

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Rev. Dr. Thomas A. Summers, Rev. Dr.)	Civil Action No. 3:08-cv-02265-CMC
Robert M. Knight, Rabbi Sanford T.)	
Marcus, Rev. Dr. Neal Jones, Hindu)	
American Foundation, and American-Arab)	
Anti-Discrimination Committee,)	
)	
Plaintiffs,)	
)	
vs.)	<u>ANSWER TO FIRST AMENDED</u>
)	<u>COMPLAINT</u>
Marcia S. Adams, in her official capacity as)	
the Director of the South Carolina)	
Department of Motor Vehicles; Jon)	
Ozmint, in his official capacity as the)	
Director of the Department of Corrections)	
of South Carolina,)	
)	
Defendants.)	

Defendant Marcia S. Adams, in her official capacity as Director of the South Carolina Department of Motor Vehicles (“DMV”), and Defendant Jon Ozmint, in his official capacity as the Director of the Department of Corrections of South Carolina (collectively “Defendants”), reserving all rights and defenses and waiving none of them, now come before this Honorable Court and hereby answer Plaintiffs’ First Amended Complaint as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint is denied unless hereinafter admitted, qualified, or explained.
2. Responding to the allegations of Paragraph 1, Defendants crave reference to the legislation referred to therein and, to the extent that the allegations in Paragraph 1 are

inconsistent with the contents of that legislation, Defendants deny the same and demand strict proof thereof.

3. Responding to the allegations of Paragraph 2, Defendants state that the allegations contained therein state legal conclusions and do not require a response. To the extent that these statements of law are inconsistent with the South Carolina Code of Laws or the South Carolina Code of Regulations, Defendants deny the same and demand strict proof thereof. Further, to the extent that the allegations of this paragraph state that the license plate provided for in Act No. 253 (June 5, 2008) improperly advances or endorses religion or discriminates against some members of the citizenry based on their viewpoint, Defendants deny the same and demand strict proof thereof. To the extent that this paragraph alleges that some state officials have made certain statements, Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of such allegations and, therefore, deny the same and demand strict proof thereof.

4. Responding to the allegations of Paragraph 3, Defendants state that the allegations contained therein state legal conclusions and do not require a response. To the extent that a response is required, Defendants deny the allegations in Paragraph 3 and demand strict proof thereof.

5. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 4, and, therefore, deny the same and demand strict proof thereof.

6. Responding to the allegations of Paragraph 5, Defendants state that the allegations contained therein state legal conclusions and do not require a response. To the extent that a response is required, Defendants crave reference to the legal authorities referenced therein. To

7. Defendants deny the allegations of Paragraph 6 and demand strict proof thereof.

8. Responding to the allegations of Paragraph 7, Defendants state that the Declaratory Judgment Act, located at 28 U.S.C. §§ 2201 and 2202, vests district courts with the authority to enter declaratory relief. To the extent that the allegations of this paragraph are inconsistent with this, Defendants deny the same and demand strict proof thereof.

9. Defendants admit the allegations of Paragraph 8 of the Complaint.

10. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraphs 9, 10, 11, 12, 13, and 14; therefore, Defendants deny the same and demand strict proof thereof. Further, to the extent that the allegations in these paragraphs imply that the specialty license plate provided for in Act No. 253 (June 5, 2008) is inconsistent with the United States Constitution, Defendants deny the same and demand strict proof thereof.

11. Defendants admit the allegations contained in the first and second sentences of Paragraph 15 of the Complaint. The third sentence of this paragraph is admitted except that Defendants deny that Defendant Adams has any taken any action in violation of state or federal law.

12. Defendants admit the allegations contained in the first sentence of Paragraph 16 of the Complaint. The second sentence is denied to the extent that it is inconsistent with S.C. Code § 24-3-110 in that manufacturing is the only responsibility of the Department of

Corrections regarding any license plates. The third sentence of this paragraph is admitted except that the Defendants deny that Defendant Ozmint has any taken any action in violation of state or federal law.

13. Responding to the allegations of Paragraph 17, Defendants state that Section 56-3-1210 of the South Carolina Code authorizes the South Carolina Department of Motor Vehicles, “upon registering and licensing a vehicle,” to “issue to the owner one license plate.” Defendants further states that this motor vehicle license plate is at present the “Sunrise License Plate,” which costs the vehicle’s owner \$24. To the extent the allegations of Paragraph 17 are inconsistent with this, Defendants deny the same and demand strict proof thereof.

14. Responding to the allegations of Paragraph 18, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

15. Responding to the allegations of Paragraph 19, Defendants state that the DMV may issue specialty license plates, and the General Assembly can provide for specialty license plates through legislation. To the extent that the allegations of this paragraph are inconsistent with this, Defendants deny the same and demand strict proof thereof.

16. Responding to the allegations of Paragraph 20, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

17. Responding to the allegations of Paragraph 21, Defendants state that the individual or organization seeking issuance of a specialty plate on behalf of a nonprofit organization can specify an additional fee, above the standard \$24 fee, which the DMV uses to account for the expense of producing and distributing the specialty license plate. See S.C. Code

Ann. § 56-3-8000(A). Usually, this additional fee ranges between \$30 and \$100. See, e.g., id. § 56-3-4410 (\$30 for Share the Road license plate); id. § 56-3-3600 (\$46 fee for South Carolina Nurses license plate); id. § 56-3-8700 (\$70 for NASCAR license plate); id. § 56-3-9400 (\$100 for Morris Island license plate). The sponsoring organization may also designate a group or cause to receive the remainder of the fee once the costs of production and distribution are satisfied. Id. § 56-3-8000(A). To the extent the allegations of Paragraph 21 are inconsistent with this, Defendants deny the same and demand strict proof thereof.

18. Defendants admit the allegations of Paragraph 22.

19. Responding to the allegations of Paragraph 23, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

20. Responding to the allegations of Paragraph 24, Defendants state that the General Assembly may create specialty license plates. To the extent that the allegations of this paragraph are inconsistent with this, Defendants deny the same and demand strict proof thereof.

21. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 25, and, therefore, deny the same and demand strict proof thereof.

22. Responding to the allegations of Paragraph 26, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

23. Responding to the allegations of Paragraph 27, Defendants state that the General Assembly has enacted legislation to create specialty license plates. However, Defendants are without knowledge or information sufficient to form a belief as to the origin of these license plates. Therefore,

to the extent that the allegations of this paragraph purport to identify the origin of certain specialty license plates, Defendants deny the same and demand strict proof thereof.

24. Responding to the allegations of Paragraph 28, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof. Further, to the extent that the allegations of this paragraph purport to identify the origin of certain specialty license plates, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity regarding these allegations. Therefore, Defendants deny these allegations and demand strict proof thereof.

25. Responding to the allegations of Paragraph 29, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

26. Responding to the allegations of Paragraph 30, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

27. Responding to the allegations of Paragraph 31, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

28. Responding to the allegations of Paragraph 32, Defendants crave reference to the legislation referenced therein and, to the extent that the allegations in this paragraph are inconsistent with the contents of that legislation, Defendants deny the same and demand strict proof thereof.

29. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 33, and, therefore, deny the same and demand strict proof thereof.

30. Defendants admit the allegations contained in Paragraph 32 but deny any allegation or implication that Christianity is the only meaning that may be conveyed by a cross.

31. Responding to the allegations of Paragraph 35, Defendants crave reference to the legislation referenced therein and, to the extent that the allegations this paragraph are inconsistent with the contents of that legislation, Defendants deny the same and demand strict proof thereof.

32. Responding to the allegations of Paragraph 36, Defendants state that the bill at issue in this litigation became law without the signature of the Governor. Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this paragraph and, therefore, deny the same and demand strict proof thereof.

33. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 37, and, therefore, deny the same and demand strict proof thereof.

34. Responding to the allegations of Paragraph 38, Defendants state that the fee for citizens to purchase an "I Believe" specialty license plate has not yet been established. To the extent that the allegations in Paragraph 38 are inconsistent with this, Defendants deny the same and demand strict proof thereof.

35. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 39, and, therefore, deny the same and demand strict proof thereof.

36. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 40, and, therefore, deny the same and demand strict proof thereof.

37. Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 41, and, therefore, deny the same and demand strict proof thereof. Further, to the extent that the allegations of Paragraph 41 imply an intent to act inconsistently with the United States Constitution, Defendants deny the same and demand strict proof thereof.

38. Responding to the allegations of Paragraph 42, Defendants state that design concepts for the “I Believe” license plate have been submitted to a vendor. Defendants further state that the DMV may be in a position to take orders for this license plate in September 2008, and the DMV may be in a position to distribute this license plate in October 2008. To the extent that the allegations of Paragraph 42 are inconsistent with the above, Defendants deny the same and demand strict proof thereof.

39. Responding to the allegations of Paragraph 43, Defendants are without sufficient knowledge or information to form a belief as to whether the South Carolina General Assembly has considered legislation authorizing a specialty license plate with the words “I Believe” and a logo other than that which is provided for in Act No. 253 (June 5, 2008). Further, Defendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the alleged statements attributed to various state legislators in Paragraph 43, and, therefore, deny the same and demand strict proof thereof. However, Defendants state that citizens of the State of South Carolina may obtain specialty license plates containing slogans, logos, or other text by requesting that the General Assembly pass legislation authorizing desired license plates. To the

extent that the allegations of this paragraph are inconsistent with this, Defendants deny the same and demand strict proof thereof.

40. Responding to the allegations of Paragraph 44, Defendants state that citizens of the State of South Carolina may obtain specialty license plates containing slogans, logos, or other text by requesting that the General Assembly pass legislation authorizing desired license plates. To the extent that the allegations of this paragraph are inconsistent with this, Defendants deny the same and demand strict proof thereof.

41. Responding to the allegations in Paragraph 45, Defendants reallege and incorporate by reference their responses to the allegations in the preceding paragraphs of the Complaint.

42. Responding to the allegations of Paragraph 46, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

43. Responding to the allegations of Paragraph 47, Defendants state that the allegations contained therein state a legal conclusion and do not require a response. To the extent that the allegations of Paragraph 47 require a response, Defendants deny the same and demand strict proof thereof.

44. Responding to the allegations of Paragraph 48, Defendants state that the allegations contained therein state a legal conclusion and do not require a response. To the extent that the allegations of Paragraph 48 require a response, Defendants deny the same and demand strict proof thereof.

45. Responding to the allegations of Paragraph 49, Defendants state that the allegations contained therein state a legal conclusion and do not require a response. To the extent

that the allegations of Paragraph 49 require a response, Defendants deny the same and demand strict proof thereof.

46. Responding to the allegations in Paragraph 50, Defendants reallege and incorporate by reference their responses to the allegations in the preceding paragraphs of the Complaint.

47. Responding to the allegations of Paragraph 51, Defendants crave reference to the authorities cited therein and, to the extent that the allegations of this paragraph are inconsistent with these authorities, Defendants deny the same and demand strict proof thereof.

48. Responding to the allegations of Paragraph 52, Defendants state that the allegations contained therein state a legal conclusion and do not require a response. To the extent that the allegations of Paragraph 52 require a response, Defendants deny the same and demand strict proof thereof.

49. Responding to the allegations in Paragraph 53, Defendants reallege and incorporate by reference their responses to the allegations in the preceding paragraphs of the Complaint.

50. Defendants deny the allegations set forth in Paragraphs 54, 55, 56, 57, 58, 59, and 60 of the Complaint and demands strict proof thereof.

FOR A SECOND DEFENSE
(Lack of Subject Matter Jurisdiction)

51. Plaintiffs lack standing to prosecute the claims set forth in the Complaint, and, therefore, the Complaint must be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

FOR A THIRD DEFENSE
(Failure to State a Claim)

52. The Complaint fails to state facts sufficient to constitute a cause of action, and, therefore, the Complaint must be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendants pray that the Complaint be dismissed, with prejudice, and for such other and further relief as the Court may deem just and proper.

SIGNATURE PAGE ATTACHED

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Columbia, South Carolina
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