

**IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT**

<b>ELIZABETH CLARKSON,</b>	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2015-CV-0000257
	)	
<b>KRIS KOBACH, IN HIS OFFICIAL</b>	)	
<b>CAPACITY AS THE SECRETARY OF</b>	)	
<b>STATE FOR THE STATE OF KANSAS,</b>	)	
and <b>TABITHA LEHMAN, IN HER</b>	)	
<b>OFFICIAL CAPACITY AS ELECTIONS</b>	)	
<b>COMMISSIONER OF SEDGWICK</b>	)	
<b>COUNTY, KANSAS,</b>	)	
	)	
Defendants.	)	
	)	
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**ANSWER OF DEFENDANT KRIS KOBACH  
SECRETARY OF STATE FOR THE STATE OF KANSAS**

COME NOW the defendant, Kris Kobach, Secretary of State for the State of Kansas, by and through the attorneys undersigned, and for answer to the petition herein filed by plaintiff, does admit, deny and aver as follows:

1. Except to the extent hereinafter specifically admitted, all factual allegations in the petition implicating actions of the Secretary of State are denied, including those allegations as to which the Secretary of State indicates a lack of knowledge or information sufficient to form a belief as to the truth thereof.
  
2. Defendant Secretary of State admits the allegations of petition paragraphs 2, 3, 11 and 14.

3. Defendant Secretary of State denies that the records Plaintiff seeks are subject to the Kansas Open Records Act as alleged in petition paragraphs 23 and 27 (at least by implication), or open for inspection or copying.

4. Defendant Secretary of State admits the defendants in this action serve and act pursuant to statutory authority, the Defendant Secretary of State as chief state election official and the Defendant Election Commissioner as the chief election officer for Sedgwick County; the terms and provisions of any statute applicable in this action are the best evidence of the authority granted and the duties and responsibilities imposed, and such statutes and the duties and responsibilities thereunder are for determination by the court as a matter of law; all other allegations in paragraph 10 are denied.

5. Defendant Secretary of State states that the allegations of paragraphs 4, 6, 12, 13, 23, 24, 25 and 28, contain or are legal conclusions, or are argumentative attempts to state legal conclusions, to which no answer is required; the construction of such statutes as to their application to this action are for determination by the court as a matter of law; to the extent any such identified paragraphs contain factual allegations that require answer by this defendant, the same are for the purpose of this answer denied.

6. Defendant Secretary of State lacks knowledge or information sufficient to form a belief as to the truth of the unadmitted allegations contained in paragraphs 1, 5, 7, 8, 9, 15, 16, 17, 18 (although Defendant Secretary of State acknowledges he is not aware of any such audit as described by Plaintiff having previously been done), 19, 20, 21 and 22.

7. The allegations of petition paragraphs 26 and 27 contain or are legal conclusions, or argumentative attempts to state legal conclusions, to which no answer is required; considering what Defendant Secretary of State understands to be the relief sought by Plaintiff

in this action, such allegations represent ultimate issues in this action, which are for the determination of the court.

8. Defendant Secretary of State lacks knowledge or information sufficient to form a belief as to the truth of the allegations of petition paragraph 29; inasmuch as the allegations therein are represented to be admissions by the Plaintiff, apparently as to potential legal issues in this action, no response is required of or can be made by this defendant.

9. The Defendant Secretary of State is not under the law the custodian of those records which are the apparent subject matter of Plaintiff's action; and as such, the defendant has no right of access to such records or authority to direct the Defendant Election Commissioner in regard to either control of or access to such records.

10. The records to which Plaintiff seeks access represent the content of ballots cast at an election conducted in Sedgwick County, the disclosure of which prohibited by law and unauthorized, and any such disclosure constitutes a severity level 10, nonperson felony pursuant to K.S.A. 25-2422.

11. The Plaintiff has previously sought the right to inspect and copy the content of ballots cast at an election conducted in Sedgwick County, in a form identical as to that sought in this action, specifically in Sedgwick County District Court Case No. 13-CV-1824, *Elizabeth Clarkson v. Sedgwick County Elections Commissioner Tabitha Lehman*, and by Journal Entry of Judgment dated and filed October 18, 2013, final judgment was entered against Plaintiff on all issues.

12. The judgment identified in the paragraph next above represents the law of the case in this action and as such, as *res judicata*, is determinative herein and bars this action.

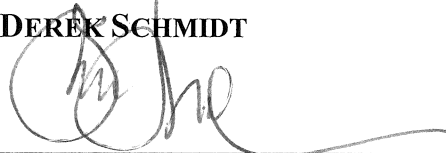
13. Plaintiff has failed to state a claim upon which relief can be granted.

14. The Court lacks jurisdiction of the Defendant Secretary of State, and of the subject matter of Plaintiff's claims.

15. By virtue of Defendant Secretary of State's lack of knowledge or information sufficient to form a belief as to the truth of many of the allegations of the petition, the defendant respectfully request leave of this court to, at a time as permitted by the court, to identify and affirmatively state such other avoidance or affirmative defenses as may be hereafter discovered or identified the defendant during the course of discovery; and accordingly, Defendant Secretary of State hereby reserves his right to state avoidance or affirmative defenses.

**WHEREFORE**, answering Defendant Secretary of State pray that the court deny the relief requested, that he have costs herein, and such other and further relief as deemed just and reasonable in the premises.

**OFFICE OF ATTORNEY GENERAL  
DEREK SCHMIDT**



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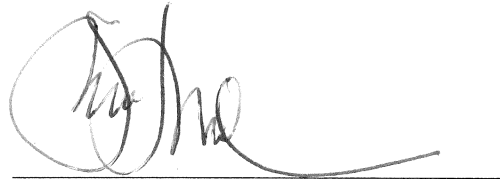
**WARD LOYD**, Ks.Sup.Ct. #06745  
Assistant Attorney General  
120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor  
Topeka, KS 66612-1597  
(785) 296-6244; fax (785) 291-3767  
[ward.loyd@ag.ks.gov](mailto:ward.loyd@ag.ks.gov)  
*Attorney for Defendants, Kris Kobach  
Secretary of State for the State of Kansas*

**CERTIFICATE OF SERVICE**

Undersigned hereby certifies that on this 21<sup>st</sup> day of August, 2015, he caused a true and correct copy of the above pleading to be served by depositing the same in the United States mail, postage prepaid and properly addressed, to:

Elizabeth Clarkson  
9619 Wassall  
Wichita, KS 67201  
*Plaintiff, pro se*

Michael L. North  
Assistant County Counselor  
Sedgwick County Courthouse  
525 North Main, Suite # 359  
Wichita, KS 67203  
*Attorney for Defendant Tabitha Lehman*

A handwritten signature in black ink, appearing to read "Ward Loyd", is written over a horizontal line. The signature is cursive and somewhat stylized.

Ward Loyd

\* \* \* Communication Result Report ( Aug. 21. 2015 4:06PM ) \* \* \*

1) Attorney General  
2)

Date/Time: Aug. 21. 2015 4:04PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
5306	Memory TX	913169415352	P. 6	OK	

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- E. 1) Hang up or line fail
- E. 2) Busy
- E. 3) No answer
- E. 4) No facsimile connection
- E. 5) Exceeded max. E-mail size



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT  
ATTORNEY GENERAL

MEMORIAL HALL  
120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
WWW.KSAG.ORG

Fax Filing Cover Sheet

**DATE:** August 21, 2015

**TO:** Clerk of the District Court, Sedgwick County, Kansas

FAX Number: 316-941-5352

Case No.: 15-CV-0257  
via: fax file

Caption: *Elizabeth Clarkson v Kris Kobach, et al.*

**FROM:** Ward Loyd  
Assistant Attorney General  
Memorial Building  
120 S.W. 10th Ave., 2<sup>nd</sup> Floor  
Topeka, Kansas 66612-1597  
Kansas Supreme Court Registration Number 06725  
Telephone Number (785) 296-4542  
Fax Number (785) 291-3767

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Answer of Defendants Kris Kobach	6

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OFFICE OF THE ATTORNEY GENERAL

**DEREK SCHMIDT**  
ATTORNEY GENERAL

MEMORIAL HALL  
120 SW 10TH AVE., 2ND FLOOR  
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(785) 296-2215 • FAX (785) 296-6296  
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