

IN THE SUPREME COURT OF OHIO

STATE EX REL. RESPONSIBLEOHIO, et al :
: **Case No. 2015-1411**
: *Relator,* :
: **v.** : **Original Action in Mandamus**
: **THE OHIO BALLOT BOARD, et al.,** : **Expedited Election Case**
: *Respondents.* :
:

**ANSWER OF RESPONDENTS OHIO BALLOT BOARD AND
OHIO SECRETARY OF STATE JON HUSTED**

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**ANSWER OF RESPONDENTS OHIO BALLOT BOARD AND
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For their Answer to Relators' Complaint Respondents Ohio Ballot Board and Ohio Secretary of State Jon Husted state:

ANSWER

1. Paragraph 1 states a legal conclusion to which no response is required.
2. Respondents admit the allegations within Paragraph 2.
3. Respondents admit the allegations within Paragraph 3.
4. Paragraph 4 contains legal conclusions to which no response is required. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 4 and expressly deny Relators are entitled to relief.
5. Paragraph 5 contains legal conclusions to which no response is required. Further answering, Respondents admit that this action has been filed in advance of the 64th day before the November 3, 2015 General Election. To

the extent further response is required, Respondents deny any remaining allegations within Paragraph 5.

6. Paragraph 6 states a legal conclusion to which no response is required.
7. Respondents admit that ResponsibleOhio is the proponent of the Proposed Amendment. Respondents deny for lack of knowledge remaining allegations within Paragraph 7.
8. Respondents admit that the identified individuals are the persons designated to represent the petitioners of the proposed amendment. Further answering, Respondents deny remaining allegations for lack of knowledge.
9. Respondents admit the allegations within Paragraph 9.
10. Paragraph 10 contains legal conclusions to which no response is required. Further answering, Respondents admit that Jon Husted is the Ohio Secretary of State, the Chief Elections Officer of the State of Ohio, and the chairman of the Ohio Ballot Board.
11. Respondents admit that on March 3, 2015 petitioners submitted a written petition to approve a summary of the proposed Amendment to Ohio Attorney General Mike DeWine. Further answering, Exhibits 1 and 2 to the Complaint speak for themselves and no further response is required as to their content.
12. Respondents admit the allegations within Paragraph 12.
13. Respondents admit the allegations within Paragraph 13.
14. Article II, Section 1g of the Ohio Constitution speaks for itself and no further response is required as to its content.

15. Article XVI, Section 1 of the Ohio Constitution speaks for itself and no further response is required as to its content.
16. Respondents admit the allegations within Paragraph 16.
17. Respondents admit the allegations within Paragraph 17.
18. Respondents admit the allegations within Paragraph 18.
19. Respondents admit that Relators' counsel appeared before the Ballot Board, submitted written objections, and offered proposed Ballot Language on behalf of petitioners (Exhibits 5 and 6). Respondents admit that Relators' counsel provided the Ballot Board with a legal memorandum. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 19.
20. Respondents deny that the Ballot Board had any intent to mislead, deceive, or defraud voters. Respondents admit that, after receiving public comment, the Ballot Board revised the proposed Ballot Language. Respondents further admit that the Ballot Board voted 3-2 in favor of the revised language. Exhibit 7 to the Complaint speaks for itself. Respondents deny for lack of knowledge that counsel for Relators were not given a copy of Exhibit 7 before the Ballot Board adopted it. Respondents deny any remaining allegations within Paragraph 20.
21. Respondents deny the allegations within Paragraph 21 and expressly deny Relators are entitled to relief.

22. The Court's decision in *State ex rel. Cincinnati for Pension Reform v. Hamilton Cty. Bd. of Elections*, 137 Ohio St.3d 45, 2013-Ohio-4489, 997 N.E.2d 509, speaks for itself and no further response is required as to its content.
23. The Court decisions in *State ex rel. Cincinnati for Pension Reform v. Hamilton Cty. Bd. of Elections*, 137 Ohio St.3d 45, 2013-Ohio-4489, 997 N.E.2d 509, and *State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St.3d 257, 2012-Ohio-4149, 978 N.E.2d 119, speak for themselves and no further response is required as to their content.
24. Respondents deny the allegations within Paragraph 24.
25. Paragraph 25 consists of legal conclusions and argument to which no response is required. To the extent further response is required, Respondents deny the allegations within Paragraph 25.
26. Paragraph 26 contains legal conclusions and argument to which no response is required. To the extent further response is required, Respondents deny the allegations within Paragraph 26.
27. Respondents admit the allegations within Paragraph 27.
28. The Proposed Amendment speaks for itself and no further response is required as to its content.
29. Paragraph 29 states a legal conclusion to which no response is required. Further answering, the Proposed Amendment speaks for itself and no further response is required as to its content.

30. Paragraph 30 contains legal conclusions and argument to which no response is required. Further answering, Exhibit 4 to the Complaint speaks for itself and no further response is required as to its content.
31. Exhibit 4 to the Complaint speaks for itself and no further response is required as to its content.
32. Paragraph 32 contains legal conclusions and argument to which no response is required. To the extent further response is required, Respondents deny the allegations within Paragraph 32.
33. The Transcript of August 18, 2015 Ohio Ballot Board proceedings, Exhibit 9 to the Complaint, speaks for itself and no further response is required as to its content.
34. The Transcript of August 18, 2015 Ohio Ballot Board proceedings speaks for itself and no further response is required as to its content.
35. The Transcript of August 18, 2015 Ohio Ballot Board proceedings speaks for itself and no further response is required as to its content.
36. The Transcript of August 18, 2015 Ohio Ballot Board proceedings speaks for itself and no further response is required as to its content.
37. Respondents deny the allegations within Paragraph 37 for lack of knowledge.
38. Exhibit 7 to the Complaint speaks for itself and no further response is required as to its content.
39. Paragraph 39 states a legal conclusion to which no response is required. To the extent further response is required, Respondents deny the allegations within Paragraph 39.

40. Paragraph 40 contains legal conclusions and argument to which no response is required. Further answering, the Proposed Amendment speaks for itself. To the extent further response is required, Respondents deny the allegations within Paragraph 40.
41. Paragraph 41 contains legal conclusions and argument to which no response is required. Respondents deny the remaining allegations within Paragraph 41 and expressly deny for lack of knowledge what “Relators believe.”
42. The Transcript of August 18, 2015 Ohio Ballot Board proceedings speaks for itself and no further response is required as to its content. Further answering, Respondents deny any remaining allegations within Paragraph 42.
43. Paragraph 43 contains legal conclusions and argument to which no response is required. Further answering, the Proposed Amendment speaks for itself and no further response is required as to its content. To the extent any further response is required, Respondents deny the allegations in Paragraph 43.
44. Respondents deny the allegations within Paragraph 44.
45. The Proposed Amendment speaks for itself and no further response is required as to its content.
46. Exhibit 7 to the Complaint speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny remaining allegations within Paragraph 46.
47. Article XVI, Section 1 of the Ohio Constitution speaks for itself and no further response is required as to its content.

48. The Proposed Amendment speaks for itself and no further response is required as to its content.
49. Paragraph 49 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language and Proposed Amendment speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 49.
50. Paragraph 50 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 50.
51. Respondents deny the allegations within Paragraph 51.
52. Respondents deny the allegations within Paragraph 52.
53. The Proposed Amendment speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny any remaining allegation within Paragraph 53.
54. The Ballot Language speaks for itself and no further response is required as to its content.
55. Paragraph 55 contains legal conclusions and argument to which no response is required. To the extent further response is required, Respondents deny the allegations within Paragraph 55.

56. Paragraph 56 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content.
57. Paragraph 57 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content.
58. Paragraph 58 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 58.
59. Paragraph 59 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 59.
60. The Proposed Amendment speaks for itself and no further response is required as to its content.
61. The Ballot Language speaks for itself and no further response is required as to its content.
62. Paragraph 62 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 62.

63. Paragraph 63 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 63.
64. Paragraph 64 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 64.
65. The Proposed Amendment speaks for itself and no further response is required as to its content.
66. The Ballot Language speaks for itself and no further response is required as to its content.
67. Paragraph 67 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 67.
68. The Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content.

69. Paragraph 69 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content.
70. The Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content.
71. Paragraph 71 states legal conclusions to which no response is required. Moreover, the Court's decision in *State ex rel. Cincinnati for Pension Reform v. Hamilton Cty. Bd. of Elections*, 137 Ohio St.3d 45, 2013-Ohio-4489, 997 N.E.2d 509 speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 71.
72. The Proposed Amendment speaks for itself and no further response is required as to its content.
73. The Ballot Language speaks for itself and no further response is required as to its content.
74. Paragraph 74 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 74.
75. Paragraph 75 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content.

76. Respondents deny the allegations within Paragraph 76.
77. The Proposed Amendment speaks for itself and no further response is required as to its content.
78. The Ballot Language speaks for itself and no further response is required as to its content.
79. Paragraph 79 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 79.
80. Paragraph 80 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further response is required as to its content.
81. Paragraph 81 states a legal conclusion to which no response is required. Moreover, the Proposed Amendment speaks for itself and no further response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 81.
82. The Proposed Amendment speaks for itself and no further response is required as to its content.
83. The Ballot Language speaks for itself and no further response is required as to its content.
84. Paragraph 84 contains legal conclusions and argument to which no response is required. Moreover, the Ballot Language speaks for itself and no further

response is required as to its content. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 84.

85. The Court decisions in *State ex rel. Cincinnati for Pension Reform v. Hamilton Cty. Bd. of Elections*, 137 Ohio St.3d 45, 2013-Ohio-4489, 997 N.E.2d 509 and *State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St.3d 257, 2012-Ohio-4149, 978 N.E.2d 119, speak for themselves and no further response is required as to their content.

86. Paragraph 86 contains legal conclusions and argument to which no response is required. The Proposed Amendment, Ballot Language, and Merriam-Webster Dictionary all speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 86.

87. Paragraph 87 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 87.

88. The Proposed Amendment speaks for itself and no further response is required as to its content.

89. The Ballot Language speaks for itself and no further response is required as to its content.

90. Paragraph 90 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for

themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 90.

91. Respondents deny the allegations within Paragraph 91.
92. The Proposed Amendment speaks for itself and no further response is required as to its content.
93. The Ballot Language speaks for itself and no further response is required as to its content.
94. Paragraph 94 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content. To the extent further response is required, Respondents deny any remaining allegations within Paragraph 94.
95. Respondents deny the allegations within Paragraph 95.
96. The Proposed Amendment speaks for itself and no further response is required as to its content. Further answering, Respondents admit that the Attorney General performed a review of the separate summary submitted for his approval pursuant to R.C. 3519.01(A). Respondents deny that this review constituted approval of the distinct language embedded within Section (A) of the Proposed Amendment. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 96.
97. Paragraph 97 contains legal conclusions to which no response is required. To the extent further response is required, Respondents deny any remaining

allegations within Paragraph 97 and expressly deny Relators are entitled to relief.

98. R.C. 3501.05(H) speaks for itself and no further response is required as to its content.
99. R.C. 3519.21 speaks for itself and no further response is required as to its content.
100. Respondents admit that counsel for Relators met with the Secretary of State staff. Further answering, Respondents deny the remaining allegations within Paragraph 100.
101. Respondents admit the allegations within Paragraph 101.
102. Respondents deny the allegations within Paragraph 102.
103. Paragraph 103 states a legal conclusion to which no response is required. To the extent further response is required, Respondents deny the remaining allegations within Paragraph 103.
104. The Proposed Amendment speaks for itself and no further response is required as to its content.
105. The Proposed Amendment speaks for itself and no further response is required as to its content.
106. The Proposed Amendment speaks for itself and no further response is required as to its content.
107. The Proposed Amendment and Ballot Language speak for themselves and no further response is required as to their content.

108. The Proposed Amendment speaks for itself and no further response is required as to its content.
109. Paragraph 109 contains legal conclusions and argument to which no response is required. Moreover, the Proposed Amendment speaks for itself and no further response is required as to its content.
110. The Proposed Amendment speaks for itself and no further response is required as to its content.
111. Respondents deny the allegations within Paragraph 111.
112. Respondents deny the allegations within Paragraph 112.
113. Respondents deny the allegations within Paragraph 113.
114. Paragraph 114 states a legal conclusion to which no response is required.
115. Paragraph 115 states a legal conclusion to which no response is required.
116. Paragraph 116 states a legal conclusion to which no response is required.
117. Respondents deny any allegations within the Prayer for Relief and expressly deny that Relators are entitled to relief.
118. Respondents deny each and every allegation in the Complaint not expressly admitted in this Answer.

AFFIRMATIVE DEFENSES

Having answered Relators' Complaint, Respondents raise the following defenses:

119. Relators fail to state a claim upon which relief can be granted.
120. Respondents did not have a clear legal duty to accept Relators' requested language.
121. Relators do not have a clear legal right to their requested relief.

122. In certifying the Ballot Language and Ballot Title for the November 2015 election, Respondents performed their duties under the law, acted in conformity with the law, and did not abuse their discretion.
123. The Ballot Language is valid and does not mislead, deceive, or defraud voters.
124. The Ballot Title is true and impartial and does not create prejudice for or against the Proposed Amendment.
125. Relators' claims are barred by laches.
126. Respondents reserve the right to add additional defenses, including affirmative defenses that become apparent during the course of this proceeding.

CONCLUSION

WHEREFORE, having answered Relators' Complaint, Respondents respectfully request that this Court dismiss the Complaint and deny Relators relief.

Respectfully submitted,

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Ohio Attorney General

/s/ Zachery P. Keller

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Secretary of State Jon Husted

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Answer of Respondents Ohio Ballot Board and Ohio Secretary Of State Jon Husted* was filed via the court's electronic filing service. Notice of this filing has been served this 1st day of September, 2015 to the following parties by electronic mail:

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