

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

AUDREY DOE, ET AL

VERSUS

BOBBY JINDAL, ET AL

* **CIVIL ACTION**
*
* **No. 11-388 “F” (5)**
*
* **JUDGE FELDMAN**
*
* **MAG. JUDGE CHASEZ**

ANSWER

NOW INTO COURT, through undersigned counsel, come defendants James D. “Buddy” Caldwell, in his official capacity as Attorney General of the State of Louisiana, James M. LeBlanc, in his official capacity as Secretary of the Louisiana Department of Public Safety and Corrections (DPSC), Colonel Michael D. Edmonson, in his official capacity as Superintendent of the DPSC, Office of State Police, Charles Dupuy, in his official capacity as Deputy Superintendent of the DPSC, Office of State Police, Eugenie C. Powers, in her official capacity as Director of the DPSC, Division of Probation and Parole, Barry Matheny, in his official capacity as Assistant Director of the DPSC, Division of Probation and Parole, and Nick Gautreaux, in his official capacity as Commissioner of the DPSC, Office of Motor Vehicles, respectfully submitting the following Affirmative Defenses and Answer to plaintiffs’ complaint.

AFFIRMATIVE DEFENSES

I. Sovereign Immunity

Respondents affirmatively aver that this Court lacks subject matter jurisdiction over the claims asserted in the Complaint on the grounds that respondents are state officials sued in their official capacity and are therefore entitled to sovereign immunity from suit based on the Eleventh Amendment to the United States Constitution.

II. Separation of Powers

Respondents affirmatively aver that the laws made the subject of the Complaint are constitutional, and, as executive branch officials, respondents lack the authority to cease enforcement of said laws absent an act of the Legislature.

III. Real parties in interest.

Respondents affirmatively aver that plaintiffs have neither a statutory nor constitutional right to proceed anonymously in this case, and that the Complaint must be dismissed unless plaintiffs amend the Complaint to identify the real parties in interest.

IV. Standing

Respondents affirmatively aver that plaintiffs lack standing to assert the claims set forth in the Complaint.

ANSWER

AND NOW, IN ANSWER TO THE COMPLAINT:

The allegations set forth in footnote 1 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in Footnote 1 of the Complaint.

NATURE OF ACTION

1. The allegations set forth in paragraph 1 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 1 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
2. The allegations set forth in paragraph 2 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 2 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
3. The allegations set forth in paragraph 3 of the Complaint are conclusions of law that require no answer of respondents.
4. The allegations set forth in paragraph 4 of the Complaint are conclusions of law that require no answer of respondents.
5. The allegations set forth in paragraph 5 of the Complaint are conclusions of law that require no answer of respondents.
6. The allegations set forth in paragraph 6 of the Complaint are conclusions of law that require no answer of respondents.
7. The allegations set forth in paragraph 7 of the Complaint are conclusions of law that require no answer of respondents.
8. The allegations set forth in paragraph 8 of the Complaint are conclusions of law that require no answer of respondents.
9. Respondents deny the allegations set forth in paragraph 9 of the Complaint.

10. Respondents deny the allegations set forth in paragraph 10 of the Complaint.
11. Respondents deny the allegations set forth in paragraph 11 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
12. The allegations set forth in paragraph 12 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 12 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
13. Respondents deny the allegations set forth in paragraph 13 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
14. Respondents deny the allegations set forth in paragraph 14 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
15. Respondents deny the allegations set forth in paragraph 15 of the Complaint.
16. The allegations set forth in paragraph 16 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 16 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
17. Respondents deny the allegations set forth in paragraph 17 of the Complaint.
18. Respondents deny that plaintiffs are entitled to the relief sought in paragraph 18 of the Complaint.

JURISDICTION AND VENUE

19. Respondents admit that plaintiffs seek relief pursuant to 42 U.S.C. § 1983 under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Respondents deny that plaintiffs seek the remaining relief set forth in paragraph 19 of the Complaint based on the Court's dismissal of said claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

20. Respondents deny the allegations set forth in Paragraph 20 of the Complaint.

21. Respondents deny the allegations set forth in Paragraph 21 of the Complaint.

PARTIES

22. Respondents deny the allegations set forth in paragraph 22 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.

23. Respondents admit that Bobby Jindal is the Governor of the State of Louisiana. Respondents deny that Governor Jindal is a defendant in these proceedings, and that Governor Jindal is being sued. The remaining allegations set forth in paragraph 23 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 23 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.

24. Respondents admit that James D. "Buddy" Caldwell is the Attorney General of the State of Louisiana, that Attorney General Caldwell is a defendant herein, and that he is sued only in his official capacity. The remaining allegations set forth in paragraph 24 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 24 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.

25. Respondents admit that James M. Leblanc is the Secretary of the Louisiana Department of Public Safety and Corrections, that Secretary Leblanc is a defendant herein, and that Secretary Leblanc is sued in his official capacity. The remaining allegations set forth in paragraph 25 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 25 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.
26. Respondents admit that Colonel Michael D. Edmonson is the Superintendent of the DPSC Office of State Police, that Colonel Edmonson is a defendant herein, and that Colonel Edmonson is sued in his official capacity. The remaining allegations set forth in paragraph 26 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 26 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.
27. Respondents admit that Charles Dupuy is the Deputy Superintendent of the DPSC Office of State Police, that Mr. Dupuy is a defendant herein, and that Mr. Dupuy is sued in his official capacity. The remaining allegations set forth in paragraph 27 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 27 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.

28. Respondents admit that Eugenie C. Powers is the Director of the DPSC Division of Probation and Parole, that Ms. Powers is a defendant herein, and that Ms. Powers is sued in her official capacity. The remaining allegations set forth in paragraph 28 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 28 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.
29. Respondents admit that Barry Matheny is the Assistant Director of the DPSC, Division of Probation and Parole, that Mr. Matheny is a defendant herein, and that Mr. Matheny is sued in his official capacity. The remaining allegations set forth in paragraph 29 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 29 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.
30. Respondents admit that Nick Gautreaux is the Commissioner of the DPSC Office of Motor Vehicles, that Commissioner Gautreaux is a defendant herein, and that Commissioner Gautreaux is sued in his official capacity. The remaining allegations set forth in paragraph 30 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 30 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.

31. Respondents admit that Ronal W. Serpas is the Superintendent of the New Orleans Police Department, that Superintendent Serpas is a defendant herein, and that Superintendent Serpas is sued in his official capacity. The remaining allegations set forth in paragraph 31 of the Complaint contain conclusions of law that require no answer of respondents. To the extent that an answer to any other allegation set forth in paragraph 31 of the Complaint may be required, respondents deny such allegation for lack of sufficient information to justify a reasonable belief as to the truth thereof.

STATEMENT OF FACTS

32. The allegations set forth in paragraph 32 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 32 of the Complaint.
- 33 - 62. The allegations set forth in paragraphs 33 through 62, inclusive, of the Complaint contain conclusions of law and commentary that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraphs 33 through 62, inclusive, of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
- 63 - 120. The allegations set forth in paragraphs 63 through 120, inclusive, of the Complaint contain conclusions of law and commentary that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraphs 63 through 120, inclusive, of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.

121 - 125. Respondents deny the allegations set forth in paragraphs 121 through 125, inclusive, of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.

126 - 183. Respondents deny the allegations set forth in paragraphs 126 through 183, inclusive, of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.

FIRST CAUSE OF ACTION

(Fourteenth Amendment, Equal Protection)

184. Paragraph 184 of the Complaint is merely an incorporation by reference that requires no answer of respondents. To the extent that an answer may be required, respondents incorporate by reference each and every response set forth in the preceding paragraphs as if set forth fully herein.

185. Respondents admit that the Complaint seeks relief against all remaining defendants solely in their official capacities.

186. Respondents deny the allegations set forth in paragraph 186 of the Complaint.

187. Respondents deny the allegations set forth in paragraph 187 of the Complaint on the grounds that the phrase “[a]ll Defendants’ actions” is overly broad.

188. The allegations set forth in paragraph 188 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 188 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.

189. Respondents deny the allegations set forth in paragraph 189 of the Complaint.

SECOND, THIRD AND FOURTH CAUSES OF ACTION

Respondents deny the allegations set forth in paragraphs 190 through 207, inclusive, as the Court has dismissed the causes of action set forth therein pursuant to Rule 12 of the Federal Rules of Civil Procedure. Nevertheless, in an abundance of caution, respondents answer said allegations as follows:

190. Paragraph 190 of the Complaint is merely an incorporation by reference that requires no answer of respondents. To the extent that an answer may be required, respondents incorporate by reference each and every response set forth in the preceding paragraphs as if set forth fully herein.
191. Respondents admit that the Complaint seeks relief against all remaining defendants solely in their official capacities.
192. Respondents deny the allegations set forth in paragraph 192 of the Complaint.
193. Respondents deny the allegations set forth in paragraph 193 of the Complaint on the grounds that the phrase “[a]ll Defendants’ actions” is overly broad.
194. The allegations set forth in paragraph 194 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 194 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
195. Respondents deny the allegations set forth in paragraph 195 of the Complaint.
196. Paragraph 196 of the Complaint is merely an incorporation by reference that requires no answer of respondents. To the extent that an answer may be required, respondents

incorporate by reference each and every response set forth in the preceding paragraphs as if set forth fully herein.

197. Respondents admit that the Complaint seeks relief against all remaining defendants solely in their official capacities.
198. Respondents deny the allegations set forth in paragraph 198 of the Complaint.
199. Respondents deny the allegations set forth in paragraph 199 of the Complaint on the grounds that the phrase “[a]ll Defendants’ actions” is overly broad.
200. The allegations set forth in paragraph 200 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 200 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
201. Respondents deny the allegations set forth in paragraph 201 of the Complaint.
202. Paragraph 202 of the Complaint is merely an incorporation by reference that requires no answer of respondents. To the extent that an answer may be required, respondents incorporate by reference each and every response set forth in the preceding paragraphs as if set forth fully herein.
203. Respondents admit that the Complaint seeks relief against all remaining defendants solely in their official capacities.
204. Respondents deny the allegations set forth in paragraph 204 of the Complaint.
205. Respondents deny the allegations set forth in paragraph 205 of the Complaint on the grounds that the phrase “[a]ll Defendants’ actions” is overly broad.

206. The allegations set forth in paragraph 206 of the Complaint contain conclusions of law that require no answer of respondents. Respondents deny the remaining allegations set forth in paragraph 206 of the Complaint for lack of sufficient information to justify a reasonable belief as to the truth thereof.
207. Respondents deny the allegations set forth in paragraph 207 of the Complaint.

PRAYER FOR RELIEF

Respondents deny that plaintiffs are entitled to any relief prayed for in the Complaint.

WHEREFORE, defendants James D. “Buddy” Caldwell, in his official capacity as Attorney General of the State of Louisiana, James M. LeBlanc, in his official capacity as Secretary of the Louisiana Department of Public Safety and Corrections (DPSC), Colonel Michael D. Edmonson, in his official capacity as Superintendent of the DPSC, Office of State Police, Charles Dupuy, in his official capacity as Deputy Superintendent of the DPSC, Office of State Police, Eugenie C. Powers, in her official capacity as Director of the DPSC, Division of Probation and Parole, Barry Matheny, in his official capacity as Assistant Director of the DPSC, Division of Probation and Parole, and Nick Gautreaux, in his official capacity as Commissioner of the DPSC, Office of Motor Vehicles, pray that this answer be deemed good and sufficient and that, after a full hearing on the merits, judgment be entered in favor of the defendants and against the plaintiffs.

Respectfully submitted,

**JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL**

BY: s/Phyllis E. Glazer

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2011, I electronically filed the foregoing using the court's CM/ECF system which will provide a notice of electronic filing to All Counsel of Record. I further certify that all parties are represented by CM/ECF participants.

s/Phyllis E. Glazer
PHYLLIS E. GLAZER