

**IN THE SUPREME COURT OF OHIO**

**State of Ohio, ex rel. Renee Walker, et al.,** :  
 :  
 **Relators,** : **Case No. 2015-1371**  
 :  
 **v.** : **Expedited Election Case Pursuant**  
 : **to S.Ct.Prac.R. 12.08**  
 :  
 **Jon Husted, Secretary of State of Ohio,** :  
 :  
 **Respondent,** :  
 :  
 **and** :  
 :  
 **Joanne Dove Prisley,** :  
 :  
 **Intervening-Respondent.** :

**ANSWER OF RESPONDENT JON HUSTED, SECRETARY OF STATE OF OHIO**

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Now comes Respondent, Jon Husted, Secretary of State of Ohio (“Respondent”), and for his Answer to the Verified Complaint of Relators (“Complaint”), states as follows:

1. Respondent states that the allegations in Paragraph 1 purport to state a legal conclusion to which no response is required, and further answering denies that the Relators are entitled a writ of mandamus.

2. Respondent states that the allegations in Paragraph 2 purport to state a legal conclusion to which no response is required, and further answering denies that the Relators are entitled to a writ of mandamus.

3. Respondent admits that he upheld protests to county charter petitions in Fulton, Medina and Athens counties for the November 3, 2015 general election ballot. Further answering, Respondent denies the remaining allegations in Paragraph 3.

4. Respondent admits that the November 3, 2015 election is in less than 90 days from August 19, 2015, the date of the filing of the Complaint in this matter. Further answering, the Secretary denies the remaining allegations in Paragraph 4.

5. To the extent the allegations in Paragraph 5 refer to the Fulton County Petition, Exhibit A speaks for itself and no response is required. Respondent denies the remaining allegations in Paragraph 5 for lack of knowledge.

6. Respondent denies the allegations in Paragraph 6 for lack of knowledge.

7. To the extent the allegations in Paragraph 7 refer to the Medina County Petition, Exhibit B speaks for itself and no response is required. Respondent denies the remaining allegations in Paragraph 7 for lack of knowledge.

8. Respondent denies the allegations in Paragraph 8 for lack of knowledge.

9. To the extent the allegations in Paragraph 9 refer to the Athens County Petition, Exhibit C speaks for itself and no response is required. Respondent denies the remaining allegations in Paragraph 9 for lack of knowledge.

10. Respondent denies the allegations in Paragraph 10 for lack of knowledge.

11. Respondent denies the allegations in Paragraph 11 for lack of knowledge.

12. Respondent states that the allegations in Paragraph 12 purport to state a legal conclusion to which no response is required.

13. With respect to the allegations in Paragraph 13, R.C. 307.94 and Ohio Constitution Article X, Section 3, speak for themselves and no response is required.

14. Respondent admits the allegations in Paragraph 14.

15. Respondent admits the allegations in Paragraph 15.

16. In response to Paragraph 16, Respondent asserts that Exhibit D, the decision in the Athens County Court of Common Pleas case, speaks for itself and no response is required.

17. Respondent admits the allegations in Paragraph 17.

18. With respect to the allegations in Paragraph 18, the Secretary of State's letter from August 13, 2015, Exhibit E, speaks for itself and no response is required.

19. With respect to the allegations in Paragraph 19, the Secretary of State's letter from August 13, 2015, Exhibit E, speaks for itself and no response is required.

20. With respect to the allegations in Paragraph 20, the Secretary of State's letter from August 13, 2015, Exhibit E, speaks for itself and no response is required.

21. Respondent denies the allegations in Paragraph 21.

22. With respect to the allegations in Paragraph 22, R.C. 3501.38 speaks for itself and no response is required.

23. Respondent admits that pursuant to R.C. 307.95, he has unfettered authority to “determine the validity or invalidity of the petition,” and further states that R.C. 307.95 speaks for itself.

24. Respondent states that the allegations in Paragraph 24 purport to state a legal conclusion to which no response is required. Further answering, the cited cases speak for themselves and no response is required.

25. Respondent denies the allegations in Paragraph 25.

26. Respondent admits the proposed charters do not purport to establish an alternative form of government, and further states that the remaining allegations in Paragraph 26 purport to state a legal conclusion to which no response is required. Further answering, Respondent denies the remaining allegations in Paragraph 26.

27. With respect to the allegations in Paragraph 27, the Ohio Secretary of State, Ballot Questions and Issues Handbook, and Attorney General Opinion, OAG 85-047, speak for themselves and no response is required.

28. With respect to the allegations in Paragraph 28, the Ohio Secretary of State Ballot Questions and Issues Handbook speaks for itself and no response is required.

29. Respondent states that the allegations in Paragraph 29 purport to state a legal conclusion to which no response is required. Further answering, Respondent denies Relators’ characterization of his finding.

30. Respondent states that the allegations in Paragraph 30 purport to state a legal conclusion to which no response is required. Further answering, Respondent states that Relators are not entitled to a writ of mandamus in this case.

31. Respondent denies the allegations in Paragraph 31.

32. Respondent denies the allegations in Paragraph 32.
33. Respondent denies the allegations in Paragraph 33.
34. Respondent denies the allegations in Paragraph 34.
35. Respondent denies that Relators are entitled to the relief sought in its Prayer or any relief whatsoever.
36. Respondent denies each and every allegation in the Complaint not otherwise expressly admitted in this Answer.

### **DEFENSES & AFFIRMATIVE DEFENSES**

WHEREFORE, having answered Relators' Complaint, Respondent raises the following defenses, including affirmative defenses:

#### **First Defense**

1. Relators have failed to state a claim upon which relief can be granted.

#### **Second Defense**

2. Respondent does not have a clear legal duty to reject any of the three protests.

#### **Third Defense**

3. Relators do not have a clear legal right to have Respondent rule the three petitions valid.

#### **Fourth Defense**

4. Respondent has acted in conformity with Ohio law.

#### **Fifth Defense**

5. Respondent has fulfilled any and all duties he may have by deciding the protests presented.

#### **Sixth Defense**

6. Relators have failed to name all parties necessary for the relief sought.

**Seventh Defense**

7. Respondent reserves the right to add additional defenses, including additional affirmative defenses.

**Eighth Defense**

8. The purported verifications to the Complaint do not satisfy S.Ct.Prac.R. 12.02(B).

**Ninth Defense**

9. On August 13, 2015, Respondent had, and continues to have, reason to believe that the petitions are invalid.

**Tenth Defense**

10. Relators are not entitled to the relief they seek based on the doctrine of estoppel.

**Eleventh Defense**

11. Relators are not entitled to the relief they seek based on the doctrine of waiver.

**Twelfth Defense**

12. Relators are not entitled to a writ of mandamus to compel Respondent to exercise discretion to reach a particular result.

**Thirteenth Defense**

13. Relators are not entitled to the relief they seek based on lack of jurisdiction.

WHEREFORE, having answered Relators' Complaint, Respondent respectfully requests that this Court dismiss Relators' Complaint with prejudice, deny all extraordinary and other relief requested by Relators in their Complaint, and award such other relief as this Court deems equitable and just to Respondent.

Respectfully submitted,

MIKE DEWINE  
OHIO ATTORNEY GENERAL

/s/ Anne Marie Sferra

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*Counsel for Respondent*

*Jon Husted, Secretary of State of Ohio*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has served upon the following, via electronic mail, on August 31, 2015:

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