

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

SEAN LYNN and  
LAURA HAMMETT

PLAINTIFFS

V. CASE NO. 60CV-26-216

BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ARKANSAS; et al.

DEFENDANTS

**REPLY TO PLAINTIFFS' RESPONSE TO SEPARATE DEFENDANT  
BOARD OF TRUSTEES' MOTION TO DISMISS**

**I. Plaintiff's Cannot Bypass the Board's Sovereign Immunity.**

Sovereign immunity is a threshold, jurisdictional limitation rooted in the Arkansas Constitution. Article 5, Section 20 of the Arkansas Constitution is unequivocal: "The State of Arkansas shall never be made defendant in any of her courts." Ark. Const. art. 5, § 20. A suit is barred if the judgment would "operate to control the action of the State or subject it to liability." *Ark. State Med. Bd. v. Byers*, 2017 Ark. 213, 521 S.W.3d 459. Plaintiffs bear the burden to plead facts establishing a recognized basis to proceed notwithstanding sovereign immunity; conclusory assertions of "illegality" or "ultra vires" do not suffice.

The Board, which manages and oversees the campuses of the University of Arkansas System, is an instrumentality of the State entitled to this constitutional protection. *Washington County v. Bd. of Trs.*, 2016 Ark. 34, 480 S.W.3d 173; *Bd. of Trs. of the Univ. of Ark. v. Andrews*, 2018 Ark. 12, 535 S.W.3d 616. The question is not whether Plaintiffs style their claim as "declaratory" rather than "damages." The question is whether the relief sought would operate to control State action or subject the State to liability. *Byers*, 2017 Ark. 213; 521 S.W.3d 459.

**A. Plaintiffs seek to control State action by dictating UAMS' employment decisions and policy adoption.**

In Plaintiffs Response, they ask this Court to declare “ultra vires” the many actions of University of Arkansas for Medical Sciences (UAMS)<sup>1</sup> employees during Plaintiff Lynn’s hospitalization that it disagrees with while calling the actions unconstitutional solely on the basis that Plaintiffs say it is so. Plaintiffs stated objective against the Board is to force the UAMS campus to change policy (Complaint Count IV, pp. 71-72) and to terminate employees (Complaint Count V, pp. 72). Plaintiffs’ requested declaratory and injunctive relief would necessarily operate to control State action by placing the judiciary in the role of supervising the employment decisions of a state agency and invalidating or dictating the adoption and/or revision of UAMS policies. Article 5, Section 20 of the Arkansas Constitution prohibits such a result.

**B. Plaintiffs’ reliance on an “ultra vires exception” does not fit the claim they have pleaded.**

Plaintiffs seem to argue that by merely stating they seek only equitable relief from the Board to prevent future action that in their opinion is “illegal, unconstitutional and ultra vires,” then the State’s sovereign immunity is not applicable. However, Plaintiffs’ ultra vires proclamation does not make it so. Plaintiffs disagree with the medical care that Plaintiff Lynn received and have now launched an attack on 81 current and former employees. See Response Brief, pp. 2-3. As a result of those unfounded and unsupported allegations, Plaintiffs seek to control

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<sup>1</sup> The Board notes that Plaintiffs refer to alleged “illegal actions of the UALR employees,” however, it is the actions of UAMS employees that Plaintiffs challenge. (Response Brief, p. 2).

the action of the Board by demanding judicial redress in the form of policy revisions and employment termination actions. The ultra vires principle is not a general-purpose vehicle for third parties to alter the policies of state agencies or demand the termination of employees, and Plaintiffs have provided no case law to support their proposition.

At a minimum, Plaintiffs must plead specific facts establishing that State actors acted outside statutory authority or in violation of a constitutional command. Plaintiffs' Complaint fails to meet that pleading standard. Instead, Plaintiffs offer conclusory statements and personal opinions that the medical treatment Plaintiff Lynn received was inappropriate leading to their claims of malpractice against the many people they have named in the Complaint. These allegations do not support Plaintiffs' claims of ultra vires action to bypass the Board's sovereign immunity.

## **II. The Question of the Unauthorized Practice of Law.**

As stated in the Brief in support, counsel for the Board feels a professional obligation to bring Plaintiff Hammett's possible unauthorized practice of law to the Court's attention especially in light of the summons and the concerns expressed by the Arkansas State Claims Commission in the order the Board attached to the Motion to Dismiss. Plaintiffs are seemingly dismissive of the concerns stating that both signed the Complaint which is enough to prove that each plaintiff is representing himself and herself.

First, Plaintiffs argue that Rule 4(b)(3) of the Arkansas Rules of Civil Procedure regarding the form of the summons uses "plaintiff" in the singular rather than the plural. Plaintiffs' argument suggests that the Rules only contemplate a

responsive pleading being sent to one plaintiff in the action even if multiple plaintiffs are pro se. In *Nucor v. Kilman*, cited by Plaintiffs, the court stated, “we have . . . found that a literal application which leads to absurd consequences should be rejected where an alternative interpretation effects the statute's purpose.” 358 Ark. 107, 122, 186 S.W.3d 720, 729 (2004)(citing *Henson v. Fleet Mortgage Co.*, 319 Ark. 491, 892 S.W.2d 250 (1995)). The alternative, and more obvious, interpretation here that would effectuate Rule 4(b)(3)’s intended purpose is to ensure that a responsive pleading is sent to the attorney representing the plaintiff or plaintiffs in a multi-party action or to a pro se plaintiff in an action filed by one plaintiff. The Arkansas Rules of Civil Procedure do not seem to contemplate multiple pro se plaintiffs. Nonetheless, there was still a simple option as shown below.

Second, Plaintiffs argue that the clerk’s filing software only allows one plaintiff to be listed. Interestingly, despite Plaintiff Lynn being the primary plaintiff and the first one listed on the Complaint, it is Plaintiff Hammett’s name and address on the summons to receive the responsive pleading. While Plaintiff Lynn would be the more obvious choice considering it was his hospitalization that led to the Complaint, there was also a second obvious alternative—add the second pro se Plaintiff’s information to the summons by handwriting or typing the information on it. Plaintiff Hammett’s refusal to do so, again, begs the question of whether Plaintiff Lynn is actually representing himself in this matter which an issue for this Court.

WHEREFORE, Separate Defendant, Board of Trustees of the University of Arkansas, respectfully requests that the Complaint be dismissed as to it and for all other relief to which it is entitled.

Respectfully submitted,

THE BOARD OF TRUSTEES OF  
THE UNIVERSITY OF ARKANSAS

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**CERTIFICATE OF SERVICE**

I, Sherri L. Robinson, hereby certify that on March 23, 2026, I filed the foregoing electronically with the Clerk of Court using the Arkansas Judiciary Electronic Filing System, which shall send notification to any other attorneys in this matter. I also mailed a copy by U.S. Mail, postage prepaid to both Plaintiffs:

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