

STATE OF INDIANA) IN THE MARION SUPERIOR COURT
) SS:
COUNTY OF MARION) CAUSE NO. 49D06-1906-PL-024866

NATIONAL ELECTION)
DEFENSE)
COALITION,)

Plaintiff,)

v.)

CONNIE LAWSON,)
SECRETARY OF STATE OF THE)
STATE OF INDIANA, in her)
official capacity,)

Defendant.)

ANSWER AND STATEMENT OF AFFIRMATIVE DEFENSES

Defendant Connie Lawson, in her official capacity as Secretary of State, files her answer to the Complaint filed by the National Election Defense Coalition (NEDC), responding as follows:

INTRODUCTION

1. Admit that NEDC brings a complaint under the Access to Public Records Act, but deny that the Secretary of State unlawfully denied access to public records.
2. Admit that the Secretary of State was the President of the National Association of Secretaries of State (NASS). The Secretary of State cannot admit or deny the other allegations in paragraph 2 because they are either vague, legal conclusions, or relate to NEDC's motivations (and thus the Secretary is without sufficient information).

3. Admit that the NEDC filed a complaint with the Office of the Public Access Counselor, but deny the remaining allegations in paragraph 3.

PARTIES

4. The Secretary is without sufficient information to admit or deny the allegations in paragraph 4.
5. Admit.

JURISDICTION AND VENUE

6. Admit.
7. Admit.

STATUTORY BACKGROUND

8. Admit that the selection from Indiana Code § 5-14-3-1 is accurately quoted.
9. Indiana Code § 5-14-3-1 speaks for itself; accordingly, no response is required.
10. Indiana Code § 5-14-3-3(b) speaks for itself; accordingly, no response is required.
11. Indiana Code § 5-14-3-9(d)(2) speaks for itself; accordingly, no response is required.
12. Indiana Code §§ 5-14-4-10 and 5-14-3-9.5(e) speak for themselves; accordingly, no response is required.
13. Indiana Code §§ 5-14-3-4.4(a)(1) and 5-14-3-9 speak for themselves; accordingly, no response is required.

FACTUAL AND PROCEDURAL BACKGROUND

14. Admit that the Secretary has served as the president of NASS in the past.

Deny that the Secretary is currently serving as co-chair of the NASS Cybersecurity Committee. The Secretary cannot admit or deny the allegation that she is currently serving as past president because it is vague.

15. Exhibit A of the Complaint speaks for itself; accordingly, no response is required.

Defendant's First Explanation

16. Exhibit B of the Complaint speaks for itself. The Secretary denies any implicit presumption in the plaintiff's assertions that APRA requires a document log for withheld information.

17. The Secretary is without sufficient information to admit or deny when NEDC received correspondence. Ms. Greenhalgh's email (which is not attached to the complaint) would speak for itself.

18. Exhibit C of the Complaint speaks for itself; accordingly, no response is required.

19. Ms. Greenhalgh's December 19, 2018, email (which, like her earlier email, is not attached to the complaint) would speak for itself.

Defendant's Second Explanation

20. Mr. Bonnet's December 20, 2018, email would speak for itself; accordingly, no response is required.

21. Ms. Greenhalgh's December 21, 2018, email (which, again, is not attached to the Complaint) would speak for itself; Defendant denies that NEDC clarified or narrowed its request.

22. Deny that the Secretary's Office has not substantially responded to NEDC's requests and correspondences.

23. NEDC's complaint with the Public Access Counselor (PAC), Exhibit D of the Complaint, speaks for itself.

24. The PAC's January 11, 2019, email would speak for itself.

Defendant's Third Explanation

25. Mr. Bonnet's January 14, 2019, email speaks for itself, but deny that January 14, 2019, was the first time that the Secretary's Office indicated that it was working on NEDC's request.

26. Mr. Groth's email, Exhibit F of the Complaint, speaks for itself; accordingly, no response is required.

27. Mr. Bonnet's email, Exhibit G of the Complaint, speaks for itself; accordingly, no response is required.

28. Mr. Groth's email, Exhibit H of the Complaint, speaks for itself; accordingly, no response is required.

Defendant's Fourth Explanation

29. Mr. Bonnet's email, Exhibit I of the Complaint, speaks for itself; accordingly, no response is required.

30. The Amended Complaint to the PAC, Exhibit J of the Complaint, speaks for itself; Defendant denies that the Secretary's Office unlawfully denied access to public records.

31. Mr. Bonnet's email would speak for itself; accordingly, no response is required.

32. Mr. Groth's email, Exhibit K of the Complaint, speaks for itself; accordingly, no response is required.

33. Mr. Bonnet's email, Exhibit L of the Complaint, speaks for itself; accordingly, no response is required.

34. Mr. Bonnet's email speaks for itself; accordingly, no response is required.

35. Mr. Bonnet's email speaks for itself; accordingly, no response is required.

36. Mr. Bonnet's email speaks for itself; accordingly, no response is required.

37. Mr. Bonnet's email speaks for itself; accordingly, no response is required.

38. Admit that the Secretary has not communicated with NEDC further concerning security and public safety justifications exceptions but deny that the Secretary unlawfully denied access to public records.

PAC's Advisory Opinion and Defendant's Continued Failure to Respond

39. The PAC's advisory opinion, Exhibit M of the Complaint, speaks for itself; accordingly, no response is required.

40. Admit.

41. Admit.

42. Admit that the Secretary has not provided NEDC with additional documents but deny that the Secretary unlawfully denied access to public records.

LEGAL ALLEGATIONS

43. Admit.

44. Admit.

45. Deny.

CAUSES OF ACTION

COUNT I: APRA – DENIAL OF RIGHT TO INSPECT RECORDS

46. The Secretary realleges and incorporates by reference all preceding responses as if fully set forth herein.

47. Deny.

COUNT II: APRA – UNREASONABLE DELAY

48. The Secretary realleges and incorporates by reference all preceding responses as if fully set forth herein.

49. Deny.

REQUESTED RELIEF

A request for relief does not require a response. To the extent a response may be required, the Secretary denies any allegations in the request for relief.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Any applicable statute of limitations bars Plaintiff's suit.

3. The Secretary reserves the right to assert any and all additional affirmative and other defenses that may become available by law, that may become evident during discovery proceedings, or that may arise for other appropriate reasons, and reserves the right to amend its answer and include any such defenses.

WHEREFORE, Defendant requests that Plaintiff take nothing by way of the Complaint, that judgment be entered for Defendant, and that the Court grant Defendant all other just and proper relief.

Respectfully submitted,

CURTIS T. HILL, Jr.
Attorney General of Indiana
Atty. No. 13999-20

By: s/ Jefferson S. Garn
Jefferson S. Garn
Deputy Attorney General
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CERTIFICATE OF SERVICE

I certify that on August 26, 2019, I electronically filed the foregoing using the Indiana Filing System (“IEFS”).

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