

ORIGINAL

Case No. 09-1294

IN THE SUPREME COURT OF OHIO

STATE EX REL. SCIOTO DOWNS, INC., ET AL.,

Relators,

v.

JENNIFER L. BRUNNER, ET AL.,

Respondents.

**Original Action Under Section 1g, Article II,
of the Ohio Constitution**

**ANSWER OF INTERVENORS OHIO FOR JOBS & GROWTH COMMITTEE,
WILLIAM J. CURLIS, JOHN T. CAMPBELL, MATTHEW HAMMOND, AND
CHARLES J. LUKEN**

LUTHER L. LIGGETT, JR. (0004683)
ANNE MARIE SFERRA (0030855)
VLADIMIR P. BELO (0071334)
BRICKER & ECKLER LLP
100 S. Third Street
Columbus, Ohio 43215
Tel: (614) 227-2300
Fax: (614) 227-2390
lliggett@bricker.com

Attorneys for Relators

D. MICHAEL HADDOX (0004913)
MUSKINGUM COUNTY PROSECUTOR
27 N. Fifth Street, P.O. Box 189
Zanesville, Ohio 43702
Tel: (740) 455-7123
Fax: (740) 455-7141

*Attorneys for Respondent Muskingum
County Board of Elections*

RICHARD CORDRAY (0055501)
OHIO ATTORNEY GENERAL
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
Tel: (614) 644-7520
Fax: (614) 728-7592

ELEANOR SPEELMAN (0013590)
GENERAL COUNSEL
OHIO SECRETARY OF STATE
180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (614) 767-6446
Fax: (614) 644-0649

*Attorneys for Respondent Jennifer L.
Brunner, Ohio Secretary of State*

FILED

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CLERK OF COURT
SUPREME COURT OF OHIO

ALAN G. STARKOFF (0003286)
COUNSEL OF RECORD
MATTHEW L. FORNSHELL (0062101)
MATTHEW T. GREEN (0075408)
SCHOTTENSTEIN, ZOX & DUNN CO., L.P.A.
250 West Street
Columbus, Ohio 43215
Tel: (614) 462-2700
Fax: (614) 462-5135
astarkoff@szd.com

DONALD J. MCTIGUE (0022849)
MARK A. MCGINNIS (0076275)
J. COREY COLOMBO (0072398)
MCTIGUE & MCGINNIS LLC
550 East Walnut Street
Columbus, Ohio 43215
Tel: (614) 263-7000
Fax: (614) 263-7078
mctiguelaw@rrohio.com

*Attorneys for Intervenors Ohio for Jobs
& Growth Committee, William J. Curlis,
John T. Campbell, Matthew Hammond,
and Charles J. Luken*

Intervenors, Ohio Jobs & Growth Committee, William J. Curlis, John T. Campbell, Matthew Hammond, and Charles J. Luken, hereby answer the averments of Relators' Petition and Complaint ("Complaint") filed herein as follows:

1. Paragraphs 1, 2, 7, 9, 11, 12, 13, 14, 15, 16, 29, 30, 38, 39, 40, 41, 42, 43, 47, 56, 60, and 61 of the Complaint purport to be statements of law or legal interpretation and, therefore, do not require admission or denial.
2. Paragraph 3 purports to describe the instant action and, as such, speaks for itself, but Intervenors deny that Relators are entitled to any relief in this action.
3. The portion of Paragraph 6 of the Complaint identifying Respondent Secretary of State is admitted. The remainder of the paragraph purports to be statements of law or legal interpretation and, therefore, does not require admission or denial.
4. Paragraphs 7 and 8 of the Complaint are admitted.
5. Intervenors admit that Respondent Secretary of State issued Advisory 2009-06 on July 8, 2009 and state that the remainder of Paragraph 45 contains statements of law or legal interpretation that do not require admission or denial.
6. Paragraph 60 of the Complaint is denied.
7. Paragraph 62 of the Complaint is admitted, but in doing so, Intervenors do not imply agreement with Relators' legal or factual assertions.

8. Paragraphs 4, 5, 10, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 36, 37, 44, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59 are denied for lack of knowledge or information sufficient to form a belief as to the truth of the averments therein.
9. Intervenors deny that Relators are entitled to any of the relief set forth in Paragraphs A, B, C, and D of the Complaint.
10. Intervenors deny all averments and allegations not specifically admitted herein.

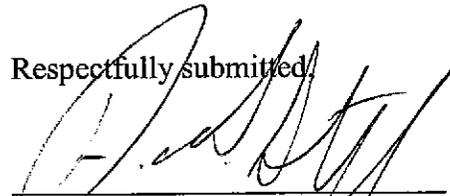
AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted.
2. The Complaint is premature and not ripe for adjudication.
3. The Complaint fails to conform with the Supreme Court Rules of Practice, Rule X.
4. The Complaint is barred by the doctrines of *laches*.
5. Relators lack standing.
6. Based on the Secretary of State's actions on July 20, 2009, the Complaint is moot.
7. The Complaint does not state a cause of action in mandamus and must be dismissed for want of jurisdiction.
8. The Complaint fails to join necessary parties.
9. Respondents have not failed to perform a clear legal duty.
10. Relators do not have a clear legal right to the requested relief.
11. Relators have an adequate remedy at law.
12. The Court lacks jurisdiction to grant the relief requested.
13. The requested relief would be in violation of the Constitution of the State of Ohio.

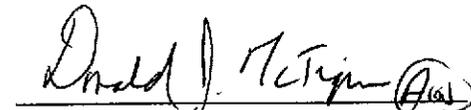
14. The requested relief would violate the First and Fourteenth Amendments to the Constitution of the United States.
15. Section 1g, Article II of the Constitution of the State of Ohio violates the First and Fourteenth Amendments to the Constitution of the United States.
16. Intervenors reserve the right to raise additional affirmative defenses as the same become known over the course of this action.

WHEREFORE, Intervenors pray the Court for Judgment against Relators and that the costs of this action and Intervenors' reasonable attorney's fees and expenses be assessed against Relators.

Respectfully submitted,



Alan G. Starkoff (0003286)
Counsel of Record
Matthew L. Fornshell (0062101)
Matthew T. Green (0075408)
SCHOTTENSTEIN, ZOX & DUNN,
Co., L.P.A.
250 West Street
Columbus, Ohio 43215
Tel: (614) 462-2700
Fax: (614) 462-5135
astarkoff@szd.com



Donald J. McTigue (0022849)
Mark A. McGinnis (0076275)
J. Corey Colombo (0072398)
McTIGUE & MCGINNIS LLC
550 East Walnut Street
Columbus, OH 43215
Tel: (614) 263-7000
Fax: (614) 263-7078
mciguelaw@rroho.com

*Counsel for Intervenors Ohio
Jobs & Growth Committee,
William J. Curlis, John T.*

*Campbell, Matthew Hammond,
and Charles J. Luken*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, via electronic mail and/or facsimile, this 21st day of July, 2009, upon:

Luther L. Liggett, Jr.
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
Attorney for Relators

Richard Cordray
ATTORNEY GENERAL OF OHIO
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
Attorney for Respondent
Jennifer L. Brunner,
Ohio Secretary of State

D. MICHAEL HADDOX
MUSKINGUM COUNTY PROSECUTOR
27 N. Fifth Street, P.O. Box 189
Zanesville, Ohio 43702
Attorney for Muskingum County
Board of Elections



Attorney at Law