

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG**

**SUSAN MAUDE BUCHSER, also known
as Susan Buchser-Lochocki for congress,**

Plaintiff,

v.

Civil Action No. 1:22-cv-00110

**MAC WARNER, West Virginia Secretary
of State, and the ELECTION DIVISION,**

Defendants.

MOTION TO DISMISS AMENDED COMPLAINT

Defendant, Mac Warner, in his official capacity as Secretary of State for the State of West Virginia,¹ hereby moves to dismiss the amended complaint filed January 12, 2023, by *pro so* plaintiff Susan Maude Buchser. As was the case with the original complaint here, the amended complaint should be dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. The reasons supporting this motion can be found in the accompanying memorandum of law.

WHEREFORE, the Secretary respectfully requests that the court grant their motion and dismiss the complaint.

Respectfully submitted,

PATRICK MORRISEY
ATTORNEY GENERAL



Curtis R. A. Capehart (WV Bar # 9876)

¹ The Election Division of the Office of the West Virginia Secretary of State is an administrative subdivision within the Secretary's Office and not a separate agency; thus, it is not a proper party.

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West Virginia

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CERTIFICATE OF SERVICE

I, Curtis R. A. Capehart, do hereby certify that a true and exact copy of the foregoing ***Motion to Dismiss*** has been served on Plaintiff via the Electronic Court Filing system and by depositing true and exact copies thereof, via United States Mail, with first-class postage prepaid and properly addressed on this 23rd day of January, 2023.

Susan Maude Buchser
547 Henderson Hollow
Core, WV 26541



Curtis R. A. Capehart
Deputy Attorney General