

**IN THE SUPREME COURT OF OHIO**

**The State of Ohio Ex Rel,  
Renee Walker, *et al.*,  
*Relators,***

**Vs.**

**Jon Husted, Secretary of State of Ohio,  
*Respondent,***

**and**

**Joanne Dove Prisley,  
*Intervenor***

**and**

**Charles Melvin Saunders  
6772 US Highway 20  
Metamora Ohio**

**and**

**R.J. Lumbrezer  
11475 State Route 120  
Lyons, OH 43533-9608**

**and**

**Roy Norman  
11802 County Road D  
Wauseon, OH 43567-9574.**

***Proposed Interveners of Fulton County***

**Case No. 2015-1371**

**Expedited Election Case**

**Pursuant To S.C.R.P. 12.03**

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**ANSWER OF PROPOSED INTERVENERS CHARLES MELVIN SAUNDERS ET AL**

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*ANSWER OF PROPOSED INTERVENERS OF FULTON COUNTY*

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**ANSWER**

Now comes Charles Saunders, R.J. Lumbrezer, and Roy Norman (hereafter “Proposed Interveners of Fulton County”), the sole Fulton County protestors to the Petition for Proposed County Charter in the election administrative proceeding before Respondent Jon Husted, Secretary of State of Ohio, and for their Answer to the Complaint of Relator states as follows:

1. In answering Paragraph 1, admits Petitioners have requested a writ of mandamus herein seeking to have the petitions and proposed county charters attached to the Complaint as Exhibits A, B, and C (collectively, the “Petitions and Proposed County Charters”) certified for inclusion in the ballot for the November 3, 2015, general election. Further answering Paragraph 1, denies the remaining allegations therein.

2. Admits the allegations in Paragraph 2.

3. In answering Paragraph 3, admits Respondent Secretary of State sustained the protests to the Petitions and Proposed County Charters. Further answering Paragraph 3, denies the remaining allegations therein.

4. In answering Paragraph 4, admits less than 90 days remains until the November 3, 2015, general election. Further answering Paragraph 4, denies the remaining allegations therein.

5. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 5.

6. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 6.

7. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 7.

8. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 8.

9. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the remaining allegations in Paragraph 9.

10. In answering Paragraph 10, denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the remaining allegations therein.

11. In answering Paragraph 11, denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the remaining allegations therein.

12. Admits the allegations in Paragraph 12.

13. Denies the allegations in Paragraph 13.

14. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 14.

15. Admits the Averments in Paragraph 15.

16. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 16.

17. Denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the allegations in Paragraph 17.

18. Admits the allegations in Paragraph 18.

19. Paragraph 19 merely recites part of the language of Exhibit E attached to the Complaint and therefore does not require a response.

20. Paragraph 20 merely recites or otherwise paraphrases or characterizes part of the language of Exhibit E attached to the Complaint and therefore does not require a response.

21. Denies the allegations in Paragraph 21.

22. Paragraph 22 purports to recite or otherwise paraphrase or characterize R.C. 3501.38 and therefore does not require a response.

23. Paragraph 23 merely recites or otherwise paraphrases or characterizes part of the language of Exhibit E attached to the Complaint and therefore does not require a response.

24. Denies the allegations in Paragraph 24 and also states no response is required because Relators are alleging propositions of law to be decided by this Court.

25. In answering Paragraph 25, admits that Article X, Section 3, of the Ohio Constitution does not state or require that county charters established thereunder are alternative forms of government. Further answering Paragraph 25, denies for lack of knowledge and information sufficient to form an opinion as to the truth thereof the remaining allegations therein.

26. In answering Paragraph 26, admits the Petitions and Proposed County Charters do not provide for an alternative form of government. Further answering Paragraph 26, states the remaining allegations concern contentions with respect to how applicable statutes apply to Medina, Fulton and Athens Counties, which are legal conclusions, and no further response is required.

27. In answering Paragraph 27, states that no response is required because the contents of the Secretary of State of Ohio's "Ballot Questions and Issues Handbook" and Ohio Attorney General opinions are not controlling and set forth legal issues to be decided by this Court.

28. In answering Paragraph 28, states that no response is required because the contents of the Secretary of State of Ohio's "Ballot Questions and Issues Handbook" is not controlling and sets forth legal issues to be decided by this Court.

29. In answering Paragraph 29, admits the first two sentences and states that the third sentence is a legal conclusion to be decided by this Court and therefore no response is required.

30. Denies the allegations in Paragraph 30.

31. Denies the allegations in Paragraph 31.

32. Denies the allegations in Paragraph 32.

33. Denies the allegations in Paragraph 33.

34. Denies the allegations in Paragraph 34.

35. Denies all other allegations therein not explicitly admitted herein as true.

**DEFENSES & AFFIRMATIVE DEFENSES**

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

2. Relators are not entitled to the relief they seek because of the doctrine of estoppel.

3. Relators are not entitled to the relief they seek because of the doctrine of laches.

4. Relators are not entitled to the relief they seek because of the doctrine of waiver.

5. Relators are not entitled to the relief they seek because the Petitions and Proposed County Charters fail to comply with the requirements of the law, both procedural and substantive.

6. Relators are not entitled to the relief they seek because they failed to comply with applicable provisions of the Ohio Constitution and Ohio's election laws, all of which must be strictly construed and do not allow for substantial compliance.

7. Relators are not entitled to the relief they seek because the Petitions and Proposed County Charters transgress the limitations on county charters set forth in Article X, Sections 3 and 4, of the Ohio Constitution by including many provisions that (i) are repulsive to the requirement that the county charter government continue to act as an arm of the State and (ii) exceed the limitations established by application of the maxim *expressio unius est exclusio alterius*, which means "expression of one thing is the exclusion of another."

8. Relators are not entitled to the relief they seek because the Petitions and Proposed County Charters because they include many provisions that are unconstitutional under the federal and state constitutions.

9. The Petitions and Proposed County Charters unlawfully attempt to combine (i) a petition for proposed county charter under Article X, Sections 3 and 4, of the Ohio Constitution with (ii) an initiative for legislative laws that is not authorized by the Ohio Constitution or statutes for inclusion in a county charter either before a county charter has been adopted by the electors or by amendment after a county charter has been adopted.

10. The Petitions and Proposed County Charters unlawfully attempt to combine (i) a petition for proposed county charter under Article X, Sections 3 and 4, of the Ohio Constitution with (ii) an initiative for zoning regulations that is not authorized by the Ohio Constitution or statutes for inclusion in a county charter either before a county charter has been adopted by the electors or by amendment after a county charter has been adopted.

11. That portion of R.C. 307.94 requiring a board of elections to establish the validity or invalidity of a proposed county charter in an action commenced in a common pleas court is unconstitutional for two reasons. First, it requires the court to render an advisory opinion when there is no justiciable controversy, in violation of Article IV, Section 4(B), of the Ohio Constitution. Second, it requires the court to act as an arm of the Office of the Secretary of State in violation of the separation of powers doctrine.

WHEREFORE, Proposed Interveners of Fulton County pray this Court will deny all extraordinary and other relief requested by Relators in their

Complaint, dismiss all claims of Relators and their Complaint with prejudice, tax court costs against Relators, and award Proposed Interveners of Fulton County her reasonable court costs and litigation expenses and such other relief as this Court deems equitable and just.

Respectfully submitted,  
/s Charles Melvin Saunders



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Proposed Intervenor and Counsel for Proposed  
Interveners R.J. Lumbrezer and Roy Norman

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the forgoing Motion to Intervene of Charles Melvin Saunders et.al. was served this 2<sup>nd</sup> of September, 2015, by electronic email delivery on the following:

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