

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CITIZENS FOR EQUAL PROTECTION,
etc., et al.,

Plaintiffs,

v.

ATTORNEY GENERAL JON BRUNING,
in his official capacity, GOVERNOR
MICHAEL O. JOHANNNS, in his official
capacity,

Defendants.

CASE NO. 4:03CV3155

DEFENDANTS' ANSWER

Defendants, for their Answer to Plaintiffs' Complaint filed herein, admit, deny and allege as follows:

1. As to paragraph 1 of the Complaint, Defendants allege that no answer is required to said paragraph inasmuch as there are no charging allegations directed to the Defendants. To the extent an answer is required, Defendants deny said allegations.

2. As to paragraph 2 of the Complaint, Defendants admit that Section 29 contains the quoted language, but deny, generally and specifically, each, all, and every remaining allegation contained in said paragraph.

3. As to paragraph 3 of the complaint, Defendants deny, generally and specifically, each, all, and every allegation contained therein.

4.-7. As to paragraphs 4 through 7 of the Complaint, Defendants allege that the allegations contained therein are legal conclusions solely within the purview of the Court and for its determination. Therefore, no answer is required. To the extent an answer is required, said allegations are denied.

8.-10. As to paragraphs 8 through 10 of the Complaint, Defendants state that they are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein contained. Defendants, therefore, deny generally and specifically each, all and every allegation contained in said paragraphs.

11.-13. As to paragraphs 11 through 13 of the Complaint, Defendants admit the substantial truth of the allegations contained in said paragraphs.

14. As to paragraph 14 of the Complaint, Defendants state that they are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein contained. Defendants, therefore, deny generally and specifically each, all and every allegation contained in said paragraph.

15.-17. As to paragraphs 15 through 17 of the Complaint, Defendants deny, generally and specifically, each, all and every allegation contained in said paragraphs.

18. As to paragraph 18 of the Complaint, Defendants admit that a bill was proposed to the Nebraska Legislature addressing the alleged subject matter and that an Attorney General's opinion was issued containing the quoted language set forth in the Complaint. Defendants deny, generally and specifically, each, all and every remaining allegation contained in said paragraph.

19. As to paragraph 19 of the Complaint, Defendants deny, generally and specifically, each, all and every allegation contained therein.

20.-24. As to paragraphs 20 through 24 of the Complaint, Defendants state that they are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations therein contained. Defendants, therefore, deny generally and specifically each, all and every allegation contained in said paragraphs.

25. As to paragraph 25 of the Complaint, Defendants allege that the allegations contained therein are legal conclusions solely within the purview of the Court and for its determination, and no answer is therefore required. To the extent an answer is required, said allegations are denied.

26. As to paragraph 26 of the Complaint, Defendants reallege the above paragraphs 1-25 of their Answer and, by this reference, incorporate them herein as though set forth in full.

27.-30. As to paragraphs 27 through 30 of the Complaint, Defendants deny, generally and specifically, each, all and every allegation contained in said paragraphs.

31. As to paragraph 31 of the Complaint, Defendants reallege the above paragraphs 1-30 of their Answer and, by this reference, incorporate them herein as though set forth in full.

32.-38. As to paragraphs 32 through 38 of the Complaint, Defendants deny, generally and specifically, each, all and every allegation contained in said paragraphs.

39. Defendants deny all allegations of the Complaint not specifically admitted herein, except for those allegations which may be against Plaintiffs' interest.

FIRST AFFIRMATIVE DEFENSE

40. The Court lacks jurisdiction over the subject matter of Plaintiffs' claims because Plaintiffs have no standing to challenge the constitutionality of Neb. Const. art. I, § 29 and/or there is no justiciable case or controversy before the Court because any purported future injury to Plaintiffs is not ripe for adjudication.

SECOND AFFIRMATIVE DEFENSE

41. The Complaint fails to state a claim against any Defendant upon which relief can be granted.

WHEREFORE, Defendants pray for judgment in their favor on Plaintiffs' claims against them, for dismissal of Plaintiffs' action with prejudice and for award to Defendants of their reasonable costs and attorney fees incurred in defending against Plaintiffs' action.

DATED this 19th day of November, 2003.

ATTORNEY GENERAL JON BRUNING,
in his official capacity, and GOVERNOR
MICHAEL O. JOHANNNS, in his official
capacity, Defendants,

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CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2003, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Matt McNair, Robert F. Bartle, David S. Buckle, Fred B. Chase, Tamara Lange, and Amy Miller, and I hereby certify that I have mailed by United State Mail the document to the following non CM/ECF participant:

James D. Esseks
ACLU FOUNDATION
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s/Matt McNair
Matt McNair
Deputy Attorney General