

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
Oxford Division**

GORDON VANCE JUSTICE, JR.; SHARON BYNUM;  
MATTHEW JOHNSON; ALISON KINAMAN AND  
STANLEY O'DELL;

Plaintiffs,

v.

Civil Action No.  
3:11-CV-138-SA-SAA

DELBERT HOSEMANN, in his official capacity as  
Mississippi Secretary of State; JIM HOOD, in his  
official capacity as Attorney General of the State  
of Mississippi,

Defendants.

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**PLAINTIFFS' RESPONSE IN OPPOSITION TO  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**ORAL ARGUMENT REQUESTED**

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Pursuant to FED. R. CIV. P. 56(c) and L.U. CIV. R. 7(b), Plaintiffs Gordon Vance Justice, Jr., Sharon Bynum, Matthew Johnson, Alison Kinaman, and Stanley O'Dell, hereby submit this Response in Opposition to Defendants' Motion for Summary Judgment, and would show unto the Court the following:

**PREMISES**

As set forth more fully in the Memorandum in Opposition to Defendants' Motion for Summary Judgment, Defendants Hood claim in error that they are entitled to summary judgment. Defendants' motion should be denied because Defendants ignore facts that call into question their arguments about the benefits and burdens of the challenged speech-regulating scheme and because the law favors Plaintiffs' motion for summary judgment instead.

Defendants ignore every fact developed in discovery and instead assert a theoretical basis for their claims, arguing, in effect, that the facts are irrelevant. This is not the case. Moreover, the Defendants are wrong on the law. The record reveals the extent to which Mississippi's campaign finance scheme thrusts burdens on small groups and individuals who wish to engage in political speech, which they are unconstitutionally unable to bear. By ignoring the burdens associated with Mississippi's campaign finance scheme, the Defendants are in direct contravention of the decisions of numerous federal courts that have recognized the seriousness of such burdens and protect the speech of speakers like Plaintiffs. Further, Defendants fail to recognize that the only possible interest they can claim—the informational interest—is reduced when applied to small amounts of contributions or expenditures by small speakers, again in direct contravention of other federal courts. Indeed, the record, ignored by the State, reveals the degree to which the interest Defendants claim in support of Mississippi's campaign finance scheme is inapplicable in this case.

### **SUPPORTING DOCUMENTS**

Plaintiffs support their response in opposition with those documents they have previously submitted in support of their motion for summary judgment. DOC 42 and attached exhibits 42-1 through 42-16.

In addition the following additional exhibits are offered in support of Plaintiffs' response in opposition.

Exhibit 1      Additional Excerpts of Deposition of Kimberly P. Turner

### **BASIS FOR RELIEF**

Plaintiffs file herewith the Memorandum in Opposition to Defendants' Motion for Summary Judgment.

**WHEREFORE, PREMISES CONSIDERED**, Plaintiffs by and through counsel of record, pursuant to FED. R. CIV. P. 56(c) and L.U. CIV. R. 7(b), respectfully request this Court DENY Defendants' Motion for Summary Judgment.

Dated this 6th day of December, 2012.

Respectfully Submitted on Behalf of Plaintiffs

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment with attached supporting document has been filed electronically with the Clerk of Court using the Court's ECF system and thereby served on the following persons:

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THIS the 6<sup>th</sup> day of December, 2012.

/s/ Paul Avelar  
Paul V. Avelar