

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

GET LOUD ARKANSAS; VOTE.ORG;
NIKKI PASTOR; and TRINITY “BLAKE”
LOPER,

Plaintiffs,

v.

JOHN THURSTON; SHARON BROOKS;
JAMIE CLEMMER; BILENDA HARRIS-
RITTER; WILLIAM LUTHER; JAMES
HARMON SMITH, III; and JOHNATHAN
WILLIAMS, in their official capacities as
Commissioners of the Arkansas State Board
of Election Commissioners; BETSY
HARRELL, in her official capacity as
Benton County Clerk; BECKY
LEWALLEN, in her official capacity as
Washington County Clerk; and TERRI
HOLLINGSWORTH, in her official
capacity as Pulaski County Clerk,

Defendants.

Civil Action

Case No. 5:24-cv-05121-TLB

**SUPPLEMENTAL COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. On June 5, 2024, Plaintiffs Get Loud Arkansas (“GLA”), Vote.org (“VDO”), Nikki Pastor, and Blake Loper filed the operative Complaint in this action. Compl., ECF No. 2 (“Compl.”). Plaintiffs sued the individual members of the Arkansas State Board of Election Commissioners (“SBEC”), as well as the county clerks of Benton, Pulaski, and Washington Counties, seeking declaratory and injunctive relief against enforcement of any requirement that mail voter registration applications be signed with a wet signature (“wet signature requirement”). See Compl. at 24.

2. Subsequent to the filing of the operative June 5 Complaint, the SBEC promulgated a permanent rule that requires all county clerks to reject mail voter registration applications that are not signed with a wet signature.¹

3. The Arkansas Legislative Council’s Rules Subcommittee approved the permanent rule on August 22, 2024.

4. The full Arkansas Legislative Council approved the permanent wet signature rule on August 23, 2024. The permanent rule becomes effective on or around September 1, 2024.

5. Plaintiffs file this Supplemental Complaint under Federal Rule of Civil Procedure 15(d) to provide additional allegations regarding “events that have happened since the filing of the” operative Complaint, 6A Charles Alan Wright & Arthur R. Miller, *Fed. Prac. & Proc. Civ.* § 1504 (3d ed. 2024), namely the SBEC rulemaking process that promulgated a permanent wet signature requirement.²

¹ The SBEC initially adopted a wet signature requirement in April 2024 as an emergency rule, which was approved by the Arkansas Legislative Council’s Executive Subcommittee on May 2, and took effect on May 4. The emergency rule expires on September 1, 2024. *See* Compl. ¶¶ 57, 61; *accord* Answer of SBEC Defendants, ECF No. 44 ¶¶ 57, 61.

² Rule 15(d) “permit[s] a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.” Naturally, such a pleading supplements the operative complaint, and does not supplant it. *See* 6A Wright & Miller, *Fed. Prac. & Proc. Civ.* § 1504 (3d ed. 2024); *see also e.g., Trevino v. Kelly*, 245 F. Supp. 3d 935, 943 (E.D. Mich. 2017) (a supplemental complaint “does not supersede—or replace—the original complaint”); *Victor v. Varano*, No. 3:11-CV-891, 2012 WL 2367095, at *6 (M.D. Pa. June 21, 2012) (“A ‘supplemental’ complaint under Rule 15(d) is a document that does not replace an extant pleading.”); *Ducote Jax Holdings, L.L.C. v. Bradley*, No. CIV A 04-1943, 2006 WL 3313716, at *4 (E.D. La. Nov. 14, 2006) (a “[supplemental] pleading does not replace prior complaints, but only adds allegations to those already asserted”).

SUPPLEMENTAL ALLEGATIONS

I. The SBEC issues a permanent wet signature rule.

6. On June 12, 2024, the SBEC announced that it would begin the rulemaking process to impose a wet signature requirement for mail voter registration applications on a permanent basis. The text of the proposed permanent rule is identical to that of the emergency rule. *See also* Compl. ¶¶ 57–60.

7. The SBEC held a comment period on the proposed permanent rule from June 14 to July 14, 2024. During the public comment period, the SBEC received over 200 written comments on the proposed permanent rule.

8. The SBEC also held a public comment hearing on July 11, 2024. At that hearing, approximately 16 speakers commented on the proposed rule.

9. Of the 200 written public comments, only eight (8) comments supported the wet signature rule. None of the 16 speakers at the public comment hearing spoke in favor of the rule, and all other commenters opposed the wet signature rule.

10. On July 15, 2024, SBEC Director Chris Madison issued a letter to SBEC Chairman (and Secretary of State) John Thurston summarizing the public comments on the proposed rule and providing the SBEC's responses to those comments. *See* Letter from Richard Chris Madison to John Thurston (July 15, 2024), ECF No. 53-1.

11. Director Madison's 12-page letter contained only two sentences summarizing public comments in favor of the wet signature: "This category of commentators generally stated that wet signatures provide greater security in the election process and help to prevent fraudulent voting practices. These commentators supported adoption of the Rule." *Id.* at 2. The letter contains no further details or explanation as to how a wet signature serves such purposes.

12. In contrast to the handful of statements in favor of the rule, Director Madison's letter detailed the voluminous opposition, which included comments: (a) supporting adoption of online voter registration systems; (b) arguing that reliance on wet signatures is outdated in an era when electronic signatures are ubiquitous; (c) stating that electronic signatures are permitted by Arkansas law; and (d) explaining that low voter registration and turn-out rates in Arkansas warranted greater registration options. *Id.*

13. Director Madison's letter provided only brief responses to the battery of comments from the public opposing the rule. It argued that the use of electronic signatures "created an unfair and non-uniform application process for applicants," but failed to explain these claims. *Id.* at 3–4. It further suggested that the SBEC believed civic organizations, like GLA and VDO, were seeking to operate third-party voter registration systems, *see, e.g., id.* at 10–11, even though both organizations merely offer online tools that assist applicants in filling in—and submitting to the appropriate election officials—the mail voter registration application form created by the Secretary of State. For the most part, the SBEC did not offer direct responses to the range of concerns raised in the public comments.

14. On July 15, 2024, the same day Director Madison issued his letter, the SBEC met to discuss the public comments to the proposed permanent rule and to vote on the measure. The SBEC voted to approve the rule and submitted it to the Arkansas Legislative Council for final consideration and approval.

15. On August 22, 2024, the Arkansas Legislative Council's Rules Subcommittee approved the permanent rule, which the Arkansas Legislative Council itself approved the next day, August 23.

16. As a result, the permanent rule was slated to take effect on or around September 1, 2024, the same day that the emergency rule expires.

CLAIM FOR RELIEF

COUNT I

Materiality Provision of the Civil Rights Act of 1964 52 U.S.C. § 10101(a)(2)(B); 42 U.S.C. §§ 1983, 1988; 28 U.S.C. §§ 2201, 2202

17. Plaintiffs incorporate paragraphs one through 16 above as if set forth fully herein.

18. Plaintiffs re-allege and incorporate by reference paragraphs 22 through 91 of the operative Complaint as if set forth fully herein. Compl. ¶¶ 22–91.

19. The permanent wet signature rule, as well as any other requirement that applicants in Arkansas sign their voter registration applications by hand or with a wet signature, violates the materiality provision of the Civil Rights Act of 1964.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court issue the relief requested in Plaintiffs' operative Complaint, *see* Compl. at 24–25, including that the Court:

- (a) Declare that the permanent wet signature rule, and any other requirement that applicants sign their voter registration applications by hand or with a wet signature, violates the materiality provision of the Civil Rights Act of 1964;
- (b) Enjoin Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing the permanent wet signature rule, or any other requirement that applicants sign their voter registration applications by hand or with a wet signature;
- (c) Enjoin Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from rejecting or refusing to accept a voter registration application on the grounds that the application contains an electronic or digital signature;
- (d) Award Plaintiffs their costs, expenses, and reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, and any other applicable law.
- (e) Grant Plaintiffs any such other, different, or further relief as this Court deems just and proper.

Dated: August 30, 2024

Respectfully submitted,

/s/ Uzoma N. Nkwonta

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 30th day of August, 2024, with a copy of this document via the Court's CM/ECF system.

/s/ Uzoma N. Nkwonta
Uzoma N. Nkwonta

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