

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NOV 23 2007

LAWRENCE K. BAERMAN, CLERK
ALBANY

ROBERT L. SCHULZ, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 THE STATE OF NEW YORK, et al.,)
)
 Defendants.)

Case No. 07cv-0943

DEFENDANT MARY HERRERA’S ORIGINAL ANSWER

Defendant Mary Herrera files this Original Answer and would show the Court as follows:

I. ANSWER

Jurisdiction and Venue¹

1. Defendant is not required to admit or deny Paragraph 1 of Plaintiffs’ Amended Verified Complaint (“the Complaint”) because it contains no factual allegations. To the extent Paragraph 1 can be interpreted to contain factual allegations, Defendant denies Paragraph 1.

2. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 2.

3. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 3.

4. Defendant is not required to admit or deny Paragraph 4 of the Complaint because it contains no factual allegations. To the extent Paragraph 4 can be interpreted to contain factual allegations, Defendant denies Paragraph 4.

¹ For ease of reference, this Answer uses the headings that appear in Plaintiffs’ Amended Verified Petition.

5. Defendant is not required to admit or deny Paragraph 5 of the Complaint because it contains no factual allegations. To the extent Paragraph 5 can be interpreted to contain factual allegations, Defendant denies Paragraph 5.

Definitions

6. Defendant is not required to admit or deny Paragraph 6 of the Complaint because it contains no factual allegations. To the extent Paragraph 6 can be interpreted to contain factual allegations, Defendant denies Paragraph 6.

7. Defendant is not required to admit or deny Paragraph 7 of the Complaint because it contains no factual allegations. To the extent Paragraph 7 can be interpreted to contain factual allegations, Defendant denies Paragraph 7.

8. Defendant is not required to admit or deny Paragraph 8 of the Complaint because it contains no factual allegations. To the extent Paragraph 8 can be interpreted to contain factual allegations, Defendant denies Paragraph 8.

Parties

9. Defendant is not required to admit or deny Paragraph 9 of the Complaint because it contains no factual allegations. To the extent Paragraph 9 can be interpreted to contain factual allegations, Defendant denies Paragraph 9.

10. Defendant is not required to admit or deny Paragraph 10 of the Complaint because it contains no factual allegations. To the extent Paragraph 10 can be interpreted to contain factual allegations, Defendant denies Paragraph 10.

11. Defendant is not required to admit or deny Paragraph 11 of the Complaint because it contains no factual allegations. To the extent Paragraph 11 can be interpreted to contain factual allegations, Defendant denies Paragraph 11.

12. Defendant is not required to admit or deny Paragraph 12 of the Complaint because it contains no factual allegations. To the extent Paragraph 12 can be interpreted to contain factual allegations, Defendant denies Paragraph 12.

13. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 13.

14. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 14.

15. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 15.

16. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 16.

17. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 17.

18. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 18.

19. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 19.

20. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 20.

21. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 21.

22. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 22.

23. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 23.

24. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 24.

25. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 25.

26. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 26.

27. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 27.

28. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 28.

29. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 29.

30. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 30.

31. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 31.

32. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 32.

33. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 33.

34. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 34.

35. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 35.

36. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 36.

37. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 37.

38. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 38.

39. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 39.

40. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 40.

41. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 41.

42. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 42.

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61. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 61.

62. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 62.

63. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 63.

64. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 64.

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66. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 66.

67. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 67.

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69. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 69.

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71. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 71.

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79. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 79.

80. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 80.

81. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 81.

82. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 82.

83. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 83.

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86. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 86.

87. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 87.

88. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 88.

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91. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 91.

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111. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 111.

112. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 112.

113. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 113.

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130. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 130.

131. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 131.

132. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 132.

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136. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 136.

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141. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 141.

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151. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 151.

152. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 152.

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155. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 155.

156. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 156.

157. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 157.

158. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 158.

159. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 159.

160. Defendant is not required to admit or deny Paragraph 160 of the Complaint because it contains no factual allegations. To the extent Paragraph 160 can be interpreted to contain factual allegations, Defendant denies Paragraph 160.

161. Defendant is not required to admit or deny Paragraph 161 of the Complaint because it contains no factual allegations. To the extent Paragraph 161 can be interpreted to contain factual allegations, Defendant denies Paragraph 161.

162. Defendant is not required to admit or deny Paragraph 162 of the Complaint because it contains no factual allegations. To the extent Paragraph 162 can be interpreted to contain factual allegations, Defendant denies Paragraph 162.

163. Defendant is not required to admit or deny Paragraph 163 of the Complaint because it contains no factual allegations. To the extent Paragraph 163 can be interpreted to contain factual allegations, Defendant denies Paragraph 163.

164. Defendant is not required to admit or deny Paragraph 164 of the Complaint because it contains no factual allegations. To the extent Paragraph 164 can be interpreted to contain factual allegations, Defendant denies Paragraph 164.

165. Defendant is not required to admit or deny Paragraph 165 of the Complaint because it contains no factual allegations. To the extent Paragraph 165 can be interpreted to contain factual allegations, Defendant denies Paragraph 165.

166. Defendant is not required to admit or deny Paragraph 166 of the Complaint because it contains no factual allegations. To the extent Paragraph 166 can be interpreted to contain factual allegations, Defendant denies Paragraph 166.

167. Defendant is not required to admit or deny Paragraph 167 of the Complaint because it contains no factual allegations. To the extent Paragraph 167 can be interpreted to contain factual allegations, Defendant denies Paragraph 167.

168. Defendant is not required to admit or deny Paragraph 168 of the Complaint because it contains no factual allegations. To the extent Paragraph 168 can be interpreted to contain factual allegations, Defendant denies Paragraph 168.

169. Defendant is not required to admit or deny Paragraph 169 of the Complaint because it contains no factual allegations. To the extent Paragraph 169 can be interpreted to contain factual allegations, Defendant denies Paragraph 169.

170. Defendant is not required to admit or deny Paragraph 170 of the Complaint because it contains no factual allegations. To the extent Paragraph 170 can be interpreted to contain factual allegations, Defendant denies Paragraph 170.

171. Defendant is not required to admit or deny Paragraph 171 of the Complaint because it contains no factual allegations. To the extent Paragraph 171 can be interpreted to contain factual allegations, Defendant denies Paragraph 171.

172. Defendant is not required to admit or deny Paragraph 172 of the Complaint because it contains no factual allegations. To the extent Paragraph 172 can be interpreted to contain factual allegations, Defendant denies Paragraph 172.

173. Defendant is not required to admit or deny Paragraph 173 of the Complaint because it contains no factual allegations. To the extent Paragraph 173 can be interpreted to contain factual allegations, Defendant denies Paragraph 173.

174. Defendant is not required to admit or deny Paragraph 174 of the Complaint because it contains no factual allegations. To the extent Paragraph 174 can be interpreted to contain factual allegations, Defendant denies Paragraph 174.

175. Defendant is not required to admit or deny Paragraph 175 of the Complaint because it contains no factual allegations. To the extent Paragraph 175 can be interpreted to contain factual allegations, Defendant denies Paragraph 175.

176. Defendant is not required to admit or deny Paragraph 176 of the Complaint because it contains no factual allegations. To the extent Paragraph 176 can be interpreted to contain factual allegations, Defendant denies Paragraph 176.

177. Defendant is not required to admit or deny Paragraph 177 of the Complaint because it contains no factual allegations. To the extent Paragraph 177 can be interpreted to contain factual allegations, Defendant denies Paragraph 177.

178. Defendant is not required to admit or deny Paragraph 178 of the Complaint because it contains no factual allegations. To the extent Paragraph 178 can be interpreted to contain factual allegations, Defendant denies Paragraph 178.

179. Defendant is not required to admit or deny Paragraph 179 of the Complaint because it contains no factual allegations. To the extent Paragraph 179 can be interpreted to contain factual allegations, Defendant denies Paragraph 179.

180. Defendant is not required to admit or deny Paragraph 180 of the Complaint because it contains no factual allegations. To the extent Paragraph 180 can be interpreted to contain factual allegations, Defendant denies Paragraph 180.

181. Defendant is not required to admit or deny Paragraph 181 of the Complaint because it contains no factual allegations. To the extent Paragraph 181 can be interpreted to contain factual allegations, Defendant denies Paragraph 181.

182. Defendant is not required to admit or deny Paragraph 182 of the Complaint because it contains no factual allegations. To the extent Paragraph 182 can be interpreted to contain factual allegations, Defendant denies Paragraph 182.

183. Defendant is not required to admit or deny Paragraph 183 of the Complaint because it contains no factual allegations. To the extent Paragraph 183 can be interpreted to contain factual allegations, Defendant denies Paragraph 183.

184. Defendant is not required to admit or deny Paragraph 184 of the Complaint because it contains no factual allegations. To the extent Paragraph 184 can be interpreted to contain factual allegations, Defendant denies Paragraph 184.

185. Defendant is not required to admit or deny Paragraph 185 of the Complaint because it contains no factual allegations. To the extent Paragraph 185 can be interpreted to contain factual allegations, Defendant denies Paragraph 185.

186. Defendant is not required to admit or deny Paragraph 186 of the Complaint because it contains no factual allegations. To the extent Paragraph 186 can be interpreted to contain factual allegations, Defendant denies Paragraph 186.

187. Defendant is not required to admit or deny Paragraph 187 of the Complaint because it contains no factual allegations. To the extent Paragraph 187 can be interpreted to contain factual allegations, Defendant denies Paragraph 187.

188. Defendant is not required to admit or deny Paragraph 188 of the Complaint because it contains no factual allegations. To the extent Paragraph 188 can be interpreted to contain factual allegations, Defendant denies Paragraph 188.

189. Defendant is not required to admit or deny Paragraph 189 of the Complaint because it contains no factual allegations. To the extent Paragraph 189 can be interpreted to contain factual allegations, Defendant denies Paragraph 189.

190. Defendant is not required to admit or deny Paragraph 190 of the Complaint because it contains no factual allegations. To the extent Paragraph 190 can be interpreted to contain factual allegations, Defendant denies Paragraph 190.

191. Defendant is not required to admit or deny Paragraph 191 of the Complaint because it contains no factual allegations. To the extent Paragraph 191 can be interpreted to contain factual allegations, Defendant denies Paragraph 191.

192. Defendant is not required to admit or deny Paragraph 192 of the Complaint because it contains no factual allegations. To the extent Paragraph 192 can be interpreted to contain factual allegations, Defendant denies Paragraph 192.

193. Defendant is not required to admit or deny Paragraph 193 of the Complaint because it contains no factual allegations. To the extent Paragraph 193 can be interpreted to contain factual allegations, Defendant denies Paragraph 193.

194. Defendant is not required to admit or deny Paragraph 194 of the Complaint because it contains no factual allegations. To the extent Paragraph 194 can be interpreted to contain factual allegations, Defendant denies Paragraph 194.

195. Defendant is not required to admit or deny Paragraph 195 of the Complaint because it contains no factual allegations. To the extent Paragraph 195 can be interpreted to contain factual allegations, Defendant denies Paragraph 195.

196. Defendant is not required to admit or deny Paragraph 196 of the Complaint because it contains no factual allegations. To the extent Paragraph 196 can be interpreted to contain factual allegations, Defendant denies Paragraph 196.

197. Defendant is not required to admit or deny Paragraph 197 of the Complaint because it contains no factual allegations. To the extent Paragraph 197 can be interpreted to contain factual allegations, Defendant denies Paragraph 197.

198. Defendant is not required to admit or deny Paragraph 198 of the Complaint because it contains no factual allegations. To the extent Paragraph 198 can be interpreted to contain factual allegations, Defendant denies Paragraph 198.

199. Defendant is not required to admit or deny Paragraph 199 of the Complaint because it contains no factual allegations. To the extent Paragraph 199 can be interpreted to contain factual allegations, Defendant denies Paragraph 199.

200. Defendant is not required to admit or deny Paragraph 200 of the Complaint because it contains no factual allegations. To the extent Paragraph 200 can be interpreted to contain factual allegations, Defendant denies Paragraph 200.

201. Defendant is not required to admit or deny Paragraph 201 of the Complaint because it contains no factual allegations. To the extent Paragraph 201 can be interpreted to contain factual allegations, Defendant denies Paragraph 201.

202. Defendant is not required to admit or deny Paragraph 202 of the Complaint because it contains no factual allegations. To the extent Paragraph 202 can be interpreted to contain factual allegations, Defendant denies Paragraph 202.

203. Defendant is not required to admit or deny Paragraph 203 of the Complaint because it contains no factual allegations. To the extent Paragraph 203 can be interpreted to contain factual allegations, Defendant denies Paragraph 203.

204. Defendant is not required to admit or deny Paragraph 204 of the Complaint because it contains no factual allegations. To the extent Paragraph 204 can be interpreted to contain factual allegations, Defendant denies Paragraph 204.

205. Defendant is not required to admit or deny Paragraph 205 of the Complaint because it contains no factual allegations. To the extent Paragraph 205 can be interpreted to contain factual allegations, Defendant denies Paragraph 205.

206. Defendant is not required to admit or deny Paragraph 206 of the Complaint because it contains no factual allegations. To the extent Paragraph 206 can be interpreted to contain factual allegations, Defendant denies Paragraph 206.

207. Defendant is not required to admit or deny Paragraph 207 of the Complaint because it contains no factual allegations. To the extent Paragraph 207 can be interpreted to contain factual allegations, Defendant denies Paragraph 207.

208. Defendant is not required to admit or deny Paragraph 208 of the Complaint because it contains no factual allegations. To the extent Paragraph 208 can be interpreted to contain factual allegations, Defendant denies Paragraph 208.

209. Defendant is not required to admit or deny Paragraph 209 of the Complaint because it contains no factual allegations. To the extent Paragraph 209 can be interpreted to contain factual allegations, Defendant denies Paragraph 209.

Facts

210. Defendant denies the allegations contained in Paragraph 210.

211. Defendant admits that registered New Mexico voters will have the opportunity to vote in a primary election for candidates in their respective political parties. Defendant further admits that the winner of the primary election for each office in each party will represent that party on the general election ballot. Defendant denies the remaining allegations contained in Paragraph 211.

212. Defendant is without sufficient information or knowledge to either admit or deny the allegations in Paragraph 212.

213. Defendant admits that New Mexico delegates to the Democratic and Republican national conventions pledge to cast their presidential primary votes in proportion to the votes

won by the candidates in the New Mexico primary voting. Defendant denies the remaining allegations in Paragraph 213.

214. Defendant is not required to admit or deny Paragraph 214 of the Complaint because it contains no factual allegations. To the extent Paragraph 214 can be interpreted to contain factual allegations, Defendant denies Paragraph 214 of the Complaint.

215. Defendant denies the allegations contained in Paragraph 215.

216. Defendant admits the allegations contained in Paragraph 216.

217. Defendant denies the allegations contained in Paragraph 217.

218. Defendant admits that the State of New Mexico will use machines or computers for counting votes cast by New Mexico voters in the 2008 primary and general elections. Defendant denies any remaining allegations contained in Paragraph 218.

219. Defendant denies the allegations contained in Paragraph 219.

220. Defendant admits that votes cast by New Mexico voters in the 2008 primary and general elections will not be hand-counted at each and every voting station in New Mexico. Defendant is without sufficient information to either admit or deny the remaining allegations contained in Paragraph 220.

221. Defendant denies the allegations contained in Paragraph 221.

222. Defendant admits that the votes cast by New Mexico voters in the 2008 primary and general elections will not be publicly announced at every voting station before the ballots are removed from the polling place. Defendant however, states that upon completion of the certificate of returns, the presiding judge shall deliver all returns to the county clerk on election night with the exception of the one legible copy from each voting machine posted on the outside

of the entrance door to the polling place. Defendant is without sufficient information to either admit or deny the remaining allegations contained in Paragraph 222.

223. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 223.

224. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 224.

225. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 225.

226. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 226.

227. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 227.

**Plaintiffs' First Cause of Action:
Failure to Provide the Voters with a Verifiable
"Chain of Custody" and the Manual Allocation
and Counting of All Ballots in Full Public View,
at Each Voting Station, Before Those Ballots Are
Ever Removed from Public View Violates the
Voting Rights of Plaintiffs**

228. Defendant is not required to admit or deny Paragraph 228 of the Complaint because it contains no factual allegations. To the extent Paragraph 228 can be interpreted to contain factual allegations, Defendant denies Paragraph 228.

229. Defendant is not required to admit or deny Paragraph 229 of the Complaint because it contains no factual allegations. To the extent Paragraph 229 can be interpreted to contain factual allegations, Defendant denies Paragraph 229.

230. Defendant is not required to admit or deny Paragraph 230 of the Complaint because it contains no factual allegations. To the extent Paragraph 230 can be interpreted to contain factual allegations, Defendant denies Paragraph 230.

231. Defendant is not required to admit or deny Paragraph 231 of the Complaint because it contains no factual allegations. To the extent Paragraph 231 can be interpreted to contain factual allegations, Defendant denies Paragraph 231.

232. Defendant is not required to admit or deny Paragraph 232 of the Complaint because it contains no factual allegations. To the extent Paragraph 232 can be interpreted to contain factual allegations, Defendant denies Paragraph 232.

233. Defendant is not required to admit or deny Paragraph 233 of the Complaint because it contains no factual allegations. To the extent Paragraph 233 can be interpreted to contain factual allegations, Defendant denies Paragraph 233.

234. Defendant is not required to admit or deny Paragraph 234 of the Complaint because it contains no factual allegations. To the extent Paragraph 234 can be interpreted to contain factual allegations, Defendant denies Paragraph 234.

235. Defendant is not required to admit or deny Paragraph 235 of the Complaint because it contains no factual allegations. To the extent Paragraph 235 can be interpreted to contain factual allegations, Defendant denies Paragraph 235.

236. Defendant is not required to admit or deny Paragraph 236 of the Complaint because it contains no factual allegations. To the extent Paragraph 236 can be interpreted to contain factual allegations, Defendant denies Paragraph 236.

237. Defendant is not required to admit or deny Paragraph 237 of the Complaint because it contains no factual allegations. To the extent Paragraph 237 can be interpreted to contain factual allegations, Defendant denies Paragraph 237.

238. Defendant is not required to admit or deny Paragraph 238 of the Complaint because it contains no factual allegations. To the extent Paragraph 238 can be interpreted to contain factual allegations, Defendant denies Paragraph 238.

239. Defendant is not required to admit or deny Paragraph 239 of the Complaint because it contains no factual allegations. To the extent Paragraph 239 can be interpreted to contain factual allegations, Defendant denies Paragraph 239.

240. Defendant is not required to admit or deny Paragraph 240 of the Complaint because it contains no factual allegations. To the extent Paragraph 240 can be interpreted to contain factual allegations, Defendant denies Paragraph 240.

241. Defendant is not required to admit or deny Paragraph 241 of the Complaint because it contains no factual allegations. To the extent Paragraph 241 can be interpreted to contain factual allegations, Defendant denies Paragraph 241.

242. Defendant is not required to admit or deny Paragraph 242 of the Complaint because it contains no factual allegations. To the extent Paragraph 242 can be interpreted to contain factual allegations, Defendant denies Paragraph 242.

243. Defendant is not required to admit or deny Paragraph 243 of the Complaint because it contains no factual allegations. To the extent Paragraph 243 can be interpreted to contain factual allegations, Defendant denies Paragraph 243.

244. Defendant is not required to admit or deny Paragraph 244 of the Complaint because it contains no factual allegations. To the extent Paragraph 244 can be interpreted to contain factual allegations, Defendant denies Paragraph 244.

245. Defendant is not required to admit or deny Paragraph 245 of the Complaint because it contains no factual allegations. To the extent Paragraph 245 can be interpreted to contain factual allegations, Defendant denies Paragraph 245.

246. Defendant is not required to admit or deny Paragraph 246 of the Complaint because it contains no factual allegations. To the extent Paragraph 246 can be interpreted to contain factual allegations, Defendant denies Paragraph 246.

247. Defendant is not required to admit or deny Paragraph 247 of the Complaint because it contains no factual allegations. To the extent Paragraph 247 can be interpreted to contain factual allegations, Defendant denies Paragraph 247.

248. Defendant is not required to admit or deny Paragraph 248 of the Complaint because it contains no factual allegations. To the extent Paragraph 248 can be interpreted to contain factual allegations, Defendant denies Paragraph 248.

249. Defendant is not required to admit or deny Paragraph 249 of the Complaint because it contains no factual allegations. To the extent Paragraph 249 can be interpreted to contain factual allegations, Defendant denies Paragraph 249.

250. Defendant is not required to admit or deny Paragraph 250 of the Complaint because it contains no factual allegations. To the extent Paragraph 250 can be interpreted to contain factual allegations, Defendant denies Paragraph 250.

251. Defendant is not required to admit or deny Paragraph 251 of the Complaint because it contains no factual allegations. To the extent Paragraph 251 can be interpreted to contain factual allegations, Defendant denies Paragraph 251.

**Plaintiffs' Second Cause of Action:
Failure to Provide the Voters with a Verifiable
"Chain of Custody" and the Manual Allocation
and Counting of All Ballots in Full Public View,
at Each Voting Station, Before Those Ballots Are
Ever Removed from Public View Violates the
Contract Rights of Plaintiffs**

252. Defendant is not required to admit or deny Paragraph 252 of the Complaint because it contains no factual allegations. To the extent Paragraph 252 can be interpreted to contain factual allegations, Defendant denies Paragraph 252.

253. Defendant is not required to admit or deny Paragraph 253 of the Complaint because it contains no factual allegations. To the extent Paragraph 253 can be interpreted to contain factual allegations, Defendant denies Paragraph 253.

254. Defendant is not required to admit or deny Paragraph 254 of the Complaint because it contains no factual allegations. To the extent Paragraph 254 can be interpreted to contain factual allegations, Defendant denies Paragraph 254.

255. Defendant admits the allegations contained in Paragraph 255.

256. Defendant is not required to admit or deny Paragraph 256 of the Complaint because it contains no factual allegations. To the extent Paragraph 256 can be interpreted to contain factual allegations, Defendant denies Paragraph 256.

257. Defendant is not required to admit or deny Paragraph 257 of the Complaint because it contains no factual allegations. To the extent Paragraph 257 can be interpreted to contain factual allegations, Defendant denies Paragraph 257.

258. Defendant is not required to admit or deny Paragraph 258 of the Complaint because it contains no factual allegations. To the extent Paragraph 258 can be interpreted to contain factual allegations, Defendant denies Paragraph 258.

259. Defendant is without sufficient information to either admit or deny the allegations contained in Paragraph 259.

260. Defendant admits that voters in New Mexico do not have access to the actual ballots used in primary or general election voting until after the voting results have been publicly announced. Defendant denies the remaining allegations contained in Paragraph 260.

261. Defendant is not required to admit or deny Paragraph 261 of the Complaint because it contains no factual allegations. To the extent Paragraph 261 can be interpreted to contain factual allegations, Defendant denies Paragraph 261.

262. Defendant is not required to admit or deny Paragraph 262 of the Complaint because it contains no factual allegations. To the extent Paragraph 262 can be interpreted to contain factual allegations, Defendant denies Paragraph 262.

Conclusion

263. Defendant is not required to admit or deny Paragraph 263 of the Complaint because it contains no factual allegations. To the extent Paragraph 263 can be interpreted to contain factual allegations, Defendant denies Paragraph 263.

264. Defendant denies the allegations contained in Paragraph 264.

265. Defendant denies the allegations contained in Paragraph 265.

266. Defendant denies that the voting equipment that will be used in New Mexico in the 2008 primary and general elections is deficient or inaccurate. Defendant further denies that the voting procedures to be used in New Mexico in the 2008 primary and general elections are

deficient and invite fraud and corruption. Defendant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 266.

267. Defendant is not required to admit or deny Paragraph 267 of the Complaint because it contains no factual allegations. To the extent Paragraph 267 can be interpreted to contain factual allegations, Defendant denies Paragraph 267.

II. AFFIRMATIVE DEFENSES

268. Plaintiffs' claims fail, in whole or in part, due to lack of consideration.

269. Plaintiffs' claims fail, in whole or in part, due to failure of consideration.

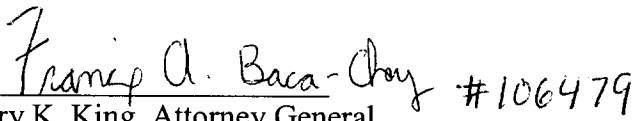
270. Plaintiffs' claims fail, in whole or in part, due to lack of mutual assent.

271. Plaintiffs' lack standing to bring this claim.

272. Plaintiffs' cannot bring forth this action because of the doctrine of Sovereign Immunity.

DATE: November 21, 2007

Respectfully submitted,


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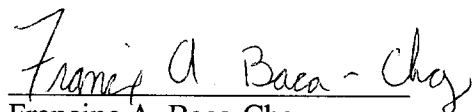
*Attorneys for Defendant
Mary Herrera*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served on the following parties via certified mail, return receipt requested on November 21, 2007.

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Assistant Attorney General NY State
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