

**Case No. 2016-0464**

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**Supreme Court  
of the State of Ohio**

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STATE OF OHIO *ex rel.*  
ETHICS FIRST – YOU DECIDE OHIO POLITICAL ACTION COMMITTEE,

and

STATE OF OHIO *ex rel.* RON ALBAN,

and

STATE OF OHIO *ex rel.* TIM BOGGS,

and

STATE OF OHIO *ex rel.* JOHN BOYLE, JR.,

Relators,

v.

R. MICHAEL DeWINE, Ohio Attorney General,

Respondent.

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**RELATORS' MOTION TO EXPEDITE CONSIDERATION  
OF MOTION TO DISMISS AND THE ISSUANCE OF WRIT OF MANDAMUS**

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The State of Ohio, by and on relation to Relators herein, hereby moves the Court to expedite: (i) consideration of the pending, though fully briefed, motion to dismiss filed by the Respondent in this original action on April 11, 2016; and (ii) consideration of the merits and the issuance of a writ of mandamus against Respondent as its relates to his legal duties concerning proposed constitutional amendments being proposed by the people of the State of Ohio through an initiative effort. In support of this Motion, the following Memorandum in Support is tendered.

### **MEMORANDUM IN SUPPORT**

Upon filing this Complaint herein seeking the issuance of a writ of mandamus, Relator immediately raised the need for expedited consideration. In response to an earlier filed motion to expedite, this Court advanced the deadline for Respondent to respond to the Complaint. Respondent's response was the filing of a Motion to Dismiss earlier thisweek. In turn, Relators filed today their memorandum in opposition thereto. Thus, the Motion to Dismiss is fully briefed. Expedited consideration of that Motion, as well as consideration of the merits and issuance of a writ of mandamus, is necessary in order to ensure Relators' exercise of their right of initiative and under the First Amendment can be timely preserved and protected.

Without belaboring all of the supporting statements in the earlier filed Motion to Expedite (which are incorporated herein by reference) as to the need to expedite consideration of all aspects of these proceedings, Relator would point out that they are currently engaged in an effort to propose an amendment to the Ohio Constitution through the initiative process. They have collected the requisite number of signatures for preliminary consideration of their proposal and have submitted the text of the proposed amendment and a summary thereof to the Attorney

General. However, under a process that Relators contend is unconstitutional and is the issue in this case, the matter was submitted to the Ohio Ballot Board which, in turn, split Relators' proposal into three separate proposals, now necessitating the Relators to circulate three petitions instead of one, to acquire three times the number of signatures and to expend additional resources and funds in their effort to simply get their proposal before the voters.

As a result of the action of the Ballot Board (operating under a procedure Relators contend is unconstitutional), Relators are precluded from advancing their proposed constitutional amendment in the words and language which they have chosen to speak to their fellow citizens about reforming their government, as well as are being limited and restricted in their ability to exercise their right of initiative reserved unto them under the Ohio Constitution.

Additionally, some of the proposals being advanced by Relators are time-sensitive, specifically designated by the explicit language of the proposal to take effect as soon as January 2017. But pursuant to Ohio law, an initiative to propose a constitutional amendment must be supported by over 300,000 petition signatures in compliance with Article II, Section 1a, of the Ohio Constitution. In order to enable Relators to exercise their constitutional rights on their initiative effort so as to obtain access to the ballot in November 2016 (which, as noted above, is critical as the proposal contains time-sensitive matters), the collection of signatures must be accomplished by July 6, 2016. This is an enormous task in its own right, involving volunteer petition-circulators and participating citizens themselves. The delay to such efforts due to the unconstitutional statutes at issue only serves to further restrict and delay Relators' full and robust exercise of their constitutional rights. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976)("[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury).

Accordingly, in light of the short time frame confronting Relators and the fact that Relators' efforts directly involve the exercise of constitutional rights (as developed above and in Relator's previously filed motion to expedite), Relators respectfully request that this Court expedite: (i) consideration of the pending, though fully briefed, motion to dismiss filed by the Respondent in this original action on April 11, 2016; and (ii) consideration of the merits and the issuance of a writ of mandamus.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was or will be served via e-mail upon the following on the 15th day of April 2016.

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