

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF ARKANSAS
WESTERN (LITTLE ROCK) DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAR 23 2018

JAMES W. MCCORMACK, CLERK
By: _____
DEP. CLERK

PLAINTIFF

Dr. JULIUS J. LARRY III

VS.

NO. 4:18-CV-116-KGB

STATE OF ARKANSAS;
HONORABLE ASA HUTCHINSON,
In his Official Capacity as Governor
of the State of Arkansas; HONORABLE
LESLIE RUTLEDGE, in her Official
Capacity as Attorney General of the
State of Arkansas; HONORABLE
MARK MARTIN, in his official capacity
as Arkansas Secretary of State

DEFENDANTS

**DEFENDANT ARKANSAS SECRETARY OF STATE MARK MARTIN'S
RESPONSE TO PLAINTIFF'S SUPPLEMENTAL REQUEST**

COMES NOW, Defendant, Honorable Mark Martin, ("Defendant Secretary"), in his official capacity as Arkansas Secretary of State, and for his Response to Plaintiff's Supplemental Request, and states:

Defendant Secretary denies each and every factual allegation made by Plaintiff.

Dismissal of this case is proper because the Court lacks subject matter jurisdiction over Defendant Secretary. Fed. R. Civ. P. 12(b)(1). Furthermore, Plaintiff lacks standing for lack of injury, as he does not live in the disputed congressional district. *United States v. Hays*, 515 U.S. 737, 745 (1995). Pro se plaintiffs must still satisfy the court's jurisdictional requirements. *Trevino v. United States*, 113 Fed. Cl. 204, 208 (2013), aff'd, 557 F. App'x 995 (Fed. Cir. 2014).

Pro Se Plaintiff's cannot represent others. *Chase v. City of Earle, Arkansas*, No. 3:09CV00167, 2010 WL 1658610, at *2 (E.D. Ark. Apr. 21, 2010) (citing *Stewart v. Hall*, 129 S.W.2d 238 (Ark. 1939)). Plaintiff Julius Larry's attempt to represent others is unauthorized practice of law and results in a nullity. *Chase Id.* (citing *Jones ex rel. Jones v. Correctional Medical Services*, 401 F.3d 950, 952 (8th Cir. 2005)); (see also *Henson v. Craddock*, 2017 Ark. 317).

Plaintiff is attempting to make this a class action case represented by pro se parties. The general principle is that non-lawyers cannot represent others. *Jones*, 401 F.3d at 952; see also *Telford v. Dep't of Hous. & Urban Dev.*, 3:16-CV-03033-RAL (D.S.D. May 1, 2017) (citing Restatement (Third) of the Law Governing Lawyers § 4 cmt. D (2000) ("in general, however, a person appearing pro se cannot represent any other person or entity ...")).

It is too late to amend the Complaint and Request for a three-judge panel. As the Eighth Circuit has said, an appointment of an attorney at this point cannot cure the complaint of its original defect. *Davenport v. Lee*, 348 Ark. 148, 155, 72 S.W.3d 85, 88 (2002) (complaint was a nullity due to absence of counsel and unauthorized practice of law); *Jones*, 401 F.3d at 952.

WHEREFORE, and for the foregoing reasons, Defendant Secretary of State Mark Martin, in his official capacity, prays that the Court deny Plaintiff any of the relief requested against Defendant Secretary; that the Court deny Plaintiff's Supplemental Request for a three judge panel; that the Court dismiss Plaintiff's Complaint against Defendant Secretary of State; that the Court deny Plaintiff's requests for declaratory, preliminary, and injunctive relief; that the Court deny any of Plaintiff's requests for fees, costs, or expenses; that the Court grant Defendant Secretary such additional relief to which he may be entitled under the circumstances


Respectfully submitted this 23rd day of March, 2018.

HONORABLE MARK MARTIN
ARKANSAS SECRETARY OF STATE
In his Official Capacity, Defendant

/s/ AJ Kelly

By: _____
A.J. Kelly
General Counsel and
Deputy Secretary of State
AB No. 92078
PO Box 251570
Little Rock, AR 72225-1570
(501) 682-3401
Fax: (501) 682-1213
kellylawfedecf@aol.com

And

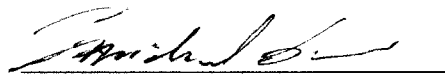
By:  _____
Michael Fincher
Associate General Counsel
Arkansas Secretary of State
AB No. 2016037
500 Woodlane St., Ste 256
Little Rock, AR 72201
(501) 682-3401
Fax: (501) 682-1213

*Attorneys for Defendant
Arkansas Secretary of State*

CERTIFICATE OF SERVICE

I do hereby certify that on this 23rd day of March, 2018, I have served the foregoing via the electronic filing system in the Federal District Court Clerk's Office (CM/ECF) to the Attorney General and the Assistant Attorney General who has entered his appearance, and via first class mail to the following:

Dr. Julius J. Larry III
2615 W.12th Street
Little Rock, AR 72202

A handwritten signature in black ink, appearing to read "Michael Fincher", is written over a horizontal line.

Michael Fincher