Supreme Court of Ohio Clerk of Court - Filed May 17, 2016 - Case No. 2016-0313

IN THE SUPREME COURT OF OHIO

The Ohio Manufacturers' Association et al.,	:	
	:	**Case No. 2016-0313**
Relators,	:	
	:	
v.	:	**Original Action under Article II, Section 1g of the Ohio Constitution**
	:	
Ohioans for Drug Price Relief Act, et al.,	:	
	:	
Respondents.	:	

RESPONDENTS WILLIAM S. BOOTH, DANIEL L. DARLAND, TRACY L. JONES, AND LATONYA D. THURMAN RESPONSES TO RELATORS FIRST SET OF DISCOVERY REQUESTS

Donald J. McTigue (0022849)
J. Corey Colombo (0072398)
Derek S. Clinger (0092075)
MCTIGUE & COLOMBO LLC
545 East Town Street
Columbus, Ohio 43215
(614) 263-7000 (Telephone)
(614) 263-7078 (Facsimile)
dmctigue@electionlawgroup.com

Counsel for Respondents,
William S. Booth, Daniel L. Darland,
Tracy L. Jones, and Latonya D. Thurman

MICHAEL DeWINE (0009181)
Ohio Attorney General

Steve T. Voigt (0092879)
Senior Assistant Attorney General
Brodi J. Conover (0092082)
Assistant Attorney General
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215
(614) 466-2872 (Telephone)
(614) 728-7592 (Facsimile)
steven.voigt@ohioattorneygeneral.gov
brodi.conover@ohioattorneygeneral.gov

Counsel for Respondent,
Ohio Secretary of State Jon Husted

Kurtis A. Tunnell (0038569)
Counsel of Record
Anne Marie Sferra (0030855)
Nelson M. Reid (0068434)
James P. Schuck (0072356)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
(614) 227-2300 (Telephone)
(614) 227-2390 (Facsimile)
ktunnell@bricker.com
asferra@bricker.com
nreid@bricker.com
jschuck@bricker.com

Counsel for Relators

Respondents William S. Booth, Daniel L. Darland, Tracy L. Jones, and Latonya D. Thurman provide the following responses and objections to Relators' first set of discovery requests issued on March 11, 2016.

I. PRELIMINARY STATEMENT

These responses are based on the information and documents currently available to Respondents, and Respondents reserve the right to alter, supplement, amend, or otherwise modify these responses in light of additional facts revealed through subsequent inquiry, investigation, and formal discovery.

II. GENERAL OBJECTIONS

1. Nothing in these objections or responses can be taken as an admission that Respondents agree with Relators' use or interpretation of terms. These responses are based on Respondents' understanding of each individual request. To the extent Relators assert an interpretation of any request that is inconsistent with Respondents' understanding, Respondents reserve the right to supplement their responses. In addition, Respondents are continuing their review of documents. A statement that Respondents will produce any responsive, non-privileged documents is not a response that such documents exist.

2. Respondents object to Relators' requests and to each definition and instruction to the extent that they purport to impose obligations greater than those imposed by the applicable Ohio Rules of Civil Procedure or the Supreme Court of Ohio Rules of Practice.

3. Respondents object to Relators' requests to the extent that they purport to require Respondents to search for and produce documents that are not in their possession, custody, or control.

4. Respondents object to Relators discovery requests to the extent that they are cumulative

or duplicative of any other request.

5. Respondents object to all requests to the extent that they call for information or documents that fall within any relevant privilege (including, without limitation, the attorney-client privilege), are within the work-product doctrine (including, without limitation, communications with and materials created by consulting experts), call for information or documents that constitute trial-preparation materials within the meaning of Rule 26, or are protected by a joint or common interest privilege or any other privilege recognized by law. This includes documents that may be used at trial as evidence to prove or disprove a particular fact or issue, or otherwise seek a dress rehearsal of the trial and call for evidence upon which Respondents intend to rely to prove any fact or facts. Any disclosure of privileged or protected information in Respondents' discovery production is inadvertent, and Respondents reserve all rights to cure any such disclosure.

6. Respondents object to these discovery requests to the extent they call for information that would violate Respondents' rights to speech, association and petition under the First Amendment, including but not limited to associational relationships not otherwise disclosed under Ohio or federal law which were entered into for the purposes of placing the Drug Price Relief before the Ohio General Assembly for its consideration. *See Buckley v. Valeo*, 424 U.S. 1, 66 (1976) ("[T]he invasion of privacy of belief may be as great when the information sought concerns the giving and spending of money as when it concerns the joining of organizations, for [f]inancial transactions can reveal much about a person's activities, associations, and beliefs." (quotation omitted)); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & n.9 (9th Cir. 2009) (The "right to associate with others to advance one's shared political beliefs" entails "the right to exchange ideas and formulate strategy and messages, and to do so in private," as well as "to

organize and direct them in the way that will make them most effective."); *AFL-CIO v. FEC*, 333 F.3d 168, 178 (D.C. Cir. 2003) (prohibiting compelled "public disclosure of an association's confidential internal materials, [where] it intrudes on the privacy of association and belief guaranteed by the First Amendment, as well as seriously interferes with internal group operations and effectiveness"); *Wyoming v. U.S. Dept. of Ag.*, 208 F.R.D. 449, 454–55 (D.D.C. 2002) (disclosure of "internal communications and communications among various groups . . . would have a potential 'for chilling the free exercise of political speech and association guarded by the First Amendment'") (quoting *Fed. Election Comm. v. Machinists Non-Partisan Polit. League*, 655 F.2d 380, 388 (D.C. Cir. 1981)); *Dunnet Bay Construction Co. v. Hannig*, 2011 WL 5417123, at *5 (C.D. Ill. Nov. 9, 2011) (denying motion to compel on First Amendment grounds where "disclosure of private internal communications among Taxpayers staff, volunteers, and supporters would have a chilling effect on their rights by discouraging them from communicating candidly").

III. SPECIFIC RESPONSES AND OBJECTIONS

INTERROGATORIES

INTERROGATORY #1

Please identify all persons (besides your attorneys) who participated or assisted in any manner with the preparation of responses to interrogatories, requests for production, and requests for admission propounded upon you by Relators.

ANSWER:

1. William S. Booth

2. Daniel L. Darland

3. Tracy L. Jones

4. Latonya D. Thurman

INTERROGATORY #2

Please identify every person whom you intend to call as a witness at any hearing or trial and as to each state the subject matter upon which said witness is expected to testify.

ANSWER: Respondents object to this interrogatory, as it is premature at this stage of the litigation. The respondents are still preparing their defense and they are not required to produce all evidence or witnesses that they may rely on to defend against this action. Relators as well as Respondents are still conducting discovery, and Respondents are still in the midst of their factual investigation of the allegations made in the Relators' complaint. Respondents are not required to present a comprehensive digest of all its witnesses at this stage.

Subject to the foregoing objections and the General Objections, Respondents expect they may present testimony from:

1) Respondent Secretary of State Jon Husted, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

2) Matthew Damschroder, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

3) Jack Christopher, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

4) Patricia Wolf, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

5) Carolyn Kuruc, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

6) Angelo Paparella, PCI Consultants, Inc., 26500 W. Agoura Road, Suite 102-146, Calabasas, CA 91302, 818-679-5800, as to the petition circulation.

INTERROGATORY #3

Please identify every person whom you believe has knowledge regarding any material fact relating to this case and as to each state a summary of the facts known by such person.

ANSWER: Respondents object to this interrogatory, as it is premature at this stage of the litigation. Relators as well as Respondents are still conducting discovery and Respondents are still in the midst of their factual investigation of the allegations made in the relators' complaint. Respondents are not required to present a comprehensive list of all its witnesses or potential witnesses at this stage. Respondents also object to this interrogatory to the extent that it is duplicative of Interrogatory #2.

Subject to the above objections and the General Objections, and reserving the right to supplement their responses at a later date, Respondents believe the following persons have knowledge regarding material facts relating to this case:

1) Respondent Secretary of State Jon Husted, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions

with respect to state initiative and referendum petitions.

2) Jack Christopher, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

3) Matthew Damschroder, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

4) Patricia Wolf, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

5) Carolyn Kuruc, Secretary of State's office, as to contact between Relators and Secretary of State's Office with respect to the Petition and past practices, instructions, advice and decisions with respect to state initiative and referendum petitions.

6) Angelo Paparella, PCI Consultants, Inc., as to petition circulation.

7) The members and employees of Ohio's 88 boards of election, as to the reviews conducted pursuant to Secretary of State Directive 2016-01.

8) Pamela Lauter, Ohio Petitioning Partners, LLC, 216-409-2556, as to petition circulation.

INTERROGATORY #4

Please identify every individual who signed a part-petition of the Petition and then altered it by striking through his or her name on the part-petition prior to submission of the Petition to the Secretary on December 22, 2015.

ANSWER: Respondents object to this interrogatory to the extent that use of the term

"altered" calls for a legal conclusion. Respondents further object on the ground that it is unduly burdensome in that it fails to identify the part-petition numbers and signature lines to which it pertains and asks formation that is within Respondents' protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no information as to which signers may have struck through their names.

INTERROGATORY #5

Please identify every individual who, pursuant to R.C. 3501.382, acting as an attorney in fact for a disabled voter altered a part-petition of the Petition by striking through the name of the person who signed the part-petition prior to submission of the Petition to the Secretary on December 22, 2015.

ANSWER: Respondents object to this interrogatory to the extent that use of the term "altered" calls for a legal conclusion. Respondents further object on the ground that it is unduly burdensome in that it fails to identify the part-petition numbers and signature lines to which it pertains and asks formation that is within Respondents' protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no information as to whether an attorney in fact acting on behalf of a disabled voter struck that person's name.

INTERROGATORY #6

Please identify every circulator who altered a part-petition of the Petition that he or she circulated by striking through the name of the person who signed the part-petition prior to submission of the Petition to the Secretary on December 22, 2015.

ANSWER: Respondents object to this interrogatory to the extent that use of the term "altered" calls for a legal conclusion. Respondents further object on the ground that it is unduly burdensome in that it fails to identify the part-petition numbers and signature lines to which it pertains and asks formation that is within Respondents' protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no information as to which circulators, if any, struck through names, except to the extent that it may be reflected in transcripts or documents of proceedings of Ohio boards of elections held pursuant to Secretary of State Directive 2016-01. All such documents in Respondents' possession are being produced.

INTERROGATORY #7

Please identify every person not identified in Interrogatory Nos. 4-6 who altered a part-petition of the Petition by striking through the name of the person who signed the part-petition prior to submission of the Petition to the Secretary on December 22, 2015.

ANSWER: Respondents object to this interrogatory to the extent that use of the term "altered" calls for a legal conclusion. Respondents further object on the ground that the interrogatory is unduly burdensome in that it fails to identify the part-petition numbers and signature lines to which it pertains and asks formation that is within Respondents' protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no information as to any such persons, except to the extent that it may be reflected in transcripts or documents of proceedings of Ohio boards of elections held pursuant to Secretary of State Directive 2016-01. All such documents in Respondents' possession are being produced.

INTERROGATORY #8

Please explain what actions you undertook to ensure that the persons that you utilized to circulate the Petition (including circulation companies and individual circulators) were knowledgeable of and would comply with Ohio election law.

ANSWER: Respondents object to this interrogatory on the ground that it seeks information that is within their protected First Amendment rights. Subject to such objection and all general objections and without waiving any objection, Respondents state that they did not take such actions. Respondents further state that they did not engage persons or companies to circulate the petition or themselves utilize persons or companies to circulate the petition. Respondents had an understanding that the AIDS Healthcare Foundation (AHF) or the ballot issue political action committee would or had engaged a professional petition circulation firm. Respondents became aware that PCI Consultants, Inc. was engaged to circulate the part-petitions at issue in this action. Respondents believed/believe that PCI, as a professional petition circulation firm, is knowledgeable of and would Ohio election law.

INTERROGATORY #9

Please explain what actions you undertook to ensure that no person that circulated part-petitions of the Petition was ineligible to do so under Ohio election law.

ANSWER: Respondents object to this interrogatory on the ground that it seeks information that is within their protected First Amendment rights and is overbroad in that it fails to specify ineligibility criteria relevant to the claims asserted and calls for a legal conclusion. Subject to such objections and all general objections and without waiving any objection,

Respondents did not themselves take such actions.

INTERROGATORY #10

Please explain the factual and legal basis for your assertion in your Answer that Relators' claims are barred for lack of jurisdiction.

ANSWER: Respondents object to this interrogatory on the ground that it asks for a legal analysis. Subject to such objection and all general objections and without waiving any objection, please see Respondents' Motion for Judgment on the Pleadings filed in this action.

INTERROGATORY #11

Please explain the factual and legal basis for your assertion in your Answer that Relators' claims are barred for lack of standing.

ANSWER: Respondents object to this interrogatory on the ground that it asks a legal analysis. Subject to such objection and all general objections and without waiving any objection, Respondents' factual investigation relative to Relators' organizational standing is awaiting responses to discovery directed to Relators. Further responding, Respondents state as a basis that Relators Ohio Manufacturers Association, PhRMA, and Ohio Chamber of Commerce are not qualified electors in the State of Ohio.

INTERROGATORY #12

Please identify the complete factual and legal basis for any response by you to Relators' Request for Admissions that is not an unqualified admission.

ANSWER: Respondents object to this interrogatory on the ground that it asks for legal conclusions or analysis, is overbroad and unduly burdensome and is an improper attempt to

circumvent Civil Procedure Rule 36.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents identified in or in any way used, relied upon, referred to, or reviewed by you in the preparation of your responses to interrogatories or requests for admission propounded by Relators.

ANSWER: Respondents object to this request to the extent that asks for any documents protected by the attorney-client, work product and trial preparation privileges and their protected First Amendment rights. Respondent further object in that the request is overbroad in that it includes all documents reviewed regardless of whether they were used, relied upon or referred to in answering the interrogatories. Subject to such objections and all general objections and without waiving any objections, Respondents hereby produce the enclosed documents.

2. Please produce all documents that you intend to use as exhibits at any hearing or trial in this matter.

ANSWER: Respondents object to this request on the grounds that it is premature. Respondents are still preparing their defense and have not yet determined what exhibits they will present. Respondents are still conducting discovery and Respondents are still in the midst of their factual investigation of the allegations made in Relators' complaint. Respondents also object to this request to the extent that it calls for privileged work-product or trial preparation materials.

3. Please produce all communications and documents relating in any way thereto between you and any person that you utilized to circulate the Petition (including without limitation circulation companies and individual circulators), including without limitation any handouts, manuals, and/or instructions.

ANSWER: Respondents object to this request on the ground of being overbroad and unduly burdensome and on the ground of the work-product and trial preparation privileges and their protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents do not have any such documents. Respondents further state that they did not themselves engage or utilize persons or companies to circulate the petition.

4. Please produce all contracts and agreements and documents relating in any way thereto between you and any person that you utilized to circulate the Petition (including without limitation circulation companies and individual circulators).

ANSWER: Respondents object to this request based on their protected First Amendment rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

5. Please produce all communications and documents relating in any way thereto between any circulation company that you utilized to circulate the Petition and the individual circulators utilized by that circulation company, including without limitation any handouts, manuals, and/or instructions.

ANSWER: Respondents object to this request on the ground that it is overbroad and based on their First Amendment protected rights. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

6. Please produce all documents relating to the permanent residence address used by Fifi Harper on the part-petitions of the Petition that she circulated.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is vague as to the meaning of "permanent residence" and is unduly burdensome in that it fails to identify the part-petitions. Respondents further object to the extent that it calls for privileged work-product or trial preparation materials. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

7. Please produce all documents relating to the permanent residence address used by Roy Jackson on the part-petitions of the Petition that he circulated.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is vague as to the meaning of "permanent residence address" and is unduly burdensome in that it fails to identify the part-petitions. Respondents further object to the extent that it calls for privileged work-product or trial preparation materials. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

8. Please produce all documents relating to the permanent residence address used by Kelvin Moore on the part-petitions of the Petition that he circulated.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is vague as to the meaning of "permanent residence" and is unduly burdensome in that it fails to identify the part-petitions. Respondents further object to the extent that it calls for privileged work-product or trial preparation materials. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

9. Please produce all documents relating to the permanent residence address used by Kacey Viliquette on the part-petitions of the Petition that he circulated.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is vague as to the meaning of "permanent residence," is unduly burdensome in that it fails to identify the part-petitions, and is beyond the scope of the allegations in the challenge filed by Relators. Respondents further object to the extent that it calls for privileged work-product or trial preparation materials. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

10. Excluding part-petitions of the Petition itself, please produce any and all documents relating to the alteration of, or striking of names on, any part-petition of the Petition prior to submission to the Secretary by a person who was not a signer of the part-petition, an attorney in fact for disabled voters acting pursuant to R.C. 3501.382, or an individual Petition circulator.

ANSWER: Respondents object to this request on the ground of being vague as to the meaning of "alteration" and being unduly burdensome in failing to identify the part-petition numbers. Respondents further object on the grounds of the work product and trial preparation privileges and Respondents' protected rights under the First Amendment. Subject to such objections and all general objections and without waiving any objection, Respondents have no such documents.

11. Please produce all documents relating in any way to actions you undertook to ensure that the persons that you utilized to circulate the Petition (including without limitation circulation companies and individual circulators) were knowledgeable of and would comply with Ohio election law.

ANSWER: Respondents object to this request on the basis of their protected First Amendment rights. Subject to such objection and all general objections, Respondents have no such documents.

12. Please produce any and all documents relating in any way to actions you undertook to ensure that that no person that circulated the Petition was ineligible to do so under Ohio election law.

ANSWER: Respondents object to this request on the basis of their protected First Amendment rights. Subject to such objection and all general objections, Respondents have no such documents.

13. Excluding part-petitions of the Petition itself, please produce any and all documents relating to the failure of any circulator of a part-petition to attest to the correct number of signatures that appeared on such part-petition.

ANSWER: Respondents object to this request on the ground of being vague as to the meaning of "attest to the correct number," calls for a legal conclusion and being unduly burdensome in failing to identify part-petitions by county and number. Respondents further object on the basis of the work product and trial preparation privileges and their protected First Amendment rights. Subject to such objections and all general objections and without waiving any such objections, Respondents have no such documents.

14. Excluding part-petitions of the Petition itself, please produce any and all documents relating to the refusal of any circulator of a part-petition to attest to the incorrect number of signatures that appeared on such part-petition.

ANSWER: Respondents object to this request on the ground of being vague as to the meaning of "attest to the incorrect number," calls for a legal conclusion and being unduly burdensome in failing to identify part-petitions by county and number. Respondents further object on the basis of the work product and trial preparation privileges and their protected First Amendment rights. Subject to such objections and all general objections and without waiving any such objections, Respondents have no such documents.

15. To the extent not already produced in response to a request above, please produce any and all documents that you believe in any way support, negate or refute the allegations contained in Relators' Challenge.

ANSWER: Respondents object to this request as being subjectively vague and overbroad.

REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION #1

Admit that approximately ninety percent of the signatures ultimately submitted to the Secretary on December 22, 2015 were collected by November 15, 2015.

ANSWER: Respondents object to this request on the grounds that it requests information that is not relevant to the claims, would be unduly burdensome to compute and is vague with respect to "approximately ninety percent."

REQUEST FOR ADMISSION #2

Admit that part-petitions of the Petition were altered, prior to submission of the Petition to the Secretary on December 22, 2015, by someone other than persons who signed the part-petition, attorneys in fact for disabled voters acting pursuant to R.C. 3501.382, and/or individual circulators of part-petitions that they circulated.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion and is vague as to what constitutes "altered" and is vague, overbroad and unduly burdensome in that it does identify the part-petitions. Further answering, Respondents deny the request for lack of knowledge or information following a reasonable review/inquiry of information within their possession or control. Notwithstanding said objections, Respondents admit that there were statements made by some individuals to some boards of elections that with respect to a small number of part-petitions, someone other the signer, the attorney in fact of a disabled signer or the circulator of a part-petition struck one or more signatures prior to filing.

REQUEST FOR ADMISSION #3

Admit that, at the time she circulated the Petition, Fifi Harper did not reside at 4022 E. Greenway Rd. #11312, Phoenix, Arizona 85032.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion and is vague as to the meaning of "reside." Respondents further object on the ground that it seeks information protected by the work product and trial preparation privileges. Notwithstanding said objections and without waiving any objection, Respondents deny the request.

REQUEST FOR ADMISSION #4

Admit that, at the time she circulated the Petition, Fifi Harper did not reside at 4022 E. Greenway Rd., Phoenix, Arizona 85032.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion and is vague as to the meaning of "reside." Respondents further object on the ground that it seeks information protected by the work product and trial preparation privileges. Notwithstanding said objections and without waiving any objection, Respondents deny the request.

REQUEST FOR ADMISSION #5

Admit that, at the time he circulated the Petition, Roy Jackson did not reside at 2100 Brice Road, Reynoldsburg, Ohio 43068.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion and is vague as to the meaning of "reside." Respondents further object on the ground that it seeks information protected by the work product and trial preparation privileges.

Notwithstanding said objections and without waiving any objection, Respondents deny the request.

REQUEST FOR ADMISSION #6

Admit that, at the time he circulated the Petition, Kelvin Moore did not reside at 3143 West 33rd Street, Cleveland, Ohio 44109.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion and is vague as to the meaning of "reside." Respondents further object on the ground that it seeks information protected by the work product and trial preparation privileges. Notwithstanding said objections and without waiving any objection, Respondents deny the request.

REQUEST FOR ADMISSION #7

Admit that, at the time he circulated the Petition, Kacey Viliquette did not reside at 1900 S. Ocean Blvd., Myrtle Beach, South Carolina 29577.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion and is vague as to the meaning of "reside." Respondents further object on the ground that it seeks information protected by the work product and trial preparation privileges. Notwithstanding said objections and without waiving any objection, Respondents deny the request.

REQUEST FOR ADMISSION #8

Admit that some part-petitions of the Petition were circulated by an individual that was ineligible to do so under Ohio law.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion and is vague and overbroad in that it does not indicate a ground for ineligibility and is unduly burdensome. Respondents further object on the ground that it seeks information protected by the work product and trial preparation privilege. Notwithstanding such objections and without waiving any objection, Respondents deny the request for lack of information or knowledge after reasonable research and inquiry.

REQUEST FOR ADMISSION #9

Admit that some circulator statements on part-petitions of the Petition were intentionally completed using an incorrect number for the number of signatures that appeared on such part-petitions.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion and is vague as to the meaning of "incorrect" and is vague and unduly burdensome in that it fails to identify the part-petitions. Respondents further object on the ground of work product and trial preparation privilege. Notwithstanding, such objections and without waiving any objection, Respondents deny the request for lack of information or knowledge after reasonable inquiry/review of copies of part-petitions within its possession.

REQUEST FOR ADMISSION #10

Admit that the number "28" was already filled-in (i.e., pre-affixed) as the number of persons signing the part-petition on some part-petitions of the Petition when they were provided to circulators.

ANSWER: Respondents object to this request on the grounds that it is vague and unduly

burdensome in that it fails to identify the part-petitions. Respondents further object on the ground of work product and trial preparation privilege. Notwithstanding, such objections and without waiving any objection, Respondents deny the request for lack of information or knowledge after reasonable inquiry/review of copies of part-petitions and other records within its possession.

REQUEST FOR ADMISSION #11

Admit that some circulators were instructed to insert the number "28" as the number of persons signing the part-petition of the Petition regardless of whether 28 persons ever signed the part-petition.

ANSWER: Respondents object to this request on the grounds that it is vague and unduly burdensome in that it fails to identify the part-petitions. Respondents further object on the ground of work product and trial preparation privilege. Notwithstanding, such objections and without waiving any objection, Respondents deny the request for lack of information or knowledge after reasonable inquiry/review of copies of part-petitions and other records within its possession.

REQUEST FOR ADMISSION #12

Admit that if the part-petitions circulated by Fifi Harper are stricken, the number of qualifying counties would be reduced to less than the 44 counties required under the Ohio Constitution.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is a hypothetical and is vague and unduly burdensome in that it fails to identify the part-petitions. Notwithstanding such objections, respondents deny the request.

REQUEST FOR ADMISSION #13

Admit that if the part-petitions circulated by Fifi Harper are stricken, the number of valid signatures remaining on the Petition in Knox, Morrow, Licking, and Scioto Counties would fall

below 1.5 percent of the total vote cast for governor at the most recent gubernatorial election in those counties.

ANSWER: Respondents object to this request on the grounds that it calls for a legal conclusion, is a hypothetical and is vague and unduly burdensome in that it fails to identify the part-petitions. Notwithstanding such objections, Respondents deny the request.

REQUEST FOR ADMISSION #14

Admit that the Petition does not have an absolute (i.e. unqualified) right to appear on the ballot during the November 2016 general election.

ANSWER: Respondents object to this request on the ground that it calls for a legal conclusion. Notwithstanding such objection and without waiving any objection, Respondents deny the request in that the petition at issue is for proposing a law to the Ohio General Assembly. In the event that Respondents subsequently file a valid and sufficient Supplementary Petition by July 6, 2016, they would have an unqualified right to have the proposed law appear on the November 2016 general election.

Any of the above Requests for Admission not specifically admitted are denied.

Respectfully submitted,

Donald J. McTigue (0022849)*
* *Counsel of Record*
J. Corey Colombo (0072398)
Derek S. Clinger (0092075)
McTigue & Colombo, LLC
545 E. Town St.
Columbus, OH 43215

Tel.: (614) 263-7000
Fax: (614) 262-7078
dmctigue@electionlawgroup.com
ccolombo@electionlawgroup.com
dclinger@electionlawgroup.com

Counsel for Respondents William S. Booth, Daniel L. Darland, Tracy L. Jones, and Latonya D. Thurman

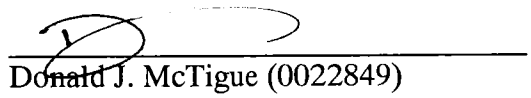
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via hand delivery on April 8, 2016 upon:

Steve T. Voigt,
Senior Assistant Attorney General
Brodi J. Conover,
Assistant Attorney General
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215
Email: steven.voigt@ohioattorneygeneral.gov
brodi.conover@ohioattorneygeneral.gov

Counsel for Respondent, Ohio Secretary of State, Jon Husted

Kurtis A. Tunnell
BRICKER & ECKLER LLP
ANNE MARIE SFERRA
NELSON M. REID
JAMES P. SCHUCK
100 South Third Street
Columbus, Ohio 43215
ktunnell@bricker.com
Counsel for Relators



Donald J. McTigue (0022849)

VERIFICATION

STATE OF OHIO :
: **SS.**
COUNTY OF Franklin

I, LaTonya Thurman being first duly sworn, depose and say that the foregoing answers to the First Set of Interrogatories propounded by Relators are true and complete to the best of my knowledge, information, and belief.

Signature

Sworn to before me and subscribed in my presence this 7th day of April, 2016.

Notary Public

COMMISSION EXPIRATION:

VERIFICATION

STATE OF ~~OHIO~~ Illinois :
: SS.
COUNTY OF Cook :

I, Tracy Jones, being first duly sworn, depose and say that the foregoing answers to the First Set of Interrogatories propounded by Relators are true and complete to the best of my knowledge, information, and belief.

OFFICIAL SEAL
MAURICE BROWN
Notary Public - State of Illinois
My Commission Expires Apr 7, 2019

Sworn to before me and subscribed in my presence this 7th day of April, 2016.

Maurice Brown
Notary Public

COMMISSION EXPIRATION: April 7, 2019

VERIFICATION

STATE OF OHIO :
: **SS.**
COUNTY OF _____ :

I, William S. Booth, being first duly sworn, depose and say that the foregoing answers to the First Set of Interrogatories propounded by Relators are true and complete to the best of my knowledge, information, and belief.

William S. Booth
Signature

Sworn to before me and subscribed in my presence this 7th day of April, 2016.

Gwendolyn Y. Reynolds
Notary Public

COMMISSION
EXPIRATION:

NOTARY PUBLIC
STATE OF OHIO

GWENDOLYN Y REYNOLDS, Notary Public
In and for the State of Ohio
My Commission Expires July 5, 2020

VERIFICATION

STATE OF OHIO :
: **SS.**
COUNTY OF Montgomery :

I, Daniel L Darland, being first duly sworn, depose and say that the foregoing answers to the First Set of Interrogatories propounded by Relators are true and complete to the best of my knowledge, information, and belief.

Signature

Sworn to before me and subscribed in my presence this 8th day of April, 2016.

Notary Public

COMMISSION
EXPIRATION: DOES NOT EXPIRE

NOTARIAL SEAL STATE OF OHIO

JOHN COREY COLOMBO
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.