

**IN THE SUPREME COURT OF OHIO**

<b>STATE OF OHIO, <i>ex rel.</i></b>	)	<b>CASE NO. 2015-1456</b>
<b>KATHRYN WILEN, <i>et al.</i>,</b>	)	
	)	
Relators,	)	Original Action in Mandamus-
	)	Expedited Election Case
-vs.-	)	
	)	
<b>CITY OF KENT</b>	)	
	)	
Respondent.	)	

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**AFFIDAVIT OF COUNSEL  
IN SUPPORT OF COMPLAINT**

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## AFFIDAVIT OF COUNSEL IN SUPPORT OF COMPLAINT

I, Warner Mendenhall, Attorney for Relators, on my personal knowledge swear and affirm I am competent to testify on the following facts:

1. Petitioners seek a writ of mandamus to compel the Respondent, the City of Kent, to comply with the requirements of Ohio's Constitution, statutory and common law, to-wit, to certify a "Petition for Submission of Proposed Amendment to Charter," exemplars of which are attached as Exhibit A to the Complaint.
2. Jurisdiction lies with this Court under R.C. Chapter 2731, which governs mandamus proceedings in the courts, and specifically puts jurisdiction in Ohio's Supreme Court by R.C. § 2731.02.
3. The claim arises from the denial of Relators' legal rights by the City of Kent when, on the advice of its Law Director, its City Council refused to perform the nondiscretionary legal duty to certify the proposed Charter Amendment to the Portage County Board of Elections for the November 3, 2015 ballot. Complaint, Ex. B; Complaint, Ex. C, pp. 7-8. I have personally discussed this state of affairs with Law Director Silver.
4. Relators are less than ninety (90) days from the November 3, 2015 election and have no plain or adequate remedy at law to correct the unlawful, unreasonable and/or arbitrary acts and abuses of discretion committed by the City of Kent in its improper refusal to place the issue on the ballot.
5. Relators are Kent voters and taxpayers and members of Kent Citizens for Democracy who came together to gather elector signatures on a formal petition to propose an amendment to the Kent Charter as authorized by the Ohio Constitution.

6. Kent is a municipal corporation operating under a charter as permitted by Ohio's Constitution.
7. Relators, with other members of a committee of petitioners, circulated the Petition according to the constraints and requirements of the Constitution of Ohio, Article XVIII § 14.
8. The Petition, in its preamble, states that "corporations are not people and that money is not speech." If approved by voters in November, the initiative would amend the Kent Charter establishing procedures for a "Democracy Day" to take place during the first week of October in each year an election is held in Kent.
9. On that day, a public hearing would be held to examine the impact on the City, the State, and the Nation on the impact of political influence resulting from campaign contributions by corporate entities.
10. Following the public hearing, the Clerk of Council would send a letter to elected state and federal officials summarizing the hearing and stating that the citizens of Kent voted in November 2015 to support a Citizen's Initiative calling for an amendment to the U.S. Constitution declaring these principles:
  - a. Only human beings, not corporations, are legal persons with Constitutional rights, and;
  - b. Money is not equivalent to speech, and therefore, regulating political contributions and spending does not equate to limiting political speech.
11. The hearings would be no longer required once 3/4 of state legislatures ratify a Constitutional amendment reflecting the above principles.

12. In the last preceding Kent municipal general election 3324 people voted so, under Ohio's Constitution, only 10% or 333 valid signatures were required to have the issue placed on the ballot. Complaint Exhibit, Ex. D.
13. The Petition contained 791 signatures of which the Board of Elections found 621 valid. Complaint, Ex. E.
14. I discussed the number of registered voters and the number of signatures on the petition with a Portage County Board of Elections employee who confirmed the numbers and issued a certified document confirming those numbers.
15. Despite this, Kent's Law Director advised the City Council against certifying the issue to the Portage County Board of Elections and Council followed his advice. Complaint Ex. B and Ex. C, pp. 7-8.

*Warner Mendenhall*

Warner Mendenhall

Sworn to before me and subscribed in my presence this 17th day of September, 2015.

*Bradley S. LeBoeuf*

Notary Public



**BRADLEY S.  
LeBOEUF  
Attorney At Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission  
has No Exp. Date  
Section 147.03 O.R.C.**

**Certificate of Service**

I certify a copy of the foregoing was served by email on 9-17-15 upon:

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