no response is required.

118. This paragraph states a legal conclusion for which no response is required.

## COUNT II

119. The Governor incorporates his answer to the preceding paragraphs as if set forth here.

120. This paragraph states a legal conclusion, for which no response is required.



121. This paragraph states a legal conclusion, for which no response is required.

122. This paragraph states a legal conclusion, for which no response is required.

123. The Governor denies Plaintiffs' allegation that voter fraud is a significant concern with mail-ballot voting pursuant to Montana law and the August 6 Directive. This paragraph states a legal conclusion, for which no response is required. The Governor otherwise lacks sufficient knowledge or information to form a belief about the truth of Plaintiffs' allegations, and therefore denies the same.

124. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

125. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

126. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

### **COUNT III**

127. The Governor incorporates his answer to the preceding paragraphs as if set forth here.

128. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

129. Deny.

130. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

### **COUNT IV**

131. The Governor incorporates his answer to the preceding paragraphs as if set forth here.

132. This paragraph states a legal conclusion for which no response is required.

133. The Governor incorporates his answer to the preceding paragraphs as if set forth here.

134. The Governor admits 46 of 56 Montana counties have filed mail-ballot plans. The allegations in this paragraph are otherwise denied.

135. Deny.

136. Deny.

137. To the extent this paragraph states legal conclusions, no response is required. To the extent this paragraph makes factual allegations, those allegations are denied.

### **GENERAL DENIAL**

The Governor denies all allegations in the Complaint not expressly admitted above. To the extent a response is required to all or part of any allegations above for which the Governor did not provide a response, those allegations are denied.

### **DEFENSES**

Defendants assert the following defenses and avoidances:

1. The Complaint fails to state a claim for which relief may be granted.
2. The Court lacks subject-matter jurisdiction.
3. Plaintiffs lack standing.
4. This case is nonjusticiable pursuant to the political question doctrine.
5. This Court should abstain from deciding Plaintiffs' claims, or some of them.
6. The Governor is immune from suit in federal court pursuant to the Eleventh Amendment and the doctrine of *Pennhurst State Sch. Hosp. v. Halderman*, 465 U.S. 89 (1984).

7. Plaintiffs' claims, or some of them, are barred by the doctrines of laches or estoppel.

8. Plaintiffs' claims, or some of them, are barred by the doctrine of waiver.

These defenses are asserted without the benefit of discovery and for the purpose of avoiding waiver. The Governor reserve the right to amend the Answer to assert any additional defenses discovered during the course of this litigation.

### **REQUEST FOR RELIEF**

Based on the foregoing, the Governor requests the following relief:

1. dismiss Plaintiffs' Complaint with prejudice;
2. enter judgment in favor of Governor Bullock and against Plaintiff;
3. award the Governor his costs and reasonable attorney fees to the extent permitted by law; and
4. award such further relief as the Court finds to be just and equitable.

DATED this 17th day of September, 2020.

Respectfully submitted,

/s/ Raphael Graybill

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