

United States District Court
Eastern District of Arkansas
Western Division

Dr. Julius J. Larry, III, et al.

Plaintiff

v.

Case No. 4:18-cv-116-KGB

State of Arkansas, et al.

Defendants

**Motion to Dismiss on Behalf of
Jeremy Gillam in his Official Capacity**

Comes Defendant Jeremy Gillam in his official capacity as a member of the House of Representatives for the State of Arkansas and for his Motion to Dismiss Plaintiff's pleading entitled "Request for Three Judge Panel to Chief U.S. District Judge Brian S. Miller and Temporary Restraining Order Instante with Memorandum of Points and Authorities" [D.E. 1] states:

1. Representative Gillam adopts and incorporates as equally applicable to him by reference the Arkansas Defendants' Motion to Dismiss [D.E. 7] and Brief in Support [D.E. 8] as allowed by Federal Rule of Civil Procedure 10(c).

2. Accordingly, Representative Gillam joins in Arkansas Defendants' request that the Court dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of standing.

3. Representative Gillam also raises the defenses of insufficient service and insufficient service of process pursuant to Federal Rule of Civil Procedure 12(b)(4) and 12(b)(5) as neither he nor "the Arkansas Legislature" has been properly served with the Summons or Plaintiff's initial pleading [D.E. 1].

4. The “Arkansas Legislature, in their Official Capacities” is not a juridical entity capable of being sued and even assuming for the sake of argument one could bring such a lawsuit, the Arkansas Legislature should be dismissed for insufficient service and insufficient service of process because Plaintiff is cannot serve the entire Arkansas Legislature through one member of the House of Representatives.

WHEREFORE, Representative Gillam respectfully requests the Court dismiss the Plaintiff’s Complaint in its entirety and grant him all other relief to which he is entitled.

Respectfully submitted,

LESLIE RUTLEDGE
Attorney General

By: /s/ Brett W. Taylor
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Attorneys for Defendants

Certificate of Service

I Brett W. Taylor, hereby certify that on March 5, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

I Brett W. Taylor, hereby certify that on March 5, 2018, I mailed the foregoing document by U.S. Postal Service to the following non-CM/ECF participant:

Julius J. Larry, III
2615 West 12th St.
Little Rock, Arkansas 72202

/s/ Brett W. Taylor