

ORIGINAL

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 RESPONDENT, MUSKINGUM COUNTY
BOARD OF ELECTIONS

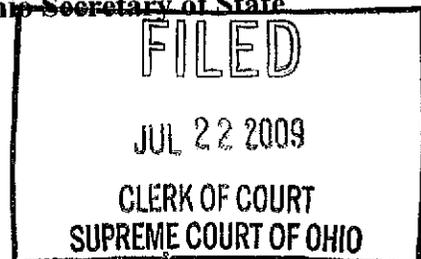
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Now comes Respondent, Muskingum County Board of Elections, for it's Answer to Relators' Petition For Writ of Mandamus and Complaint, and states as follows:

1. Respondent herein states that Paragraphs 1, 2, 9, 11, 12, 13, 14, 15, 29, 30, 38, 39, 40, 41, 42, 43 and 61 of Relators' Petition and Complaint purport to be statements of law and/or legal interpretations and, therefore, do not require admission or denial by Respondent.
2. Respondent herein denies, for lack of knowledge or information sufficient to form a belief as to the truth of the averments therein, Paragraphs 4, 5, 10, 17, 18, 20, 21, 23, 24, 25, 26, 27, 31, 32, 33, 34, 35, 36, 37, 49, 50, 51, 52, 53, 54, 55, 57, 58 and 62 of Relators' Petition and Complaint.
3. Respondent herein admits the averments contained in Paragraphs 7, 8, 45 and 46 of Relator's Petition and Complaint.
4. Respondent herein denies the allegations and/or averments contained in Paragraphs 16, 47, 56, and 60 of Relators' Petition and Complaint.
5. For answer to Paragraph 3 of Relators' Petition and Complaint, Respondent herein states that Paragraph 3 purports to describe the instant action and therefore, speaks for itself; however, Respondent denies that Relators' are entitled to any relief in the within cause of action.
6. For answer to Paragraph 6 of Relators' Petition and Complaint, Respondent herein admits that Jennifer Brunner is the Ohio Secretary of State, however, the remainder of the averments in Paragraph 6 purport to be statements of law and/or legal interpretations, and therefore do not require admission or denial.

7. For answer to Paragraph 19 of Relators' Petition and Complaint, the within Respondent admits that it received a copy of "Exhibit A", however, Respondent denies, for lack of knowledge, the averment that a copy of "Exhibit A" was sent to all County Boards of Elections and to the Ohio Secretary of State.
8. For answer to Paragraph 22 of Relators' Petition and Complaint, the within Respondent admits that it received a copy of "Exhibit B", however, it denies, for lack of knowledge, that a copy of "Exhibit B" was sent to all County Boards of Elections and to the Ohio Secretary of State.
9. For answer to Paragraph 28 of Relators' Petition and Complaint, the within Respondent admits that it received a copy of "Exhibit D", however, it denies, for lack of knowledge, that a copy of "Exhibit D" as sent to all County Boards of Election and to the Ohio Secretary of State.
10. For answer to Paragraph 44 of Relators' Petition and Complaint, the within Respondent admits that it received a letter, a copy of which is attached as "Exhibit F" of Relators' Petition and Complaint, however, Respondent denies all other allegations contained in Paragraph 44 for lack of knowledge and information.
11. For answer to Paragraph 48 of Relators' Petition and Complaint, the within Respondent admits receiving a letter, a copy of which is attached as "Exhibit H" of Relators' Petition and Complaint, however, Respondent denies all other allegations contained in Paragraph 48 for lack of knowledge and information.
12. For answer to Paragraph 59 of Relators' Petition and Complaint, the within Respondent admits that it has certified 1,940 valid signatures, which is more than five percent (5%) of the number of registered voters in Muskingum County who

voted in the last gubernatorial election. However, Respondent denies, for lack of knowledge and information, all other allegations and averments contained in Paragraph 59.

13. Respondent, Muskingum County Board of Elections, denies each and every allegation not specifically admitted herein.

Wherefore, having answered Relators' Petition and Complaint, Respondent, Muskingum County Board of Elections asserts the following defenses, including Affirmative Defenses:

FIRST DEFENSE

14. This Court lacks subject matter jurisdiction to hear Relators' claims.

SECOND DEFENSE

15. Relators have failed to state a claim upon which relief and mandamus can be granted.

THIRD DEFENSE

16. Relators' claims are barred by the doctrine of laches.

FOURTH DEFENSE

17. Relators do not have a clear legal right to the relief requested.

FIFTH DEFENSE

18. Respondent does not owe a clear legal duty to Relators.

SIXTH DEFENSE

19. Relators have an adequate remedy at law.

SEVENTH DEFENSE

20. Relators are not entitled to relief because their claims are now moot.

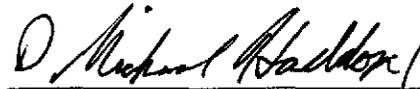
EIGHTH DEFENSE

21. Relators failed to meet the proper technical requirements to file a writ of mandamus as required under this Court's Rules of Practice.

NINTH DEFENSE

22. Respondent reserves the right to add additional defenses, including additional affirmative defenses, as discovery proceeds in this case, or becomes known over the course of this action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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