

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

STATE OF MISSOURI, *ex informatione*
ANDREW BAILEY, Attorney General,
Relator,

vs.

KIMBERLY M. GARDNER,
Respondent.

Cause No. 2322-CC00383

**ANSWER AND AFFIRMATIVE DEFENSES TO
AMENDED PETITION IN QUO WARRANTO**

COMES NOW Kimberly M. Gardner, Respondent, and for her Answer and Affirmative Defenses (“Answer”) to the Amended Petition in Quo Warranto (the “Petition”) states as follows. Ms. Gardner also denies all allegation not specifically admitted in this Answer.

Response to Introduction

1. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner denies this paragraph to the extent it misstates governing law.

2. Ms. Gardner denies all allegations in this paragraph.

3. Ms. Gardner denies all allegations in this paragraph.

4. Ms. Gardner denies all allegations in this paragraph.

5. Ms. Gardner denies all allegations in this paragraph.

6. Ms. Gardner denies all allegations in this paragraph.

7. Ms. Gardner denies all allegations in this paragraph.

8. Ms. Gardner denies all allegations in this paragraph, including because Ms. Gardner won 74 percent of the vote in her November 2020 re-election.

9. Ms. Gardner denies all allegations in this paragraph.

10. Ms. Gardner denies all allegations in this paragraph, and also that she engaged in any conduct that might justify her removal from office.

11. Ms. Gardner denies all allegations in this paragraph as well as the subparagraphs thereto. Ms. Gardner also denies that there is a basis for seeking her removal through a writ of *quo warranto*, on the bases set forth in her Motion to Dismiss this Petition, which Motion is adopted herein by reference.

Response Parties

12. Ms. Gardner admits on information and belief that Relator is Andrew Bailey, Attorney General of the State of Missouri. Ms. Gardner denies all remaining allegations in this paragraph.

13. Ms. Gardner admits she is the Circuit Attorney of the City of St. Louis, Missouri, and has held that office continuously since January 1, 2017. Ms. Gardner admits that her present term commenced on January 1, 2021, because Ms. Gardner won 74 percent of the vote in the November 2020 election. Ms. Gardner also admits that the position of the Circuit Attorney of the City of St. Louis, Missouri, is an elective office. Ms. Gardner denies all remaining allegations in this paragraph.

Response to Jurisdiction and Authority

14. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

15. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

16. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

17. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Mr. Gardner admits that Mr. Bailey has purported to file a quo warranto proceeding, and that Missouri Revised Statutes Chapter 531 and Missouri Supreme Court Rule 98 govern quo warranto proceedings. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

18. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

19. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

20. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph..

21. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

22. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further

states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

23. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner further states that the Petition fails to state a viable claim for quo warranto for the reasons stated in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

Response to Venue

24. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that she resides and may be found in the territorial limits of St. Louis City.

25. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner does not contest venue lies within this judicial circuit.

Response to Statement of Facts

Common to All Counts

26. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits, as provided in R.S.Mo. § 56.430, the Circuit Attorney for the City of St. Louis is elected

every four years.

27. Ms. Gardner admits she began her first term on January 1, 2017. Ms. Gardner denies all remaining allegations in this paragraph.

28. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner denies this paragraph to the extent it misstates governing law.

29. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that the Circuit Attorney of the City of St. Louis is an elective office with certain statutory and other legal duties. Ms. Gardner denies all remaining allegations in this paragraph.

30. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that, both before taking office and upon her re-election, in accordance with § 56.550, R.S.Mo., and as a condition precedent to taking office as the Circuit Attorney of the City of St. Louis, Ms. Gardner swore an oath to “support the Constitution of the United States and the Constitution of Missouri, and to faithfully demean [herself] in office.” Ms. Gardner denies all remaining allegations in this paragraph.

31. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that the Circuit Attorney of the City of St. Louis is an elective office with certain statutory and other legal duties, including in accordance with § 56.450, R.S.Mo., to manage and conduct all criminal cases of which the circuit court of the city of St. Louis shall have jurisdiction. Ms. Gardner denies all remaining allegations in this paragraph.

32. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner denies all allegations in this paragraph as stated because § 56.460, R.S.Mo., actually imposes a duty, except as modified by other law, that “the circuit attorney of the City of St. Louis, in person or by assistants, [shall] hear complaints in felony and misdemeanor cases and to file information in such cases with the clerk of the circuit court of the City of St. Louis and to prosecute the same in said court; and it shall be the duty of the circuit attorney, or such assistants as he may designate, to attend at his office on each day of the week, except Sunday and national and state holidays, at all reasonable hours, for the purpose of preparing all complaints, affidavits and informations in such cases required by law to be lodged in said court.”.

33. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Ms. Gardner denies all remaining

allegations in this paragraph.

34. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

35. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

36. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner denies all allegations in this paragraph as stated because § 56.550, R.S.Mo., actually imposes duties that, except as modified by other law, “said assistants [of the Circuit Attorney] shall be to assist the circuit attorney generally in the conduct of his office, under his direction and subject to his control; and said circuit attorney and his assistants shall institute and prosecute all criminal actions in the circuit court. The circuit attorney and said assistant circuit attorneys, when so directed by the circuit attorney, may attend upon the grand jury.” Ms. Gardner denies all remaining allegations in this paragraph.

37. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

38. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

39. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

40. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

41. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

42. Ms. Gardner denies all allegations in this paragraph.

**Response to Reasons Why a Writ of
Quo Warranto Should Issue**

Count I

43. Ms. Gardner restates and realleges her responses to paragraphs 1 through 42 of the Petition, as if fully set forth herein.

44. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that, under §

56.450, R.S.Mo., the Circuit Attorney of the City of St. Louis and her assistants have certain statutory and other legal duties, including in accordance with § 56.450, R.S.Mo., to manage and conduct all criminal cases of which the circuit court of the city of St. Louis shall have jurisdiction. Ms. Gardner denies all remaining allegations in this paragraph to the extent they misstate Missouri law.

45. Ms. Gardner denies all allegations in this paragraph.

46. Ms. Gardner denies all allegations in this paragraph.

47. Ms. Gardner denies all allegations in this paragraph.

48. Ms. Gardner denies all allegations in this paragraph as stated.

49. Ms. Gardner denies all allegations in this paragraph as stated.

50. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

51. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

52. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

53. This paragraph contains allegations concerning out-of-court statements

concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

54. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

55. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

56. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

57. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

58. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved.

Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

59. Ms. Gardner denies all allegations in this paragraph.

60. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

61. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

62. Ms. Gardner denies all allegations in this paragraph.

63. Ms. Gardner denies all allegations in this paragraph as stated.

64. Ms. Gardner denies all allegations in this paragraph as stated, including because the allegations concern confidential employee information.

65. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

66. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

67. Ms. Gardner denies all allegation in this paragraph as stated, including because the allegations concern confidential employee information.

68. Ms. Gardner denies all allegations in this paragraph.

69. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

70. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

71. Ms. Gardner admits on information and belief that, on or about May 28, 2021, she did receive an email regarding who was handling the Campbell case. Ms. Gardner denies all remaining allegations in this paragraph as stated.

72. Ms. Gardner denies all allegations in this paragraph as stated.

73. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

74. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

75. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

76. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

77. Ms. Gardner denies all allegations in this paragraph as stated.

78. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

79. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

80. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

81. Ms. Gardner denies all allegations in this paragraph as stated.

82. Ms. Gardner admits on information and belief that no one appeared at a hearing in the Campbell matter on July 12, 2021. Ms. Gardner denies all remaining allegations in this paragraph as stated.

83. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

84. Ms. Gardner denies all allegations in this paragraph as stated.

85. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies all allegations in this paragraph.

86. Ms. Gardner denies all allegations in this paragraph.

87. Ms. Gardner denies all allegations in this paragraph.

88. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

89. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

90. Ms. Gardner denies all allegations in this paragraph as stated.

91. Ms. Gardner denies all allegations in this paragraph as stated.

92. Ms. Gardner denies all allegations in this paragraph as stated.

93. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

94. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

95. Ms. Gardner denies all allegations in this paragraph as stated.

96. Ms. Gardner denies all allegations in this paragraph as stated.

97. Ms. Gardner denies all allegations in this paragraph as stated.

98. Ms. Gardner denies all allegations in this paragraph as stated.

99. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

100. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

101. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

102. Ms. Gardner denies all allegations in this paragraph.

103. Ms. Gardner denies all allegations in this paragraph.

104. Ms. Gardner denies all allegations in this paragraph.

105. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

106. Ms. Gardner denies all allegations in this paragraph.

107. Ms. Gardner denies all allegations in this paragraph.

108. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

109. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

110. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to

the extent they are not consistent with the cited pleadings.

111. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

112. Ms. Gardner denies all allegations in this paragraph as stated.

113. Ms. Gardner denies all allegations in this paragraph as stated.

114. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

115. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

116. Ms. Gardner denies all allegations in this paragraph as stated.

117. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

118. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this

paragraph. Ms. Gardner therefore denies those allegations.

119. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

120. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

121. Ms. Gardner denies all allegations in this paragraph as stated.

122. Ms. Gardner denies all allegations in this paragraph as stated.

123. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

124. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

125. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

126. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

127. Ms. Gardner denies all allegations in this paragraph as stated.

128. Ms. Gardner denies all allegations in this paragraph as stated.

129. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

130. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

131. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

132. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

133. This paragraph contains allegations concerning information contained

in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

134. Ms. Gardner denies all allegations in this paragraph.

135. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

136. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

137. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

138. Ms. Gardner denies all allegations in this paragraph.

139. Ms. Gardner denies all allegations in this paragraph.

140. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

141. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

142. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

143. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

144. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

145. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

146. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

147. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

148. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

149. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

150. Ms. Gardner denies all allegations in this paragraph as stated.

151. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

152. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

153. Ms. Gardner denies all allegations in this paragraph as stated.

154. Ms. Gardner denies all allegations in this paragraph.

155. Ms. Gardner denies allegations in this paragraph.

156. Ms. Gardner denies all allegations in this paragraph as stated.

157. Ms. Gardner denies all allegations in this paragraph as stated.

158. Ms. Gardner denies all allegations in this paragraph.

159. This paragraph refers to a purported transcript of a press conference that is not certified or verified. Ms. Gardner admits the allegations in this paragraph regarding the date of the press conference and what she said at the press conference only to the extent those allegations are accurate. Ms. Gardner denies all remaining allegations in this paragraph.

160. This paragraph refers to a purported transcript of a press conference that is not certified or verified. Ms. Gardner admits the allegations in this paragraph regarding what she said at the press conference only to the extent those allegations are accurate. Ms. Gardner denies all remaining allegations in this paragraph.

161. Ms. Gardner denies all allegations in this paragraph.

162. Ms. Gardner denies all allegations in this paragraph.

163. Ms. Gardner denies all allegations in this paragraph as stated.

164. Ms. Gardner denies all allegations in this paragraph as stated.

165. Ms. Gardner denies all allegations in this paragraph.

166. Ms. Gardner denies all allegations in this paragraph.

167. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

168. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

169. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

170. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

171. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

172. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

173. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this

paragraph. Ms. Gardner therefore denies those allegations.

174. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

175. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

176. Ms. Gardner denies all allegations in this paragraph.

177. Ms. Gardner denies all allegations in this paragraph.

178. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

179. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

180. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

181. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

182. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

183. Ms. Gardner denies all allegations in this paragraph.

184. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

185. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

186. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

187. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of

what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

188. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

189. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

190. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

191. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

192. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

193. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

194. Ms. Gardner denies all allegations in this paragraph.

195. Ms. Gardner denies all allegations in this paragraph.

196. Ms. Gardner denies all allegations in this paragraph.

197. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count I of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count II

198. Ms. Gardner restates and realleges her responses to paragraphs 1 through 197 of the Petition, as if fully set forth herein.

199. Ms. Gardner denies all allegations in this paragraph.

200. Ms. Gardner denies all allegations in this paragraph.

201. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting

witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Ms. Gardner denies all remaining allegations in this paragraph.

202. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

203. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining

allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

204. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to

him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

205. Ms. Gardner denies all allegations in this paragraph.

206. Ms. Gardner denies all allegations in this paragraph.

207. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Ms. Gardner denies all remaining allegations in this paragraph.

208. This paragraph appears to summarize or characterize the contents of an article posted on www.stltoday.com. That article is the best evidence of what it states. Ms. Gardner denies all allegations in this paragraph to the extent (a) the paragraph does not accurately summarize or characterize the referenced article, and (b) the

referenced article is inaccurate. Ms. Gardner denies all remaining allegations in this paragraph.

209. This paragraph appears to summarize or characterize the contents of an article posted on www.ksdk.com. That article is the best evidence of what it states. Ms. Gardner denies all allegations in this paragraph to the extent (a) the paragraph does not accurately summarize or characterize the referenced article, and (b) the referenced article is inaccurate. Ms. Gardner denies all remaining allegations in this paragraph.

210. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

211. Ms. Gardner denies all allegations in this paragraph as stated.

212. Ms. Gardner denies all allegations in this paragraph.

213. Ms. Gardner denies all allegations in this paragraph.

214. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

215. Ms. Gardner denies all allegations in this paragraph as stated.

216. Ms. Gardner denies all allegations in this paragraph as stated.

217. Ms. Gardner denies all allegations in this paragraph as stated.

218. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

219. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

220. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

221. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

222. Ms. Gardner denies all allegations in this paragraph.

223. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

224. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

225. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

226. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

227. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

228. Ms. Gardner denies all allegations in this paragraph.

229. Ms. Gardner denies all allegations in this paragraph.

230. Ms. Gardner denies all allegations in this paragraph.

231. Ms. Gardner denies all allegations in this paragraph.

232. Ms. Gardner denies all allegations in this paragraph.

233. Ms. Gardner denies all allegations in this paragraph as stated.

234. Ms. Gardner denies all allegations in this paragraph as stated.

235. Ms. Gardner denies all allegations in this paragraph as stated.

236. Ms. Gardner admits that the Circuit Attorney's Office and the Vera

Institute determined that the Circuit Attorney's Office had 32,000 cases pending charges in a status called "taken under advisement." Ms. Gardner denies all remaining allegations in this paragraph.

237. Ms. Gardner denies all allegations in this paragraph.

238. Ms. Gardner denies all allegations in this paragraph.

239. Ms. Gardner denies all allegations in this paragraph.

240. Ms. Gardner denies all allegations in this paragraph.

241. Ms. Gardner denies all allegations in this paragraph.

242. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

243. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

244. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

245. This paragraph contains allegations concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

246. This paragraph contains allegations concerning separate legal matters in

which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

247. Ms. Gardner denies all allegations in this paragraph as stated. Ms. Gardner and her assistant deemed the evidence submitted insufficient to charge Ross with a crime relating to the death of Xavier Usanga.

248. Ms. Gardner denies all allegations in this paragraph as stated. As a further response, Ms. Gardner also adopts her response to paragraph 247 by reference.

249. Ms. Gardner admits on information and belief that federal authorities charged Mr. Ross with embezzlement and conspiracy to embezzle arising from separate conduct. Gardner denies all remaining allegations in this paragraph as stated.

250. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

251. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

252. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

253. Ms. Gardner denies all allegations in this paragraph as stated.

254. Ms. Gardner denies all allegations in this paragraph.

255. Ms. Gardner denies all allegations in this paragraph.

256. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the alleged number of issued cases as stated. Ms. Gardner denies all remaining allegations in this paragraph as stated.

257. Ms. Gardner denies all allegations in this paragraph as stated.

258. Ms. Gardner denies all allegations in this paragraph.

259. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the alleged number of issued cases as stated. Ms. Gardner denies all remaining allegations in this paragraph as stated.

260. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the alleged number of issued cases as stated. Ms. Gardner denies all remaining allegations in this paragraph as stated.

261. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the

circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

262. Ms. Gardner denies all allegations in this paragraph.

263. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count II of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count III

264. Ms. Gardner restates and realleges her responses to paragraphs 1 through 263 of the Petition, as if fully set forth herein.

265. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the

circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Ms. Gardner denies all remaining allegations in this paragraph.

266. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

267. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise

her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

268. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must exercise her prosecutorial discretion in good faith. Ms. Gardner denies the remaining allegations in this paragraph as stated because § 56.470, R.S.Mo., specifically § 56.470.1, actually imposes duties that, except as modified by other law, “the chief of police of the City of St. Louis, [shall] within twenty hours after the arrest by the police of any person for felony or misdemeanor under the laws of this state, . . . report to the circuit attorney the name of the person so arrested and the name of the prosecuting witness and of any other material witnesses known to the police, and said circuit attorney or his assistants shall thereupon proceed to institute such prosecution as is

required by law if, in the judgment of such circuit attorney, the evidence presented to him is sufficient to justify a prosecution.” Also, this paragraph misconstrues *Wymore* for the reasons stated in Ms. Gardner’s Motion to Dismiss the Petition, which is incorporated herein by reference. Ms. Gardner denies all remaining allegations in this paragraph.

269. Ms. Gardner admits the Circuit Attorney’s Office has a unit dedicated to the investigation and prosecution of police use-of-force cases. Ms. Gardner denies all remaining allegations in this paragraph.

270. Ms. Gardner admits the Circuit Attorney’s Office has not made a decision about whether to issue or refuse to charge in at least forty police use-of-force cases, and further states this is because proper investigations of those cases are not completed. Ms. Gardner denies all remaining allegations in this paragraph.

271. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph as stated. Ms. Gardner therefore denies all allegations in this paragraph as stated.

272. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph as stated. Ms. Gardner therefore denies all allegations in this paragraph as stated.

273. Ms. Gardner denies all allegations in this paragraph.

274. Ms. Gardner denies all allegations in this paragraph.

275. Ms. Gardner denies all allegations in this paragraph.

276. Ms. Gardner denies all allegations in this paragraph.

277. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count III of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count IV

278. Ms. Gardner restates and realleges her responses to paragraphs 1 through 277 of the Petition, as if fully set forth herein.

279. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri rules of discovery. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

280. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri rules of discovery. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

281. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri rules of discovery. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

282. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply

with the Missouri rules of discovery. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

283. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri rules of discovery. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

284. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri Supreme Court Rules 25.03 and 25.04. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

285. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri Supreme Court Rules 25.03 and 25.04. Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

286. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri Supreme Court Rule 25.08. Ms. Gardner denies the remaining

allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

287. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri Supreme Court Rule 4-3.8(d). Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

288. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with the Missouri Supreme Court Rule 4-3.8(d). Ms. Gardner denies the remaining allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

289. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with § 56.550. Ms. Gardner denies these allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

290. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with § 56.550. Ms. Gardner denies these allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining

allegations in this paragraph.

291. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits she must comply with § 56.550. Ms. Gardner denies these allegations to the extent they are inconsistent with or otherwise mischaracterize Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

292. Ms. Gardner denies all allegations in this paragraph.

293. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings. Ms. Gardner denies all remaining allegations in this paragraph.

294. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

295. Ms. Gardner denies all allegations in this paragraph.

296. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

297. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

298. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

299. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

300. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

301. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

302. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

303. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

304. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

305. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

306. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

307. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

308. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

309. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

310. Ms. Gardner denies all allegations in this paragraph as stated.

311. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

312. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

313. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

314. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

315. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all

allegations in this paragraph as stated.

316. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

317. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

318. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

319. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

320. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

321. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

322. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

323. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

324. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

325. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

326. Ms. Gardner denies all allegations in this paragraph.

327. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count IV of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count V

328. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in

this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph. Ms. Gardner also restates and realleges her responses to paragraphs 1 through 327 of the Petition, as if fully set forth herein.

329. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all remaining allegations in this paragraph as stated.

330. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations,

331. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

332. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

333. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved.

Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

334. Ms. Gardner denies all allegations in this paragraph as stated.

335. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

336. Ms. Gardner admits on information and belief that on November 7, 2022, the Court held a hearing on the petition for approval to destroy property. Ms. Gardner denies all remaining allegations in this paragraph.

337. Ms. Gardner was physically present at the hearing referenced in this paragraph. Ms. Gardner denies all remaining allegations in this paragraph.

338. Ms. Gardner denies all allegations in this paragraph.

339. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

340. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

341. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

342. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

343. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

344. Ms. Gardner denies all allegations in this paragraph as stated.

345. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

346. Ms. Gardner denies all allegations in this paragraph.

347. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

348. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in

this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

349. Ms. Gardner denies all allegations in this paragraph.

350. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count V of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count VI

351. Ms. Gardner restates and realleges her responses to paragraphs 1 through 350 of the Petition, as if fully set forth herein.

352. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

353. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

354. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

355. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

356. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

357. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

358. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

359. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

360. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

361. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

362. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

363. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

364. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

365. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

366. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all

remaining allegations in this paragraph.

367. Ms. Gardner denies all allegations in this paragraph.

368. This paragraph contains allegations concerning information in unspecified data available from the St. Louis City's Comptroller's Office. That data is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited data.

369. This paragraph contains allegations concerning information in unspecified data available from the St. Louis City's Comptroller's Office. That data is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited data.

370. This paragraph contains allegations concerning information in unspecified data available from the St. Louis City's Comptroller's Office. That data is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited data.

371. Ms. Gardner denies all allegations in this paragraph.

372. Ms. Gardner denies all allegations in this paragraph as stated.

373. Ms. Gardner denies all allegations in this paragraph.

374. Ms. Gardner denies all allegations in this paragraph as stated.

375. Ms. Gardner denies all allegations in this paragraph as stated.

376. Ms. Gardner denies all allegations in this paragraph as stated.

377. Ms. Gardner denies all allegations in this paragraph as stated.

378. Ms. Gardner denies all allegations in this paragraph as stated.

379. Ms. Gardner denies all allegations in this paragraph as stated.

380. Ms. Gardner denies all allegations in this paragraph as stated.

381. Ms. Gardner denies all allegations in this paragraph as stated.

382. Ms. Gardner denies all allegations in this paragraph as stated.

383. Ms. Gardner denies all allegations in this paragraph as stated.

384. Ms. Gardner denies all allegations in this paragraph as stated.

385. Ms. Gardner denies all allegations as stated.

386. Ms. Gardner denies all allegations as stated.

387. Ms. Gardner denies all allegations in this paragraph as stated, including because the allegations concern confidential employee information.

388. Ms. Gardner denies all allegations as stated.

389. This paragraph contains allegations concerning out-of-court statements concerning separate legal matters in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

390. This paragraph appears to summarize or characterize the contents of an editorial in the *St. Louis Post-Dispatch*. That editorial is the best evidence of what it states. Ms. Gardner denies all allegations in this paragraph to the extent (a) the paragraph does not accurately summarize or characterize the referenced editorial, and (b) the referenced article is inaccurate. Ms. Gardner denies all remaining allegations in this paragraph.

391. Ms. Gardner denies all allegations in this paragraph.

392. Ms. Gardner denies all allegations in this paragraph.

393. Ms. Gardner denies all allegations in this paragraph as stated.

394. Ms. Gardner denies all allegations in this paragraph as stated.

395. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

396. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

397. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

398. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

399. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

400. This paragraph contains allegations concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

401. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

402. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

403. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

404. Ms. Gardner denies all allegations in this paragraph as stated.

405. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

406. This paragraph contains allegations concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to

the extent they are not consistent with the cited pleadings.

407. Ms. Gardner denies all allegations in this paragraph.

408. Ms. Gardner denies all allegations in this paragraph.

409. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

410. This paragraph contains allegations concerning a separate legal matter in which Ms. Gardner was not personally involved. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

411. Ms. Gardner denies all allegations in this paragraph.

412. Ms. Gardner denies all allegations in this paragraph.

413. Ms. Gardner denies all allegations in this paragraph.

414. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

415. Ms. Gardner admits the chief trial attorney of the Circuit Attorney's Office resigned effective March 31, 2023. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

416. Ms. Gardner admits that when the chief trial assistant resigns, the cases the chief trial assistant was handling have to be reassigned. Ms. Gardner denies all

remaining allegations in this paragraph.

417. Ms. Gardner denies all allegations in this paragraph as stated, including because the allegations concern confidential employee information.

418. Ms. Gardner denies all allegations in this paragraph.

419. Ms. Gardner denies all allegations in this paragraph.

420. Ms. Gardner denies all allegations in this paragraph.

421. Ms. Gardner denies all allegations in this paragraph.

422. Ms. Gardner denies all allegations in this paragraph.

423. Ms. Gardner denies all allegations in this paragraph.

424. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

425. Ms. Gardner denies all allegations in this paragraph.

426. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that lawyers have an obligation under Rule 4-1.3 to act with reasonable diligence and promptness in representing a client. Ms. Gardner admits all remaining allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

427. Ms. Gardner denies all allegations in this paragraph.

428. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner Ms. Gardner admits that

lawyers have an obligation of candor to the tribunal under Rule 4-3.3. Ms. Gardner admits all remaining allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

429. Ms. Gardner denies all allegations in this paragraph.

430. Ms. Gardner denies all allegations in this paragraph.

431. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits that lawyers have an obligation to comply with Rule 4-3.5. Ms. Gardner admits all remaining admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

432. Ms. Gardner denies all allegations in this paragraph.

433. Ms. Gardner denies all allegations in this paragraph as stated.

434. Ms. Gardner admits that, following each grand jury term, the grand jury prepares a grand jury report. Ms. Gardner denies all remaining allegations in this paragraph.

435. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

436. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

437. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

438. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

439. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

440. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

441. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

442. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the

cited document.

443. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

444. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

445. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

446. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

447. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

448. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner

denies all allegations in this paragraph to the extent they are not consistent with the cited document.

449. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

450. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

451. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

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453. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

454. This paragraph contains allegations concerning information contained in

a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

455. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

456. Ms. Gardner denies all allegations in this paragraph.

457. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

458. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

459. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

460. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the

cited document.

461. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

462. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

463. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

464. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

465. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

466. This paragraph contains allegations concerning information contained in a grand jury report. That document is the best evidence of what it says. Ms. Gardner

denies all allegations in this paragraph to the extent they are not consistent with the cited document.

467. Ms. Gardner denies all allegations in this paragraph.

468. Ms. Gardner denies all allegations in this paragraph.

469. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count VI of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count VII

470. Ms. Gardner restates and realleges her responses to paragraphs 1 through 469 of the Petition, as if fully set forth herein Ms. Gardner denies all previous allegations, as set forth herein.

471. Ms. Gardner denies all allegations in this paragraph.

472. Ms. Gardner denies all allegations in this paragraph.

473. Ms. Gardner denies all allegations in this paragraph.

474. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

475. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

476. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

477. Ms. Gardner denies all allegations in this paragraph.

478. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

479. Ms. Gardner denies all allegations in this paragraph.

480. This paragraph contains allegations concerning the contents of an open record request. That request is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

481. Ms. Gardner denies all allegations in this paragraph as stated.

482. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

483. Ms. Gardner denies all allegations in this paragraph as stated.

484. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to

the extent they are not consistent with the cited pleadings.

485. Ms. Gardner denies all allegations in this paragraph as stated.

486. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

487. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

488. Ms. Gardner denies all allegations in this paragraph as stated.

489. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

490. Ms. Gardner denies all allegations in this paragraph as stated.

491. Ms. Gardner denies all allegations in this paragraph as stated.

492. Ms. Gardner denies all allegations in this paragraph as stated.

493. Ms. Gardner denies all allegations in this paragraph as stated.

494. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

495. Ms. Gardner denies all allegations in this paragraph as stated.

496. Ms. Gardner denies all allegations in this paragraph.

497. Ms. Gardner denies all allegations in this paragraph.

498. Ms. Gardner denies all allegations in this paragraph.

499. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count VII of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count VIII

500. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph. Ms. Gardner also restates and realleges her responses to paragraphs 1 through 499 of the Petition, as if fully set forth herein.

501. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

502. Ms. Gardner denies all allegations in this paragraph.

503. Ms. Gardner denies all allegations in this paragraph.

504. Ms. Gardner denies all allegations in this paragraph.

505. Ms. Gardner denies all allegations in this paragraph.

506. Ms. Gardner denies all allegations in this paragraph as stated.

507. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

508. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

509. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

510. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

511. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

512. Ms. Gardner denies all allegations in this paragraph as stated.

513. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what

they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

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518. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

519. Ms. Gardner denies all allegations in this paragraph.

520. Ms. Gardner denies all allegations in this paragraph.

521. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count VIII of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count IX

522. Ms. Gardner restates and realleges her responses to paragraphs 1 through 521 of the Petition, as if fully set forth herein.

523. Ms. Gardner denies all allegations in this paragraph.

524. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

525. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

526. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

527. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in

this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

528. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

529. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

530. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

531. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

532. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

533. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

534. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

535. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

536. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

537. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

538. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

539. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

540. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

541. Ms. Gardner denies all allegations in this paragraph as stated.

542. Ms. Gardner denies all allegations in this paragraph as stated.

543. Ms. Gardner denies all allegations in this paragraph.

544. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph as well as in the footnote attached to the subheading preceding this paragraph. Ms. Gardner therefore denies all allegations in this paragraph and in the referenced footnote as stated.

545. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

546. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

547. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all

allegations in this paragraph as stated.

548. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

549. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

550. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

551. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph.

552. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

553. Ms. Gardner denies all allegations in this paragraph.

554. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

555. Ms. Gardner denies all allegations in this paragraph as stated.

556. This paragraph contains allegation concerning information contained in

the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

557. Ms. Gardner denies all allegations in this paragraph as stated.

558. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

559. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

560. Ms. Gardner denies all allegations in this paragraph.

561. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

562. Ms. Gardner denies all allegations in this paragraph as stated.

563. Ms. Gardner denies all allegations in this paragraph as stated.

564. Ms. Gardner denies all allegations in this paragraph as stated.

565. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

566. Ms. Gardner denies all allegations in this paragraph as stated.

567. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

568. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

569. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

570. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

571. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

572. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

573. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to

the extent they are not consistent with the cited pleadings.

574. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

575. This paragraph contains allegation concerning information contained in a document submitted to the court in a separate legal matter. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

576. This paragraph contains allegation concerning information contained in a document submitted to the court in a separate legal matter. That document is the best evidence of what it says. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited document.

577. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

578. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

579. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

580. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

581. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

582. Ms. Gardner denies this allegation as stated.

583. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

584. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

585. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

586. Ms. Gardner denies all allegations in this paragraph.

587. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this

paragraph to the extent they are not consistent with the cited pleadings.

588. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

589. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

590. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

591. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

592. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

593. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

594. Ms. Gardner lacks knowledge and information sufficient to form a belief

as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

595. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

596. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

597. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

598. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies all allegations in this paragraph as stated.

599. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

600. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations stated in this paragraph. Ms. Gardner therefore denies those allegations.

601. Ms. Gardner denies all allegations in this paragraph.

602. Ms. Gardner denies all allegations in this paragraph.

603. Ms. Gardner denies all allegations in this paragraph.

604. Ms. Gardner denies all allegations in this paragraph.

605. Ms. Gardner denies all allegations in this paragraph.

606. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count IX of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Response to Count X

607. Ms. Gardner restates and realleges her responses to paragraphs 1 through 606 of the Petition, as if fully set forth herein.

608. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

609. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

610. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

611. This paragraph contains a legal conclusion to which no response is

required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

612. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Ms. Gardner admits the allegations in this paragraph to the extent they properly state Missouri law. Ms. Gardner denies all remaining allegations in this paragraph.

613. Ms. Gardner denies all allegations in this paragraph.

614. Ms. Gardner denies all allegations in this paragraph.

615. Ms. Gardner denies all allegations in this paragraph.

616. Ms. Gardner denies all allegations in this paragraph.

617. Ms. Gardner denies all allegations in this paragraph.

618. Ms. Gardner denies all allegations in this paragraph.

619. Ms. Gardner denies all allegations in this paragraph.

620. Ms. Gardner denies all allegations in this paragraph.

621. Ms. Gardner denies all allegations in this paragraph.

622. Ms. Gardner lacks knowledge and information sufficient to form a belief as to the truth of the allegations in this paragraph. Ms. Gardner therefore denies those allegations.

623. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

624. This paragraph contains allegation concerning information contained in the pleadings of a separate legal matter. Those pleadings are the best evidence of what they say and their legal effect. Ms. Gardner denies all allegations in this paragraph to the extent they are not consistent with the cited pleadings.

625. Ms. Gardner denies all allegations in this paragraph.

626. Ms. Gardner denies all allegations in this paragraph.

627. Ms. Gardner denies all allegations in this paragraph.

628. Ms. Gardner denies all allegations in this paragraph.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in Count X of the Petition with prejudice, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Defenses and Affirmative Defenses

1. Ms. Gardner denies all allegations that have been or may be alleged against her that are not expressly admitted in this Answer, included in any superseding or amended Petition. Ms. Gardner further asserts the Defenses and Affirmative Defenses set forth in this Answer against all claims that have or may be asserted against her in this litigation, including any claim asserted in any amended or substitution petition.

2. The Petition fails to state a claim for the reasons set forth in Ms. Gardner's Motion to Dismiss and Suggestions in Support (her "Motion to Dismiss"), which Motion to Dismiss is incorporated herein by reference. Accordingly, the Petition should be dismissed in its entirety.

3. Mr. Bailey's action is frivolous, for political and not legitimate purposes.

4. Mr. Bailey is engaging in improper selective prosecution, in violation of the Equal Protection Clauses of the Missouri and United States Constitution.

5. Mr. Bailey is engaging in improper selective prosecution, in violation of the Due Process Clauses of the Missouri and United States Constitution.

6. Removing Ms. Gardner from office for the conduct cited in the Petition would violate Ms. Gardner's constitutional rights including her right under the United States and Missouri Constitutions to run for and hold political office, a right protected as part of the First Amendment Rights of Freedom of Expression and Association.

7. Removing Ms. Gardner from office for the conduct cited in the Petition would violate Ms. Gardner's constitutional rights including her right under the United States and Missouri Constitutions to Equal Protection.

8. Removing Ms. Gardner from office for the conduct cited in the Petition would violate Ms. Gardner's constitutional rights including her right under the United States and Missouri Constitutions to Due Process.

9. Mr. Bailey's attempt to remove Ms. Gardner without basis and contrary to the political process violates Article I, Section I of the Missouri Constitution, that all political power is vested in and derived from the People.

10. On or about December 12, 2021, the Circuit Attorney's Office orally requested that Mr. Riley's bond be revoked, but the court denied the request.

11. Ms. Gardner was not the attorney assigned to many of the specific cases referenced in the Petition. She did not make any of the decisions complained of in the Petition. Ms. Gardner does not have personal knowledge of all circumstances and reasons for each of the decisions complained of in the Petition.

12. Mr. Bailey improperly seeks to hold Ms. Gardner strictly liable for any purported mistake of an employee in the Circuit Attorney's Office, without regard to whether Ms. Gardner took or failed to take any action with regard to that mistake, and without regard to whether Ms. Gardner ordered, approved or ratified the conduct at issue.

13. The Circuit Attorney's Office had long-standing practices of having cases assigned to group leaders when an assistant circuit attorney left and a case was awaiting assignment. Ms. Gardner's continuation of this practice does not constitute grounds for removal.

14. The Circuit Attorney's Office had a long-standing practice of holding cases in a status called "taken under advisement" when the Circuit Attorney's Office could not or did not intend to proceed with prosecuting the case. Ms. Gardner's ending of this practice, which was unduly harmful to the potential defendant, does not constitute grounds for removal.

15. Family members of Xavier Usanga indicated to Ms. Gardner that they did not want to proceed with the prosecution of Malik Ross.

16. The action of the United States Attorney in using evidence that support Malik Ross had killed Xavier Usanga to seek pretrial detention and/or increased sanctions against Mr. Ross interfered with the investigation and prosecution of Mr. Ross for his possible role in causing the death of Xavier Usanga.

17. This matter remains in its earliest stages. Ms. Gardner therefore reserves the right to supplement this Answer with additional defenses or affirmative defenses as the facts may indicate appropriate.

WHEREFORE, Respondent Kimberly M. Gardner asks this Court to dismiss the charges alleged against her in the Petition in a fair, just, and equitable fashion, or grant Ms. Gardner any other or further relief as this Court deems just and proper.

Respectfully submitted,

DOWNEY LAW GROUP LLC

/s/ Michael P. Downey

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rsullivan@ronaldsullivanlaw.com

Counsel for Respondent Kimberly Gardner

Certificate of Service

The undersigned certifies that on this 11th day of April, 2023, a copy of the foregoing was filed in this Court's CaseNet electronic filing system and served by operation of that case filing system upon all counsel of record in this matter.

/s/ Michael P. Downey