

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

| | | |
|-----------------------------------|---|--------------------------------|
| AMERICAN ASSOCIATION OF PEOPLE |) | |
| WITH DISABILITIES, FEDERATION OF |) | |
| WOMEN’S CLUBS OVERSEAS, INC., NEW |) | |
| MEXICO PUBLIC INTEREST RESEARCH |) | |
| GROUP EDUCATION FUND, and |) | |
| SOUTHWEST ORGANIZING PROJECT, |) | |
| |) | |
| Plaintiffs, |) | CIVIL ACTION NO: 1:08-cv-00702 |
| |) | |
| v. |) | |
| |) | |
| MARY HERRERA, in her capacity as |) | |
| Secretary of State, |) | |
| |) | |
| Defendant. |) | |

ANSWER

TO THE HONORABLE COURT:

Defendant Mary Herrera hereby files her Answer to Plaintiffs’ Complaint for Declaratory and Injunctive Relief and would respectfully show the Court as follows:

I. INTRODUCTION¹

The introductory paragraph is not numbered and does not contain any allegations of fact. Defendant accordingly neither admits nor denies the statements made in the introductory paragraph.

II. JURISDICTION AND VENUE

1. Defendant admits the allegations in Paragraph 1.
2. Defendant admits the allegations in Paragraph 2.

¹ For ease of reference, this Answer uses the same top level headings used by Plaintiffs’ in their Complaint. Defendant does not adopt any allegations that may be contained in those headings. To the extent those headings contain any factual allegations, Defendant denies those allegations.

III. PARTIES

3. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 3.

4. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 4.

5. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 5.

6. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 6.

7. Defendant admits the allegations in Paragraph 7.

8. Defendant admits that the County and State governments have systems in place designed to ensure the integrity of the State's voter rolls. Defendant admits that the Vital Statistics Office notifies the State and County governments of the death of any registered voter and that such voters are removed from the voter rolls after such notification. Defendant denies the remaining allegations in Paragraph 8.

IV. FACTS

9. Paragraph 9 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 9. To the extent Paragraph 9 does contain such allegations, Defendant denies those allegations.

10. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 10.

11. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 11.

12. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 12.

13. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 13.

14. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 14.

15. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 15.

16. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 16.

17. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 17.

18. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 18.

19. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 19.

20. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 20.

21. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 21.

22. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 22.

23. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 23.

24. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 24.

25. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 25.

26. Defendant does not have sufficient information to either admit or deny the allegation that the American Association of People with Disabilities “has suspended efforts to establish a coalition in New Mexico and has decided not to establish a voter-registration program in the state in 2008.” Defendant denies the remaining allegations in Paragraph 26.

27. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 27.

28. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 28.

29. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 29.

30. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 30.

31. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 31.

32. Defendant denies the allegation that “the challenged law is vague and fails to specify when one has ‘assisted’ voter registration sufficient to cause the law to apply.” Defendant does not have sufficient information to either admit or deny the remaining allegations in Paragraph 32.

33. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 33.

34. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 34.

35. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 35.

36. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 36.

37. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 37.

38. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 38.

39. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 39.

40. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 40.

41. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 41.

42. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 42.

43. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 43.

44. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 44.

45. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 45.

46. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 46.

47. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 47.

48. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 48.

49. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 49.

50. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 50.

51. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 51.

52. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 52.

53. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 53.

54. Defendant admits the allegations in Paragraph 54.

55. Defendant admits the allegations in Paragraph 55.

56. Defendant admits the allegations in Paragraph 56.

57. Defendant admits the allegations in Paragraph 57.

58. Defendant admits the allegations in Paragraph 58.

59. Defendant admits that neither NSMA 1978, § 1-4-49 nor 1.10.25.9 NMAC contain an express training requirement for third party registrars. Defendant does not have sufficient information to either admit or deny the remaining allegations in Paragraph 59.

60. Defendant denies the allegations in Paragraph 60.

61. Defendant denies the allegations in Paragraph 61.

62. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 62.

63. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 63.

64. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 64.

65. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 65.

66. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 66.

67. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 67.

68. Defendant denies that any training sessions for third party registrars are “intimidating.” Defendant does not have sufficient information to either admit or deny the remaining allegations in Paragraph 68.

69. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 69.

70. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 70.

71. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 71.

72. Defendant denies the allegations in Paragraph 72.

73. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 73.

74. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 74.

75. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 75.

76. Defendant denies the allegations in Paragraph 76.

77. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 77.

78. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 78.

79. Defendant denies that third party registrars cannot mail voter registration forms to clients. Defendant does not have sufficient information to either admit or deny the remaining allegations in Paragraph 79.

80. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 80.

81. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 81.

82. Defendant denies that the criminal and civil penalties contained in NMSA 1978, § 1-4-49 “constitute a severe threat to individuals who work and volunteer for Plaintiffs.” Defendant also denies that the challenged law has a “chilling effect on Plaintiffs’ speech and association.” Defendant does not have sufficient information to either admit or deny the remaining allegations in Paragraph 82.

83. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 83.

84. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 84.

85. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 85.

86. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 86.

87. Defendant denies the allegations in Paragraph 87.

88. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 88.

89. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 89.

90. Defendant admits the allegations in Paragraph 90.

91. Paragraph 91 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 91. To the extent Paragraph 91 does contain such allegations, Defendant denies those allegations.

92. Defendant denies that NMSA 1978, § 1-4-49 and 1.10.25.7-10 NMAC “impose severe burdens on Plaintiffs.” Defendant admits the remaining allegations in Paragraph 92.

93. Defendant denies the allegations in Paragraph 93.

94. Paragraph 94 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 94. To the extent Paragraph 94 does contain such allegations, Defendant denies those allegations.

95. Paragraph 95 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 95. To the extent Paragraph 95 does contain such allegations, Defendant denies those allegations.

96. Paragraph 96 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 96. To the extent Paragraph 96 does contain such allegations, Defendant denies those allegations.

97. Defendants deny the allegations in Paragraph 97.

98. Paragraph 98 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 98. To the extent Paragraph 98 does contain such allegations, Defendant denies those allegations.

99. Paragraph 99 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 99. To the extent Paragraph 99 does contain such allegations, Defendant denies those allegations.

100. Defendant denies the allegations in Paragraph 100.

101. Defendant admits the allegations in Paragraph 101.

102. Defendant admits the allegations in Paragraph 102.

103. Defendant admits the allegations in Paragraph 103.

104. Defendant denies the allegations in Paragraph 104.

105. Paragraph 105 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 105. To the extent Paragraph 105 does contain such allegations, Defendant denies those allegations.

106. Paragraph 106 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 106. To the extent Paragraph 106 does contain such allegations, Defendant denies those allegations.

107. Paragraph 107 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 107. To the extent Paragraph 107 does contain such allegations, Defendant denies those allegations.

108. Paragraph 108 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 108. To the extent Paragraph 108 does contain such allegations, Defendant denies those allegations.

109. Defendant denies that NMSA 1978, § 1-4-49 and 1.10.25.7-10 NMAC “impose severe financial and administrative burdens on Plaintiffs.” Defendants admit the remaining allegations in Paragraph 109.

110. Defendant denies the allegations in Paragraph 110.

111. Defendant denies the allegations in Paragraph 111.

112. Paragraph 112 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 112. To the extent Paragraph 112 does contain such allegations, Defendant denies those allegations.

113. Paragraph 113 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 113. To the extent Paragraph 113 does contain such allegations, Defendant denies those allegations.

114. Paragraph 114 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 114. To the extent Paragraph 114 does contain such allegations, Defendant denies those allegations.

115. Paragraph 115 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 115. To the extent Paragraph 115 does contain such allegations, Defendant denies those allegations.

DATED: August 7, 2008.

Respectfully submitted,

GARY K. KING
NEW MEXICO ATTORNEY GENERAL

/s/ Scott Fuqua
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Attorney for Defendant Mary Herrera

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing motion on Plaintiffs' counsel of record via electronic filing with the CM/ECF filing system.

/s/ Scott Fuqua _____
Scott Fuqua