

IN THE SUPREME COURT OF OHIO

CHARLES E. WILSON, et al.,	:	
	:	Case No. 2012-0019
Relators,	:	
	:	
v.	:	Original Action
	:	
GOVERNOR JOHN KASICH, et al.,	:	
	:	
Respondents.	:	

**MEMORANDUM OF RESPONDENTS KASICH, YOST, AND NIEHAUS
IN OPPOSITION TO RELATORS' MOTION FOR ORDER
PROTECTING THE COURT'S JURISDICTION**

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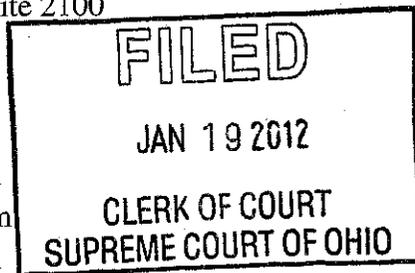
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Case No. 2012-0019

Original Action

**MEMORANDUM OF RESPONDENTS KASICH, YOST, AND NIEHAUS
IN OPPOSITION TO RELATORS' MOTION FOR ORDER
PROTECTING THE COURT'S JURISDICTION**

Respondents Ohio Governor John Kasich, Ohio Auditor of State David Yost, and Ohio Senate President Thomas E. Niehaus file this Memorandum in Opposition to Relators' Motion for Order Protecting the Court's Jurisdiction, filed January 13, 2012. Respondents Kasich, Yost and Niehaus also incorporate the arguments made by Respondent Secretary of State Husted in response to Relators' Motion for Order Protecting the Court's Jurisdiction.

Relators' artfully titled Motion ostensibly seeks an order "to preserve the status quo." However, the real object sought by Relators is to enjoin statewide elections during the pendency of this lawsuit – a dilatory lawsuit that could have been filed months ago, as explained in Respondents' Motion for Judgment on the Pleadings (filed Jan. 17, 2012). In effect, Relators are seeking to prevent Respondent Secretary of State Husted and the county boards of elections from performing their statutory duty – a duty that pre-dates this lawsuit – to administer elections during this action. To the extent that Relators are attempting to invoke the Court's equitable powers for this purpose, it is well-settled that such relief is beyond the Court's original jurisdiction. *See, e.g., State ex rel. Youngstown v. Mahoning County Bd. of Elections*, 72 Ohio St.3d 69, 70 (1995) (denying request to enjoin a county board of elections from holding city

council elections when the legality of those elections were the subject of the mandamus action); *State ex rel. Smith v. Industrial Comm'n.*, 139 Ohio St. 303, 306 (1942) (court lacked jurisdiction to issue order to cease disbursements from state workers compensation fund).

Therefore, for the reasons stated here and in the Response filed by Respondent Secretary of State Husted, Respondents Kasich, Yost, and Niehaus respectfully ask the Court to deny Relators' Motion for Order Protecting the Court's Jurisdiction.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Memorandum of Respondents Kasich, Yost, and Niehaus In Opposition to Relators' Motion for Order Protecting the Court's Jurisdiction* was served on this 19th day of January 2012, by electronic mail and U.S. mail, postage prepaid, to:

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