

**IN THE CIRCUIT COURT OF GREENE COUNTY  
THIRTY-FIRST JUDICIAL CIRCUIT  
STATE OF MISSOURI**

SHANE SCHOELLER,

Plaintiff,

v.

LAURIE HUDDLESTON,

Defendant.

Case No. 2231-CC00975

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**ANSWER AND AFFIRMATIVE DEFENSES**

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**INTRODUCTION**

The Plaintiff, Greene County Clerk Shane Schoeller, has indeed presented this Court with a *very* important case.

The central concept of the American political system is that governments derive their just powers from the consent of the governed. *See Arizona State Legislature v. Arizona Independent Redistricting Commission*, 576 U.S. 787, 820 (2015). In order to secure the “consent” of those who are unhappy with the apparent outcome of elections, we must “ensure that elections are conducted with scrupulous fairness and that a meaningful opportunity exists for all interested voices to be heard.” *Perez v. Local 1001, Amalgamated Transit Union*, 225 F.Supp.3d 1210, 1215 (D. Colo. 2016). As long as citizens have confidence in the basic integrity of our electoral processes, they can consent to the authority of the officials elected—even if

the results were not what they would have preferred.

In recent years Americans of all political persuasions and perspectives have come to question whether the results of our elections do, in fact, reflect the will of the voters. The Republican National Committee has assembled a litany of claims that Democrats have made over the past two decades challenging the legitimacy of election results and particularly calling into question the reliability of electronic voting machines. *See Over 150 Examples of Democrats Denying Election Results*, REPUBLICAN NATIONAL COMMITTEE (June 28, 2022), <https://gop.com/research/over-150-examples-of-democrats-denying-election-results-rsr/>. And especially in the past two years many Republicans have similarly questioned the legitimacy of election results. *See* Ryan Teague Beckwith, *Here Are the 253 Key Political Leaders Who Back Trump's False Claims of Election Fraud*, BLOOMBERG (September 6, 2022), <https://www.bloomberg.com/graphics/us-election-risk-index/all-election-denier-officials/>. As a consequence, a recent NPR/PBS NewsHour/Marist National Poll showed that *nearly four in ten* Americans do not trust that our elections are fair. *Trust in Elections & Threat to Democracy, Nov. 2021*, MARISTPOLL (November 1, 2021), <https://maristpoll.marist.edu/polls/npr-pbs-newshour-marist-national-poll-trust-in-elections-threat-to-democracy-biden-approval-november-2021/>. In sum, even if someone assumes that our nation's elections are, in fact, scrupulously fair and that the results are entirely in line with the will of the voters, this demonstrable, widespread lack of public trust in the integrity of our election results represents a significant challenge to our system of government.

Voting machines are a particular source of concern when it comes to confidence in the outcome of elections, as there has been for years widespread concern that voting machines might improperly add votes that *were not* cast by actual voters or alter votes that *were* cast by actual voters. *See, e.g.,* Tim Lau, *Vote Flipping Claims Underline Urgent Need to Fix Voting Machines*, BRENNAN CENTER FOR JUSTICE (October 24, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/vote-flipping-claims-underline-urgent-need-fix-voting-machines>; John Travis, *Overvotes: Phantoms of the Ballot Box*, BRENNAN CENTER FOR JUSTICE (May 10, 2012), <https://www.brennancenter.org/our-work/analysis-opinion/overvotes-phantoms-ballot-box>; Jen Schwartz, *The Vulnerabilities of Our Voting Machines: When Americans go to the polls, will hackers unleash chaos?*, SCIENTIFIC AMERICAN (November 1, 2018), <https://www.scientificamerican.com/article/the-vulnerabilities-of-our-voting-machines/>. Given the persistent and ongoing concerns about the reliability and security of voting machines, when the results of a given election do not seem to accord with voters' expectations it is natural for those on the losing side to suspect that the unexpected outcomes were not the result of choices made by the citizens who legitimately cast their ballots, but instead reveal invidious manipulation of the election's results.

As a society, we desperately need to restore the public's trust in the validity of our election results. The best way to do that is for citizens to have access to as much information as possible about the inner workings of the electoral system itself. Specifically, to the extent that modern elections utilize electronic voting systems,

citizens need to be able to see for themselves the way that these machines were utilized and how election authorities used these machines to receive and tally votes. That is what the Defendant, Laurie Huddleston, was hoping to accomplish by requesting cast vote records for the 2020 general election. The data retained by the Greene County Clerk's office will give citizens the best possible opportunity to understand how voting machines were used in the 2020 general election and to discern for themselves whether the reported results of the election truly reflected the will of Greene County voters. This information can and must be shared without revealing the votes cast by any individual voter and Missouri law allows the Plaintiff to provide this information. Consequently, this Court should rule in Huddleston's favor and equip Missourians to see for themselves whether or not our election machines are improperly affecting the outcomes of our elections.

ANSWER

COMES NOW Defendant Lauri Huddleston ("Huddleston") and as her Answer to the Plaintiff's Petition states as follows:

1. Huddleston admits that Plaintiff Shane Schoeller is the duly elected County Clerk for Greene County, Missouri, and that in this capacity she is tasked with overseeing Greene County's elections and insuring the integrity of those elections.
2. Huddleston admits that she is a resident of Greene County, Missouri.
3. Huddleston admits that this Court has jurisdiction to hear and rule on this Sunshine Law issues the Plaintiff has brought before it.

4. Huddleston admits that venue is proper in Greene County.
5. Huddleston admits that after the 2020 presidential election many Americans, including Huddleston, became concerned about the integrity of the nation's elections; she has no personal knowledge about nor does she claim any responsibility for similar concerns that may or may not be held by anyone else and therefore she denies all parts of this allegation that she has not specifically admitted.
6. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 6; she denies those allegations and demands proof thereof.
7. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 7; she denies those allegations and demands proof thereof.
8. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 8; she denies those allegations and demands proof thereof.
9. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 9; she denies those allegations and demands proof thereof.
10. Huddleston is aware that Linda Rantz is one among several people who have suggested that obtaining "cast vote records" will help them to evaluate the way that electronic voting machines were used in a given election. Huddleston is

otherwise without personal knowledge sufficient to admit or deny the allegations in Paragraph 10; she denies those allegations and demands proof thereof.

11. Huddleston is aware that Linda Rantz is one among several people who have suggested that obtaining “cast vote records” will help them to evaluate the way that electronic voting machines were used in a given election. Huddleston is otherwise without personal knowledge sufficient to admit or deny the allegations in Paragraph 11; she denies those allegations and demands proof thereof. Huddleston additionally notes that the public records request she submitted did not include the language described in Paragraph 11.
12. Huddleston is aware of the existence of FrankSpeech.com and that those who operate the website have expressed a desire to collect “cast vote records” from all over the country. She is otherwise without personal knowledge sufficient to admit or deny the allegations in Paragraph 12; she denies those allegations and demands proof thereof.
13. Huddleston admits that on or about August 30, 2022, she sent the Plaintiff a public records request pursuant to Chapter 610 of the Missouri Revised Statutes asking for cast vote records related to the 2020 general election. She denies that the Plaintiff attached a copy of her request to the Petition.
14. Huddleston admits that she asked the Plaintiff to produce cast vote records for the 2020 general election.
15. Huddleston is without personal knowledge sufficient to admit or deny the

allegations in Paragraph 15; she denies those allegations and demands proof thereof.

16. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 16; she denies those allegations and demands proof thereof.

17. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 17; she denies those allegations and demands proof thereof.

18. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 18; she denies those allegations and demands proof thereof.

19. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 19; she denies those allegations and demands proof thereof.

20. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 20; she denies those allegations and demands proof thereof.

21. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 21; she denies those allegations and demands proof thereof.

22. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 22; she denies those allegations and demands proof thereof.

thereof.

23. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 23; she denies those allegations and demands proof thereof.
24. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 24; she denies those allegations and demands proof thereof.
25. Huddleston denies the allegations of Paragraph 25.
26. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 26; she denies those allegations and demands proof thereof.
27. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 27; she denies those allegations and demands proof thereof.
28. Huddleston is without personal knowledge sufficient to admit or deny the allegations in Paragraph 28; she denies those allegations and demands proof thereof.
29. Huddleston is without personal knowledge sufficient to admit or deny the Plaintiff's claims about what *others* have requested, so denies the allegations of Paragraph 29. Huddleston also specifically denies that the Plaintiff has accurately described her own public records request.
30. Huddleston incorporates by reference her responses to each of the preceding

paragraphs in the Petition and denies any allegation therein that she has not specifically admitted.

31. Huddleston admits that she asked the Plaintiff to produce cast vote records for the 2020 general election and that she believes these to be open public records pursuant to Chapter 610 of the Missouri Revised Statutes.
32. Huddleston admits that Paragraph 32 accurately quotes part of § 115.493, RSMo., although she notes that the Plaintiff has added his own emphases, which are not in the statute's original text.
33. Paragraph 33 asserts a legal conclusion rather than any facts; Huddleston is not required to respond to the Plaintiff's legal conclusions and she denies any facts that might be alleged in Paragraph 33.
34. Paragraph 34 asserts legal conclusions rather than any facts; Huddleston is not required to respond to the Plaintiff's legal conclusions and she denies any facts that might be alleged in Paragraph 34.
35. Paragraph 35 asserts legal conclusions; Huddleston is not required to respond to the Plaintiff's legal conclusions. Further, Huddleston is without personal knowledge sufficient to admit or deny the Plaintiff's claims about what *others* have requested, so denies the allegations of Paragraph 35. Huddleston also specifically denies that the Plaintiff has accurately described her own public records request.
36. Paragraph 36 asserts legal conclusions; Huddleston is not required to respond to the Plaintiff's legal conclusions. Nevertheless, Huddleston notes that the

Plaintiff has incorrectly described the legal effect of § 115.493, RSMo., which requires election authorities to “keep” processed ballot materials in electronic form and computer programs relating to each election for twenty-two months after the date of the election, but *does not* restrict the opening or inspection of computer programs relating to each election.

37. Paragraph 37 asserts legal conclusions; Huddleston is not required to respond to the Plaintiff’s legal conclusions. Huddleston specifically denies any facts that might be alleged in Paragraph 37.
38. Huddleston admits that there is an actual, justiciable controversy between the parties to the extent that she has requested open public records retained by the Plaintiff and the Plaintiff is uncertain as to the extent to which (if any) Missouri law allows him to provide those records. Huddleston denies the remainder of the allegations in Paragraph 38.
39. Huddleston denies that there is any legitimate controversy between the parties about whether records that in Paragraph 26 the Plaintiff admitted to retaining in his office are “public records” within the meaning of § 610.010(6), RSMo.
40. Paragraph 40 asserts legal conclusions; Huddleston is not required to respond to the Plaintiff’s legal conclusions. Nevertheless, Huddleston reiterates that the Plaintiff has admitted to retaining the records Huddleston has requested. Although there may be a legitimate question as to whether Missouri law allows the Plaintiff to produce all or only part of those records, there is no legitimate dispute as to whether they are “public records” within the meaning of §

610.010(6), RSMo.

41. Paragraph 41 asserts legal conclusions; Huddleston is not required to respond to the Plaintiff's legal conclusions. Nevertheless, Huddleston denies any implication that her public records request requires the Plaintiff to "create a new record." Most, if not all, of the records at issue in this case are stored electronically. Section 610.029.1, RSMo., specifically addresses public information that is stored in an electronic format, requiring public governmental bodies to provide data to the public in an electronic format if the requested records are kept "on a system capable of allowing the copying of electronic documents into other electronic documents[.]" Similarly, § 610.024.1, RSMo., states that where public governmental bodies retain public records that include both material that *is* exempt from disclosure as well as material that *is not* exempt from disclosure, the public governmental body is obligated to separate the exempt material from the non-exempt and then to "make the nonexempt material available for examination and copying." Thus, to the extent that any part of the information subject to Huddleston's request for cast vote records is exempt from production, the Plaintiff is required to separate out the exempt portion and then to produce to Huddleston all of the remaining, nonexempt information.
42. Huddleston admits that the Plaintiff is requesting declaratory relief related to her request for cast vote records, but otherwise denies the allegations in Paragraph 42.

43. Huddleston admits that the Plaintiff is uncertain about his responsibility to produce the cast vote records Huddleston has requested and also that it is in the public interest for the Court to decide and declare what Missouri law requires the Plaintiff to do, but otherwise denies the allegations in Paragraph 42.

44. Huddleston admits the allegations of Paragraph 44.

45. Huddleston admits the allegations of Paragraph 45.

46. Huddleston admits that the Plaintiff is authorized to seek declaratory judgment, but denies that he has properly articulated the questions this Court must resolve. Huddleston suggests that the proper questions for the Court's determination are as follows:

- 1) What is the scope of Huddleston's request insofar as she has asked for the Plaintiff to provide her with cast vote records from the 2020 general election?
- 2) What information retained by the Plaintiff is responsive to Huddleston's request?
- 3) Does any part of those Responsive Materials meet the definition of "processed ballot materials in electronic form" within the meaning of § 115.493, RSMo.?
- 4) Does any part of the Responsive Materials constitute data "kept on a system capable of allowing the copying of electronic documents into other electronic documents" within the meaning of § 610.029.1, RSMo.?
- 5) If any part of the Responsive Materials is "kept on a system capable of

allowing the copying of electronic documents into other electronic documents,” and also meets the definition of “processed ballot materials in electronic form,” is the Plaintiff capable of separating out the “processed ballot materials in electronic form” from other Responsive Material that does not meet the definition of “processed ballot materials in electronic form?”

6) To the extent that the Responsive Material (or any part thereof) is not “processed ballot materials in electronic form,” has the Plaintiff identified any other exception to the Sunshine Law that would allow the Plaintiff to withhold that public information from Huddleston?

47. Huddleston admits that venue is proper in this Court.

48. Huddleston denies that Missouri law allows the Court to award a government plaintiff costs and/or attorney fees when it has exercised its option, pursuant to § 610.027.6, RSMo., to initiate a lawsuit against a citizen for the purpose of determining the government plaintiff’s responsibilities under the Sunshine Law.

### AFFIRMATIVE DEFENSES

Defendant Huddleston sets forth the following defenses to the Plaintiff’s Petition:

1. The cast vote records Huddleston has requested are, at least in part, open public records within the meaning of the § 610.010(6), RSMo.
2. Public records are presumed to be open unless exempt under the provisions of Chapter 610. § 610.022.5, RSMo.
3. Any decision about whether a public record will be treated as open or closed

must be informed by the express public policy stated in § 610.011.1, which states that all records of public governmental bodies are presumed to be open records and that statutory exceptions to this rule are to be strictly construed to promote the state's express policy in favor of transparency. *Guyer v. City of Kirkwood*, 38 S.W.3d 412 (Mo. banc 2001).

4. The Missouri Supreme Court has held—clearly and unambiguously—that the Sunshine Law does not permit government defendants to recover costs against citizen plaintiffs in cases brought under § 610.027, RSMo. *Roland v. St. Louis City Bd. of Election Comm'rs*, 590 S.W.3d 315, 322-24 (Mo. banc 2019).
5. To the contrary, Missouri law makes clear that because the Plaintiff in this case is a public governmental body that has sued a citizen under § 610.027.6, RSMo., *the Plaintiff* “must shoulder the costs for both itself and the party against whom it filed suit.” *City of Byrnes Mill v. Limesand*, 599 S.W.3d 466, 477 (Mo. App. E.D. 2020).
6. As such, this Court must not only deny the Plaintiff's request for an award of costs and attorney fees in its own favor, but it must also order the Plaintiff to pay all costs and reasonable attorney fees that Huddleston accrues in the defense of this lawsuit. *Id.* at 478 (party entitled to attorney fees where they requested public records and then were sued by public governmental body).
7. Huddleston reserves the right to amend her pleadings and to assert further defenses, including a cross-claim for failure to produce the Responsive Material, based upon information that may become known or ascertained in the course of

this litigation.

WHEREFORE, having provided fully answers and affirmative defenses to the Plaintiff's Petition, Defendant Huddleston respectfully asks the Court for judgment in her favor:

- 1) Declaring that the Responsive Materials are, either in whole or in part, open public records subject to disclosure under the Sunshine Law;
- 2) Declaring that the Sunshine Law requires the Plaintiff to produce to Huddleston any part of the Responsive Materials that does not constitute "processed ballot materials in electronic form;"
- 3) Declaring that because the Plaintiff is a public governmental body that initiated this case pursuant to § 610.027.6, RSMo., the Court is precluded from requiring Huddleston to pay any of the Plaintiff's costs or attorney fees related to this litigation;
- 4) Awarding Huddleston her attorney fees, costs, and expenses as is required by § 610.027.6, RSMo.; and
- 5) Awarding Huddleston any other relief the Court deems just and proper under the circumstances.

Respectfully submitted this 21<sup>st</sup> day of October, 2022.



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**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2022, a true and accurate copy of the foregoing was filed with the Court's e-filing system and/or electronic mail upon:

Nicholas Austin Fax  
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Springfield, MO 65806  
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*Attorney for Plaintiff*



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