

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

**REPRESENTATIVE/SENATOR  
DAN SULLIVAN, IN HIS OFFICIAL  
CAPACITY, et al.**

**PETITIONERS**

**v. CASE NO. 60CV-20-4915**

**JOSE ROMERO, M.D., SECRETARY  
OF THE DEPARTMENT OF  
HEALTH, IN HIS OFFICIAL  
CAPACITY**

**RESPONDENT**

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**MOTION TO DISMISS**

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Comes now Defendant Jose Romero, M.D., in his official capacity as the Secretary of the Department of Health, by and through counsel, Attorney General Leslie Rutledge, Assistant Attorney General Michael Mosley and Assistant Attorney General Brittany Edwards, and for his Motion to Dismiss, herein states:

1. Petitioners, members of the General Assembly and private persons, bring suit challenging the validity of directives issued by the Secretary of the Arkansas Department of Health (“Secretary”) pursuant to Executive Orders of the Governor relating to the COVID-19 pandemic.

2. Petitioners have failed to state facts or a claim upon which relief can be granted and the Petition should be dismissed pursuant to Ark. R. Civ. P. 12(b)(6).

3. In support of the instant motion, Respondent requests the Court take judicial notice of the directives at issue in this matter. Arkansas Department of

Health, *COVID-19 Directives, Orders, and Health Guidances*, [online], <http://www.healthy.arkansas.gov/programs-services/topics/covid-19-health-guidances> (last visited Sept. 22, 2020). Further, in support of the instant motion, Respondent has filed a brief in support contemporaneously herewith.

4. Respondent reserves the right to assert additional defenses in the event this motion is denied including, but not limited to, all applicable doctrines of immunity, failure to exhaust remedies, laches, estoppel, and any applicable limitations defense.

5. For the reasons stated herein and in the accompanying brief, the Petition should be dismissed with prejudice.

WHEREFORE, Respondent respectfully requests the Court grant his motion and for all other just and proper relief to which he is entitled.

Respectfully submitted,

LESLIE RUTLEDGE  
Arkansas Attorney General

By: Michael Mosley  
MICHAEL MOSLEY (2002099)  
Assistant Attorney General  
BRITTANY EDWARDS (2016235)  
Assistant Attorney General  
OFFICE OF THE ARKANSAS  
ATTORNEY GENERAL  
323 Center Street, Suite 200  
Little Rock, AR 72201  
Phone: (501) 682-2081  
Fax: (501) 682-2591  
Email: michael.mosley@arkansasag.gov

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Michael Mosley, certify that on September 22, 2020, I filed the foregoing document with the Clerk of the Court via the E-flex filing system, which shall send notification of the filing to all parties of record and their counsel.

*Michael Mosley*  
MICHAEL MOSLEY