

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.  
DEBORAH S. REESE,

Relator,

vs.

CUYAHOGA COUNTY BOARD  
OF ELECTIONS, et al.,

Respondent.

CASE NO. 07-1509

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**ANSWER TO COMPLAINT FOR MANDAMUS AND/OR  
PROHIBITION FOR ELECTION MATTER**

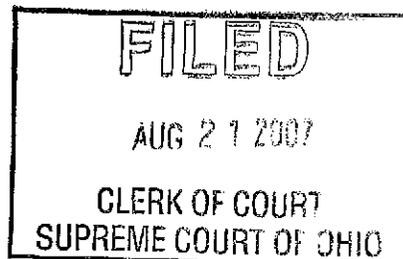
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DEBORAH S. REESE



IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.	:	CASE NO. 07-1509
DEBORAH S. REESE, et al.,	:	
	:	
Relator,	:	
	:	
vs.	:	
	:	
CUYAHOGA COUNTY BOARD	:	
OF ELECTIONS, et al.,	:	
	:	
Respondent.	:	

Now comes Respondent, Cuyahoga County Board of Elections by and through counsel, William D. Mason, Prosecuting Attorney for Cuyahoga County, Ohio, and his undersigned assistant, and respectfully answers:

1. Respondent admits Paragraph One.
2. Respondent admits Paragraph Two.
3. Respondent admits Paragraph Three.
4. Respondent admits Paragraph Four.
5. Respondent admits Paragraph Five, but deny that this fact is dispositive to issues herein.
6. Respondent admits Paragraph Six.
7. Respondent admits Paragraph Seven as stated in Chapter 35 of the Ohio Revised Code.
8. Respondent admits Paragraph Eight, but deny that this "indication" was correct and/or dispositive of the issues herein. The mistaken advice, information, or opinion by a

Board of Elections or its staff does not stop the Board from applying the law. State ex rel. McMillian v. Ashtabula County Board of Elections (1992), 65 Ohio St. 3d 186 (citation)

9. Respondent admits Paragraph Nine.

10. Respondent admits Paragraph Ten.

11. Respondent admits Paragraph Eleven as to “voted”, but denies, “participated” for want of knowledge.

12. Respondent denies Paragraph Twelve for want of knowledge due to the phrase “consistently participated”.

13. Respondent admits Paragraph Thirteen.

14. Respondent admits Paragraph Fourteen, but denies that it’s applicable herein.

15. Respondent admits that relator sent the letter referred to in paragraph fifteen, but denies the remaining allegations because relator stated: that she had no independent knowledge of the statements in the letter; her sister thought the matter to her attention; and that she did no look at the exhibits she filed, and did not know what they stated. (Tr. 40-43).

16. Respondent admits Paragraph Sixteen.

17. Respondent admits Paragraph Seventeen, and reincorporates their answer in Paragraph Fifteen, as if it were fully rewritten herein.

18. Respondent admits the allegations in Paragraph Eighteen, and specifically deny that it “changed its prior designation”, and admits that it “corrected its designation”.

19. Respondent admits Paragraph Nineteen.

20. Respondent admits that they denied relator’s protest, and deny the remaining allegations in Paragraph 20, because the advisory referred to is inapplicable, and

respondents corrected its' prior certification of "independent", which was incorrect to "nonpartisan".

21. Respondent denies Paragraph Twenty-One.

22. Respondent denies Paragraph Twenty-Two.

23. Respondent denies Paragraph Twenty-Three.

24. Respondent denies Paragraph Twenty-Four.

25. Respondent denies Paragraph Twenty-Five.

26. Respondent admits Paragraph Twenty-Six because they made the correct decision.

#### AFFIRMATIVE DEFENSES

1. Relator's Complaint fails to state a claim upon which relief may be granted.

2. Relator's Complaint does not comply with S. Ct. R X, Section 4(B).

3. Counsel's affidavit is insufficient to specify the details of the claim because it merely states that he has personal knowledge, that he is counsel for relator, and that he has reviewed the allegations set forth by relator, and to the best of counsel's knowledge and good faith belief, relator's allegations are true.

4. Relator's affidavit is insufficient to specify the details of the claim because it merely states that after conversation with her sister, she signed a letter prepared by her sister for protest, which only included a copy of Secretary of State Advisory No. 2007-65, the Morrison opinion, and two newspaper articles, and omits any facts regarding her personal knowledge to Judge Graven's petitions and voting record.

5. Relator's consultation with her sister and legal counsel does not equate to

personal knowledge, and is hearsay.

6. Relator's affidavit does not adequately support the Complaint because her affidavit contradicts the transcripts filed herein.

7. Respondent reserves the right to assert additional affirmative defenses.

**WHEREFORE**, Respondent moves this Honorable Court to dismiss the Relator's Petition for Writ of Mandamus.

Respectfully submitted,

WILLIAM D. MASON, Prosecuting Attorney  
of Cuyahoga County, Ohio



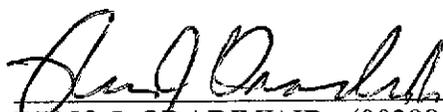
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ATTORNEYS FOR RESPONDENT  
CUYAHOGA COUNTY BOARD OF ELECTIONS

CERTIFICATE OF SERVICE

A copy of the foregoing Respondent's Answer to Petition for Writ of Mandamus was mailed to Daniel P. Carter, Jeffrey W. Ruple, and Buckley King, LPA Attorneys for Relator, The Hannah Building, 1422 Euclid Avenue, Suite 1162, Cleveland, Ohio 44115, this 21<sup>st</sup> day of August 2007, by regular U.S. Mail.



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Assistant Prosecuting Attorney