

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY *Eastern District of Kentucky*  
**FILED**

**AUG 05 2013**

AT FRANKFORT  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT

KENNY BROWN, individually and in his  
official capacity as the Boone County Clerk,  
et al.,

Plaintiffs,

V.

THE COMMONWEALTH OF  
KENTUCKY, et al.,

Defendants.

Civil No. 13-cv-68  
DJB-GFVT-WOB

MARTIN HERBERT, et al.,

Plaintiffs,

V.

KENTUCKY STATE BOARD OF  
ELECTIONS, et al.,

Defendants.

Civil No. 13-cv-25  
DJB-GFVT-WOB

**ORDER**

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Before: BOGGS, *Circuit Judge*; VAN TATENHOVE, *District Judge*; and BERTELSMAN,  
*Senior District Judge*.

This matter is before the Court on the Joint Motion of the *Brown* Plaintiffs,  
Defendant/Crossclaim Plaintiff Robert Stivers (“President Stivers”), Defendants Alison  
Lundergan Grimes (in her official capacity as Secretary of State of the Commonwealth of

Kentucky) (the “Secretary”) and the Kentucky State Board of Elections (the “State Board”), and third parties Alison Lundergan Grimes (in her official capacity as Chairwoman of the Kentucky State Board of Elections) (the “Chairwoman”); David Cross, John Hampton, Stephen Huffman, Denise May, George Russell, and Roy Sizemore (in their official capacities as Board Members of the Kentucky State Board of Elections) (the “Board Members”); and Maryellen Allen (in her official capacity as Executive Director of the Kentucky State Board of Elections) (the “Executive Director”), by counsel, to substitute the Chairwoman, Board Members and Executive Director (the “Substitute Defendants”) for the State Board as Defendants/Crossclaim Defendants in Case No. 13-CV-68-WOB-GFVT-DJB. The moving parties note that granting this motion would render moot the previously filed Motion to Amend Complaint and/or Join Defendants [R. 66] and Motion for Judgment on the Pleadings [R. 70].

Further, The *Brown* Plaintiffs, President Stivers, Secretary, State Board and Substitute Defendants further move that service of process on the Substitute Defendants be deemed to have been made and to be complete, and the answers and affirmative defenses of and any other filings of record made by the State Board in Case No. 13-CV-68-WOB-GFVT-DJB be deemed to have been made by the Substitute Defendants.

Accordingly, and the Court being otherwise sufficiently advised, it is hereby **ORDERED** as follows:

- (1) The Joint Motion to Substitute [R. 77] is **GRANTED**;
- (2) The Chairwoman, Board Members, and Executive Director are **SUBSTITUTED** for the State Board as Defendants/Crossclaim Defendants in Case No. 13-cv-68-WOB-GFVT-DJB;

(3) The Kentucky State Board of Elections is **DISMISSED WITHOUT PREJUDICE** as a Defendant/Crossclaim Defendant in Case No. 13-cv-68-WOB-GFVT-DJB;

(4) The *Brown* Plaintiffs' Motion to Amend Complaint and/or Join Parties [R. 66] and the State Board's Motion for Judgment on the Pleadings [R. 70] are **DENIED**, as moot;

(5) Service of process on the Chairwoman, Board Members and Executive Director shall be deemed to have been made and to be complete, and the answers and affirmative defenses of and any other filings of record made by the State Board in Case No. 13-CV-68-WOB-GFVT-DJB shall be deemed to have been made by the Chairwoman, Board Members and Executive Director.

This 5th day of August, 2013.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Gregory F. Van Tatenhove', is written over a horizontal line. The signature is stylized and somewhat abstract.

Gregory F. Van Tatenhove  
U.S. District Judge