

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
DR. ANDREA WESLEY; DR. JOSEPH
WESLEY; ROBERT EVANS; GARY
FREDERICKS; PAMELA HAMMER
BARBARA FINN; OTHO BARNES;
SHIRLINDA ROBERTSON; SANDRA
SMITH; DEBORAH HULITT; RODESTA
TUMBLIN; DR. KIA JONES; ANGELA
GRAYSON; MARCELEAN ARRINGTON;
VICTORIA ROBERTSON**

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:22-cv-734-DPJ-HSO-LHS

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, *in his
official capacity as Governor of Mississippi;*
LYNN FITCH, *in her official capacity as
Attorney General of Mississippi;* MICHAEL
WATSON, *in his official capacity as Secretary
of State of Mississippi***

DEFENDANTS

AND

**MISSISSIPPI REPUBLICAN
EXECUTIVE COMMITTEE**

INTERVENOR-DEFENDANT

**DEFENDANTS' RESPONSE IN OPPOSITION
TO PLAINTIFFS' MOTION FOR JUDICIAL NOTICE**

Defendants State Board of Election Commissioners, Governor Tate Reeves, Attorney General Lynn Fitch, and Secretary of State Michael Watson (collectively, "Defendants") respectfully request that this Court deny Plaintiffs' Motion for Judicial Notice.

1. Plaintiffs seek judicial notice of non-adjudicative facts relating to special elections and alleged facts about planning and development districts that are not generally known within the Court's jurisdiction. [Dkt. # 197].

2. Plaintiffs are not entitled to a remedy and any facts in relation to a remedy are not adjudicative. *See* Advisory Committee Notes to FED. R. EVID. 201(b). The alleged facts in relation to special elections are non-adjudicative because they are not relevant to Plaintiffs' challenge to Mississippi's 2022 redistricting plans for the State Senate and State House. Further, the merits of Plaintiffs' claims have not been adjudicated. *See Dr. Orly Taitz, Esq. v. Democrat Party of Mississippi*, No. 3:12-CV-280-HTW, 2015 WL 11005020, at *14 (S.D. Miss. Mar. 31, 2015).

3. The facts Plaintiffs seek to admit as to the planning and development districts are inappropriate for judicial notice as they are not generally known within the Court's jurisdiction. *See* FED. R. EVID. 201(b)(1). Planning and development districts were created "to 'designate and recognize' certain geographic areas and jurisdictions as Districts having the functions of both economic development districts and planning commission districts. MS AG Op., *Noble* (Nov. 29, 1983) (quoting Executive Order No. 81). Each district was "created as a non-profit corporation under the Mississippi non-profit corporation law." *Id.*

4. Because the alleged facts about the planning and development districts are not generally known within the Court's jurisdiction and the facts relating to special elections are non-adjudicative, the requested facts are not judicially noticeable under Federal Rule of Evidence 201.

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully request the Court deny Plaintiffs' Motion for Judicial Notice.

THIS the 24th day of February, 2024.

Respectfully submitted,

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI; LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI; MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE, DEFENDANTS

By: /s/ Tommie S. Cardin
Tommie S. Cardin (MB #5863)
ONE OF THEIR COUNSEL

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Tommie S. Cardin, one of the attorneys for the Defendants, do hereby certify that I have this day filed the above and foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

This the 24th day of February, 2024.

/s/ Tommie S. Cardin

Tommie S. Cardin

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