

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION**

CITY OF LITTLE ROCK, ARKANSAS

PLAINTIFF

V.

NO.: 60CV-18-379

ARKANSAS ETHICS COMMISSION;
WARWICK SABIN; SABIN FOR MAYOR
EXPLORATORY COMMITTEE; FRANK
SCOTT, JR.,; NEIGHBORS FOR FRANK
SCOTT, JR.

DEFENDANTS

**MOTION TO DISMISS AND ANSWER TO COMPLAINT SUBJECT
TO MOTION TO DISMISS OF DEFENDANTS WARWICK SABIN
AND SABIN FOR MAYOR EXPLORATORY COMMITTEE**

Comes now Defendants Warwick Sabin and Sabin for Mayor Exploratory Committee, by and through counsel, and for their Motion to Dismiss and Answer Subject to Motion to Dismiss, state as follows:

Motions to Dismiss

1. **Motion to Dismiss No. 1: Rule 12(b)(6): Failure to state facts upon which relief can be granted:** The Plaintiff's Complaint fails to state facts upon which relief can be granted pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure and must be dismissed.

- a. Warwick Sabin and Sabin for Mayor Exploratory Committee are, and at all times relevant to this cause of action, have been in compliance with Arkansas law. These Defendants are also in compliance with the ordinance referenced in Paragraph 36 of the Plaintiff's Complaint

(attached to the Plaintiff's Complaint as Exhibits 5 and 6). Therefore, the Plaintiff has not stated facts upon which relief can be granted.

- b. Further, the Plaintiff's Complaint seeks not only for a court of law to declare the state of the law as a neutral arbiter in a declaratory judgment action, but the Plaintiff is asking the court to apply the law and enforce it as against two individuals and two individual exploratory committees. Yet the Plaintiff has not properly filed an enforcement action against these individuals or put them on notice of such an enforcement action and the Complaint must be dismissed as such.

2. Motion to Dismiss No. 2: Rule 12(b)(1): Lack of subject matter jurisdiction: Also, this Court does not have subject matter jurisdiction over this action, and Plaintiff's Complaint must therefore be dismissed pursuant to Rule 12(b)(1) of the Arkansas Rules of Civil Procedure.

- a. There is no jurisdiction over the subject matter because Plaintiff is without standing to bring an action over regulations that have not been applied to Plaintiff, and Plaintiff has not pled any harm that it has suffered to give it standing.
- b. LR Code Secs. 2-386 *et seq.* by their terms do not apply to exploratory committees. Enforcing these ordinances against an exploratory committee outstrips the authority granted to local jurisdictions under Ark. Code. Ann. §7-6-224, because the state statute expressly defines

“exploratory committees” and does not grant cities any authority to regulate them. Further, LR Code Secs. 2-386 *et seq.* by their terms do not outlaw exploratory committees and only apply to candidates. There is no standing, and therefore, this Court lacks subject matter jurisdiction.

3. A brief in support of these motions is being filed contemporaneously herewith pursuant to Rule 7(b)(2) of the Arkansas Rules of Civil Procedure and is incorporated by reference as if it were set forth herein word for word.

Answer Subject to Motions to Dismiss

4. Paragraph 1 of the Plaintiff’s Complaint for Declaratory Judgment (“Complaint”) does not contain allegations to which a response is warranted. However, to the extent Paragraph 1 does contain allegations requiring a response, same is denied.

5. These Defendants deny the allegations contained in Paragraph 2 of the Complaint. Further, these Defendants affirmatively assert that the Plaintiff lacks standing and has no legal basis to file this suit.

6. These Defendants deny the allegations contained in Paragraph 3 of the Complaint. Further, these Defendants affirmatively assert that the Plaintiff lacks standing and has no legal basis to file this suit.

7. These Defendants deny the allegations contained in Paragraph 4 of the Complaint. Further, these Defendants affirmatively assert that the Plaintiff lacks standing and has no legal basis to file this suit.

8. These Defendants deny the allegations contained in Paragraph 5 of the Complaint. Further, these Defendants affirmatively assert that the Plaintiff lacks standing and has no legal basis to file this suit.

9. These Defendants deny the allegations contained in Paragraph 6 of the Complaint.

10. These Defendants deny the allegations contained in Paragraph 7 of the Complaint.

11. These Defendants admit the allegations contained in Paragraph 8 of the Complaint.

12. These Defendants admit the allegations contained in Paragraph 9 of the Complaint.

13. These Defendants admit that Warwick Sabin is a resident of Little Rock, Arkansas. All other allegations contained in Paragraph 10 of the Complaint are denied. Warwick Sabin has formed an exploratory committee to explore the idea of seeking election as Mayor of the City of Little Rock, Arkansas in the 2018 general election.

14. These Defendants admit the allegations contained in Paragraph 11 of the Complaint.

15. These Defendants admit the allegations contained in Paragraph 12 of the Complaint.

16. These Defendants are unaware of the allegations contained in Paragraph 13 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

17. These Defendants are unaware of the allegations contained in Paragraph 14 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

18. These Defendants are unaware of the allegations contained in Paragraph 15 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

19. These Defendants admit the allegations contained in Paragraph 16 of the Complaint.

20. These Defendants admit the allegations contained in Paragraph 17 of the Complaint.

21. These Defendants admit the allegations contained in Paragraph 18 of the Complaint.

22. These Defendants admit the allegations contained in Paragraph 19 of the Complaint.

23. These Defendants admit the allegations contained in Paragraph 20 of the Complaint.

24. These Defendants admit the allegations contained in Paragraph 21 of the Complaint.

25. These Defendants admit the allegations contained in Paragraph 22 of the Complaint.

26. These Defendants admit the allegations contained in Paragraph 23 of the Complaint.

27. These Defendants admit the allegations contained in Paragraph 24 of the Complaint.

28. These Defendants admit the allegations contained in Paragraph 25 of the Complaint.

29. These Defendants admit the allegations contained in Paragraph 26 of the Complaint.

30. These Defendants admit the allegations contained in Paragraph 27 of the Complaint.

31. These Defendants deny the allegations contained in Paragraph 28 of the Complaint.

32. These Defendants deny the allegations contained in Paragraph 29 of the Complaint.

33. These Defendants deny the allegations contained in Paragraph 30 of the Complaint.

34. These Defendants deny the allegations contained in Paragraph 31 of the Complaint.

35. These Defendants admit the allegations contained in Paragraph 32 of the Complaint.

36. These Defendants admit the allegations contained in Paragraph 33 of the Complaint.

37. These Defendants admit the allegations contained in Paragraph 34 of the Complaint.

38. These Defendants admit the allegations contained in Paragraph 35 of the Complaint.

39. These Defendants admit the allegations contained in Paragraph 36 of the Complaint.

40. These Defendants deny the allegations contained in Paragraph 37 of the Complaint.

41. These Defendants admit the allegations contained in Paragraph 38 of the Complaint.

42. These Defendants admit the allegations contained in Paragraph 39 of the Complaint.

43. These Defendants deny the allegations contained in Paragraph 40 of the Complaint. Defendants admit that Warwick Sabin made an announcement on July 7, 2017 indicating that he would form an exploratory committee for the purpose of exploring a race for mayor. All other allegations contained in Paragraph 40 are denied.

44. These Defendants admit the allegations contained in Paragraph 41 of the Complaint.

45. These Defendants admit the allegations contained in Paragraph 42 of the Complaint.

46. These Defendants admit the allegations contained in Paragraph 43 of the Complaint.

47. The Defendants admit that on August 25, 2017, the Arkansas Ethics Commission dismissed the complaint referenced in Paragraph 43. All other allegations contained in Paragraph 44 of the Complaint are denied.

48. These Defendants are unaware of the allegations contained in Paragraph 45 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

49. These Defendants are unaware of the allegations contained in Paragraph 46 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

50. These Defendants are unaware of the allegations contained in Paragraph 47 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

51. These Defendants admit the allegations contained in Paragraph 48 of the Complaint.

52. These Defendants admit the allegations contained in Paragraph 49 of the Complaint.

53. These Defendants deny the allegations contained in Paragraph 50 of the Complaint.

54. These Defendants are unaware of the allegations contained in Paragraph 51 of the Complaint and/or these allegations do not pertain to these Defendants, and therefore, same are denied.

55. These Defendants admit that the Sabin for Mayor Exploratory Committee continues to collect campaign contributions and that its Contribution and Expenditure Report filed on January 2, 2018 reflects collections of \$119,895.00. All other allegations contained in Paragraph 52 of the Complaint are denied.

56. These Defendants admit the allegations contained in Paragraph 53 of the Complaint.

57. These Defendants admit that Ark. Code Ann. §7-6-201 supplies various definitions for use in that particular subchapter. All other allegations contained in Paragraph 54 of the Complaint are denied.

58. These Defendants admit that Ark. Code Ann. §7-6-201 supplies various definitions for use in that particular subchapter. All other allegations contained in Paragraph 55 of the Complaint are denied.

59. These Defendants admit that Ark. Code Ann. §7-6-201 supplies various definitions for use in that particular subchapter. All other allegations contained in Paragraph 56 of the Complaint are denied.

60. These Defendants admit that Ark. Code Ann. §7-6-201 supplies various definitions for use in that particular subchapter. All other allegations contained in Paragraph 57 of the Complaint are denied.

61. These Defendants admit the allegations contained in Paragraph 58 of the Complaint.

62. These Defendants admit the allegations contained in Paragraph 59 of the Complaint.

63. These Defendants admit the allegations contained in Paragraph 60 of the Complaint.

64. These Defendants admit the allegations contained in Paragraph 61 of the Complaint.

65. These Defendants admit that Ark. Code Ann. §7-6-201 supplies various definitions for use in that particular subchapter. All other allegations contained in Paragraph 62 of the Complaint are denied.

66. These Defendants admit the allegations contained in Paragraph 63 of the Complaint.

67. These Defendants deny the allegations contained in Paragraph 64 of the Complaint.

68. These Defendants deny the allegations contained in Paragraph 65 of the Complaint.

69. These Defendants deny the allegations contained in Paragraph 66 of the Complaint.

70. These Defendants deny the allegations contained in Paragraph 67 of the Complaint.

71. These Defendants admit the allegations contained in Paragraph 68 of the Complaint.

72. These Defendants deny the allegations contained in Paragraph 69 of the Complaint.

73. These Defendants deny the allegations contained in Paragraph 70 of the Complaint.

74. These Defendants deny the allegations contained in Paragraph 71 of the Complaint.

75. Paragraph 72 of the Complaint does not contain allegations to which a response is warranted. However, to the extent Paragraph 72 does contain allegations requiring a response, same is denied.

76. These Defendants admit the allegations contained in Paragraph 73 of the Complaint.

77. These Defendants deny the allegations contained in Paragraph 74 of the Complaint.

78. These Defendants deny the allegations contained in Paragraph 75 of the Complaint.

79. These Defendants deny the allegations contained in Paragraph 76 of the Complaint.

80. These Defendants admit the allegations contained in Paragraph 77 of the Complaint.

81. These Defendants deny the allegations contained in Paragraph 78 of the Complaint.

82. These Defendants admit the allegations contained in Paragraph 79 of the Complaint.

83. These Defendants deny the allegations contained in Paragraph 80 of the Complaint.

84. These Defendants deny the allegations contained in Paragraph 81 of the Complaint.

85. These Defendants deny the allegations contained in Paragraph 82 of the Complaint.

86. These Defendants deny the allegations contained in the Wherefore clause of the Complaint.

87. These Defendants deny each and every other allegation not specifically admitted herein.


88. These Defendants reserve the right to amend this pleading after investigation and discovery.

89. The Defendants assert the affirmative defense of statutory compliance.


WHEREFORE, for the reasons set forth in this motion, Separate Defendants Warwick Sabin and Sabin for Mayor Exploratory Committee pray that the Court enter an order dismissing this cause of action; and in the alternative, pray that the Plaintiff take nothing and that the relief requested within the Complaint for Declaratory Relief be denied; and for their costs, attorney's fees, and for all other just and proper relief to which they are entitled.

Respectfully Submitted,

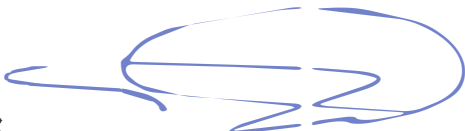
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Sabin for Mayor Exploratory Committee

CERTIFICATE OF SERVICE

I, Steve Harrelson, do hereby certify that I have sent via:

- Hand Delivery
- Facsimile
- Electronic Mail
- U.S. Mail, Postage Prepaid
- U.S. Mail, Certified, Return Receipt Requested
- State Court CM/ECF System
- Federal Court CM/ECF System

This 19th Day of February, 2018 a true and complete copy of the foregoing to the following individuals:

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William C. Mann, Esq.
Rick D. Hogan, Esq.
Alex Betton, Esq.
Office of the City Attorney
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Steve Harrelson