

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

**JANET C. BAKER, SUSAN INMAN, and
OLLY NEAL**

PLAINTIFFS

V.

**JOHN THURSTON, in his official capacity
as the Secretary of State of Arkansas**

DEFENDANT

**PLAINTIFF'S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS
AND BRIEF IN SUPPORT**

Plaintiffs, by and through undersigned counsel, and for their Motion for Partial Judgment on the Pleadings pursuant to Arkansas Rule of Civil Procedure 12(c) state and allege:

1. The Plaintiff's complaint seeks a declaration that under Arkansas that any excuse to vote absentee is a valid excuse. In *Forrest v. Baker*, 287 Ark. 239 (1985), the Arkansas Supreme Court held that voters are not required to explain in detail or provide any certain information as a "reason" to vote by absentee ballot. The resolution of this issue does not depend upon any facts and is a merely question of law for this Court to decide. The Court should declare that any reason that a voter lists on his/her application to vote absentee is a valid reason.

2. Notwithstanding the above, should the Court disagree with the Plaintiff's position that any excuse to vote absentee is a valid excuse the Plaintiff has requested a declaration that specifically COVID-19 is a valid excuse. The Secretary of State in his Motion to Dismiss and the potential Intervenors, Doyle Webb on behalf of the Arkansas Republican Party and Representative Douglas House, all have admitted in their pleadings that the fear of COVID-19 is an acceptable excuse to vote absentee. While the public admissions of the Defendant and the potential Intervenors are appropriate, they do not

afford the voter the same protection as would an executive order issued by the Governor or an Order of this Court.

3. Arkansas Rule of Civil Procedure 12(c) provides that a party may move for judgment on the pleadings. In this case the pleadings indicate a universal agreement between all parties that COVID-19 is a valid excuse to vote absentee under Arkansas law.

4. In addition, while the parties disagree on the interpretation of *Forrest v. Baker*, 287 Ark. 239 (1985), that is merely a legal question for this Court and requires no evidence or factual findings.

Wherefore the Plaintiffs respectfully request that the Court enter a Partial Judgment on the Pleadings holding that COVID-19 is specifically a reason to vote absentee in this election and the any reason given by the voter to vote absentee is a valid reason for this election and all future elections.

Respectfully submitted,

David A. Couch
1501 N. University Ave., Suite 228
Little Rock, AR 72207

By: /s/ David A. Couch
David Couch, Bar No. 8533

CapRock Law Firm, PLLC
407 President Clinton Ave., Suite 201
Little Rock, AR 72201
(501) 940-8510
preston@caprocklaw.com

By: /s/ Preston Tull Eldridge
Preston Tull Eldridge, Bar No.
2014231

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record.

/s/ David A. Couch