

ORIGINAL

IN THE SUPREME COURT OF OHIO
Supreme Court Case Number 2013-1533

STATE OF OHIO, ex rel. DARRITA L. DAVIS

Realtor

v.

SUMMIT COUNTY BOARD OF ELECTIONS

Respondent

ANSWER OF RESPONDENT, SUMMIT COUNTY BOARD OF
ELECTIONS

SHERRI BEVAN WALSH
Prosecuting Attorney

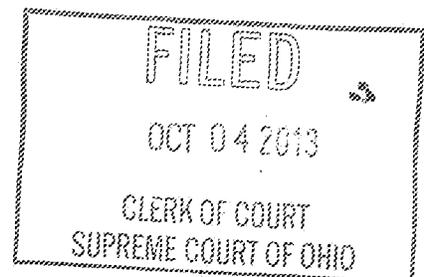
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COUNSEL FOR RELATOR



Now come the Respondent by and through counsel, and for their Answer to Relators Complaint for Writ of Mandamus hereby state as follows:

1. The allegations contained in Paragraph 1 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
2. The allegations in Paragraph 2 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
3. Respondent admits the allegations contained in Paragraph 3.
4. Respondent admits the allegations in Paragraph 4.
5. The allegations contained in Paragraph 5 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them
6. The allegations contained in Paragraph 6 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
7. The allegations contained in Paragraph 7 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
8. The allegations contained in Paragraph 8 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.

9. The allegations contained in Paragraph 9 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
10. Respondent admits the allegations contained in Paragraph 10.
11. Respondent admits the allegations in Paragraph 11, except as to whether Relator's petition was the correct petition for her to file and whether it was timely filed, in which case such allegations are denied by Respondent.
12. Respondent denies the allegations contained in Paragraph 12.
13. Respondent admits the allegations contained in Paragraph 13.
14. Respondent admits the allegations contained in Paragraph 14.
15. Respondent admits the allegations contained in Paragraph 15.
16. Respondent denies the allegations contained in Paragraph 16 for lack of knowledge.
17. Respondent denies the allegations contained in Paragraph 17.
18. The allegations contained in Paragraph 18 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
19. Respondent denies the allegations contained in Paragraph 19.
20. Respondent denies the allegations contained in Paragraph 20.
21. The allegations contained in Paragraph 21 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
22. Respondent admits the allegations contained in Paragraph 22.
23. Respondent admits the allegations contained in Paragraph 23.

24. The allegations contained in Paragraph 24 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
25. Respondent denies the allegations contained in Paragraph 25.
26. The allegations contained in Paragraph 26 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
27. Respondent denies the allegations contained in Paragraph 27.
28. The allegations contained in Paragraph 28 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
29. The allegations contained in Paragraph 29 state a legal assertion to which no answer is necessary, but to the extent that such allegations may state any facts, Respondent denies them.
30. Respondent denies any allegations for lack of knowledge as Paragraph 30 isn't marked.
31. Respondent denies any allegations for lack of knowledge as Paragraph 31 isn't marked.
32. Respondent denies the allegations contained in Paragraph 32 for lack of knowledge.
33. Respondent denies the allegations contained in Paragraph 33.
34. The allegations contained in Paragraph 34 state a legal assertion to which no answer is necessary, except that Respondent denies that Relator has no adequate remedy at law, and to the extent that such allegations may state any other facts, Respondent

denies them and denies all other allegations as they may be contained in the Prayer for Relief of Relator's Complaint.

AFFIRMATIVE DEFENSES

1. Relator has failed to state a claim upon which relief can be granted.
2. Relator's own conduct has caused her harm, and she is not entitled to the relief she seeks from this Court.
3. Relator is barred by the doctrine of laches.
4. Relator has failed to mitigate her damages to the extent that she has suffered them or incurred attorneys' fees in the bringing of this action.
5. Relator is not entitled to attorneys' fees in this action.
6. Relator has relied on a mistake of law.
7. Granting a writ of mandamus would be contrary to public policy.
8. Relator had an adequate remedy at law but waived it by electing to file her petition for Akron Ward 10 Council as an Independent.
9. Relator's reliance on Advisory Opinion 2007-05 is misplaced.
10. Relator does not have a clear right to the relief sought.
11. Respondent acted in good faith, and its actions are not an abuse of discretion.

Wherefore, based on the above the Respondent urges that the instant action be dismissed with costs to Relator.

Respectfully submitted,

SHERRI BEVAN WALSH
Prosecuting Attorney



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PROOF OF SERVICE

I hereby certify that a copy of the foregoing Answer was sent by E - Mail to Relator's Attorneys Warner Mendenhall at warnermendenhall@gmail.com and Alyssa M. Allen at KeenLawLLC@gmail.com on this 4th day of October 2013.



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