

IN THE SUPREME COURT OF OHIO

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

**PETITION RESPONDENTS' APPENDIX OF CITED
CONSTITUTIONAL AND STATUTORY PROVISIONS**

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
Tel: 614-227-2300 | Fax: 614-227-2390
ktunnell@bricker.com
asferra@bricker.com
nreid@bricker.com
jschuck@bricker.com

Counsel for Relators

Donald J. McTigue (0022849)
Counsel Of Record
J. Corey Colombo (0072398)
Derek S. Clinger (0092075)
McTigue & Colombo LLC
545 E. Town Street
Columbus, Ohio 43215
Tel: 614-263-7000 | Fax: 614-263-7078
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*

Michael DeWine (0009181)
Ohio Attorney General
Steven T. Voigt (0092879)
Senior Assistant Attorney General
BRODI J. CONOVER (0092082)
Assistant Attorney General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: 614-466-2872 | Fax: 614-728-7592
steven.voigt@ohioattorneygeneral.gov
brodi.conover@ohioattorneygeneral.gov

Counsel for Respondent Secretary Husted

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by e-mail on June 22, 2016,

upon the following:

Kurtis A. Tunnell
Anne Marie Sferra
Nelson M. Reid
James P. Schuck
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215
ktunnell@bricker.com
asferra@bricker.com
nreid@bricker.com
jschuck@bricker.com

Counsel for Relators

Steven T. Voigt
Brodi J. Conover
Office of the Ohio Attorney General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
steven.voigt@ohioattorneygeneral.com
brodi.conover@ohioattorneygeneral.com

Counsel for Respondent
Ohio Secretary of State

/s/ Derek S. Clinger
Derek S. Clinger (0092075)

Sec. 1b, Art. II, Ohio Constitution

When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an amended form, it shall be subject to the referendum. If it shall not be passed, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have been rejected by the general assembly or after the expiration of such term of four months, if no action has been taken thereon, or after the law as passed by the general assembly shall have been filed by the governor in the office of the secretary of state. The proposed law shall be submitted at the next regular or general election occurring subsequent to one hundred twenty-five days after the supplementary petition is filed in the form demanded by such supplementary petition, which form shall be either as first petitioned for or with any amendment or amendments which may have been incorporated therein by either branch or by both branches, of the general assembly. If a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect as herein provided in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors. All such initiative petitions, last above described, shall have printed across the top thereof, in case of proposed laws: "Law Proposed by Initiative Petition First to be Submitted to the General Assembly." Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the electors. Any proposed law or amendment to the constitution submitted to the electors as provided in 1a and 1b, if approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state. If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law, or in the case of amendments to the constitution shall be the amendment to the constitution. No law proposed by initiative petition and approved by the electors shall be subject to the veto of the governor.

Sec. 1g, Art. II, Ohio Constitution

Any initiative, supplementary, or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution. Each signer of any initiative, supplementary, or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the county and the rural route number, post office address, or township of his residence. A resident of a municipality shall state the street and number, if any, of his residence and the name of the municipality or post office address. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the statement of the circulator, as may be required by law, that he witnessed the affixing of every signature. The secretary of state shall determine the sufficiency of the signatures not later than one hundred five days before the election.

The Ohio supreme court shall have original, exclusive jurisdiction over all challenges made to petitions and signatures upon such petitions under this section. Any challenge to a petition or signature on a petition shall be filed not later than ninety-five days before the day of the election. The court shall hear and rule on any challenges made to petitions and signatures not later than eighty-five days before the election. If no ruling determining the petition or signatures to be insufficient is issued at least eighty-five days before the election, the petition and signatures upon such petitions shall be presumed to be in all respects sufficient.

If the petitions or signatures are determined to be insufficient, ten additional days shall be allowed for the filing of additional signatures to such petition. If additional signatures are filed, the secretary of state shall determine the sufficiency of those additional signatures not later than sixty-five days before the election. Any challenge to the additional signatures shall be filed not later than fifty-five days before the day of the election. The court shall hear and rule on any challenges made to the additional signatures not later than forty-five days before the election. If no ruling determining the additional signatures to be insufficient is issued at least forty-five days before the election, the petition and signatures shall be presumed to be in all respects sufficient.

No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving an affirmative majority of the votes cast thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. Upon all initiative, supplementary, and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county. A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section, or item, submitted to the electors by referendum petition, may

be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section, or item, submitted to the electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The law, or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, shall be published once a week for three consecutive weeks preceding the election, in at least one newspaper of general circulation in each county of the state, where a newspaper is published. The secretary of state shall cause to be placed upon the ballots, the ballot language for any such law, or proposed law, or proposed amendment to the constitution, to be submitted. The ballot language shall be prescribed by the Ohio ballot board in the same manner, and subject to the same terms and conditions, as apply to issues submitted by the general assembly pursuant to Section 1 of Article XVI of this constitution. The ballot language shall be so prescribed and the secretary of state shall cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law, or proposed amendment to the constitution. The style of all laws submitted by initiative and supplementary petition shall be: "Be it Enacted by the People of the State of Ohio," and of all constitutional amendments: "Be it Resolved by the People of the State of Ohio." The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. The foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provisions or the powers herein reserved.

Ohio Rev. Code 2961.01

(A)

(1) A person who pleads guilty to a felony under the laws of this or any other state or the United States and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony under any law of that type is returned, unless the plea, verdict, or finding is reversed or annulled, is incompetent to be an elector or juror or to hold an office of honor, trust, or profit.

(2) When any person who under division (A)(1) of this section is incompetent to be an elector or juror or to hold an office of honor, trust, or profit is granted parole, judicial release, or a conditional pardon or is released under a non-jail community control sanction or a post-release control sanction, the person is competent to be an elector during the period of community control, parole, post-release control, or release or until the conditions of the pardon have been performed or have transpired and is competent to be an elector thereafter following final discharge. The full pardon of a person who under division (A)(1) of this section is incompetent to be an elector or juror or to hold an office of honor, trust, or profit restores the rights and privileges so forfeited under division (A)(1) of this section, but a pardon shall not release the person from the costs of a conviction in this state, unless so specified.

(B) A person who pleads guilty to a felony under laws of this state or any other state or the United States and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony under any law of that type is returned is incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.

(C) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Non-jail community control sanction" means a community control sanction that is neither a term in a community-based correctional facility nor a term in a jail.

(3) "Post-release control" and "post-release control sanction" have the same meanings as in section 2967.01 of the Revised Code.

Ohio Rev. Code 3501.38

All declarations of candidacy, nominating petitions, or other petitions presented to or filed with the secretary of state or a board of elections or with any other public office for the purpose of becoming a candidate for any nomination or office or for the holding of an election on any issue shall, in addition to meeting the other specific requirements prescribed in the sections of the Revised Code relating to them, be governed by the following rules:

(A) Only electors qualified to vote on the candidacy or issue which is the subject of the petition shall sign a petition. Each signer shall be a registered elector pursuant to section 3503.01 of the Revised Code. The facts of qualification shall be determined as of the date when the petition is filed.

(B) Signatures shall be affixed in ink. Each signer may also print the signer's name, so as to clearly identify the signer's signature.

(C) Each signer shall place on the petition after the signer's name the date of signing and the location of the signer's voting residence, including the street and number if in a municipal corporation or the rural route number, post office address, or township if outside a municipal corporation. The voting address given on the petition shall be the address appearing in the registration records at the board of elections.

(D) Except as otherwise provided in section 3501.382 of the Revised Code, no person shall write any name other than the person's own on any petition. Except as otherwise provided in section 3501.382 of the Revised Code, no person may authorize another to sign for the person. If a petition contains the signature of an elector two or more times, only the first signature shall be counted.

(E)

(1) On each petition paper, the circulator shall indicate the number of signatures contained on it, and shall sign a statement made under penalty of election falsification that the circulator witnessed the affixing of every signature, that all signers were to the best of the circulator's knowledge and belief qualified to sign, and that every signature is to the best of the circulator's knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code. On the circulator's statement for a declaration of candidacy or nominating petition for a person seeking to become a statewide candidate or for a statewide initiative or a statewide referendum petition, the circulator shall identify the circulator's name, the address of the circulator's permanent residence, and the name and address of the person employing the circulator to circulate the petition, if any.

(2) As used in division (E) of this section, "statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, or attorney general.

(F) Except as otherwise provided in section 3501.382 of the Revised Code, if a circulator knowingly permits an unqualified person to sign a petition paper or permits a person to write a name other than the person's own on a petition paper, that petition paper is invalid; otherwise, the signature of a person not qualified to sign shall be rejected but shall not invalidate the other valid signatures on the paper.

(G) The circulator of a petition may, before filing it in a public office, strike from it any signature the circulator does not wish to present as a part of the petition.

(H) Any signer of a petition or an attorney in fact acting pursuant to section 3501.382 of the Revised Code on behalf of a signer may remove the signer's signature from that petition at any time before the petition is filed in a public office by striking the signer's name from the petition; no signature may be removed after the petition is filed in any public office.

(I)

(1) No alterations, corrections, or additions may be made to a petition after it is filed in a public office.

(2)

(a) No declaration of candidacy, nominating petition, or other petition for the purpose of becoming a candidate may be withdrawn after it is filed in a public office. Nothing in this division prohibits a person from withdrawing as a candidate as otherwise provided by law.

(b) No petition presented to or filed with the secretary of state, a board of elections, or any other public office for the purpose of the holding of an election on any question or issue may be resubmitted after it is withdrawn from a public office or rejected as containing insufficient signatures. Nothing in this division prevents a question or issue petition from being withdrawn by the filing of a written notice of the withdrawal by a majority of the members of the petitioning committee with the same public office with which the petition was filed prior to the sixtieth day before the election at which the question or issue is scheduled to appear on the ballot.

(J) All declarations of candidacy, nominating petitions, or other petitions under this section shall be accompanied by the following statement in boldface capital letters: **WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.**

(K) All separate petition papers shall be filed at the same time, as one instrument.

(L) If a board of elections distributes for use a petition form for a declaration of candidacy, nominating petition, or any type of question or issue petition that does not satisfy the requirements of law as of the date of that distribution, the board shall not invalidate the petition on the basis that the petition form does not satisfy the requirements of law, if the petition otherwise is valid. Division (L) of this section applies only if the candidate received the petition from the board within ninety days of when the petition is required to be filed.

Ohio Rev. Code 3501.39

(A) The secretary of state or a board of elections shall accept any petition described in section 3501.38 of the Revised Code unless one of the following occurs:

(1) A written protest against the petition or candidacy, naming specific objections, is filed, a hearing is held, and a determination is made by the election officials with whom the protest is filed that the petition is invalid, in accordance with any section of the Revised Code providing a protest procedure.

(2) A written protest against the petition or candidacy, naming specific objections, is filed, a hearing is held, and a determination is made by the election officials with whom the protest is filed that the petition violates any requirement established by law.

(3) The candidate's candidacy or the petition violates the requirements of this chapter, Chapter 3513. of the Revised Code, or any other requirements established by law.

(B) Except as otherwise provided in division (C) of this section or section 3513.052 of the Revised Code, a board of elections shall not invalidate any declaration of candidacy or nominating petition under division (A)(3) of this section after the sixtieth day prior to the election at which the candidate seeks nomination to office, if the candidate filed a declaration of candidacy, or election to office, if the candidate filed a nominating petition.

(C)

(1) If a petition is filed for the nomination or election of a candidate in a charter municipal corporation with a filing deadline that occurs after the ninetieth day before the day of the election, a board of elections may invalidate the petition within fifteen days after the date of that filing deadline.

(2) If a petition for the nomination or election of a candidate is invalidated under division (C)(1) of this section, that person's name shall not appear on the ballots for any office for which the person's petition has been invalidated. If the ballots have already been prepared, the board of elections shall remove the name of that person from the ballots to the extent practicable in the time remaining before the election. If the name is not removed from the ballots before the day of the election, the votes for that person are void and shall not be counted.

Ohio Rev. Code 3503.06

(A) No person shall be entitled to vote at any election, unless the person is registered as an elector and will have resided in the county and precinct where the person is registered for at least thirty days at the time of the next election.

(B) No person shall be entitled to sign any petition, unless the person is registered as an elector and resides in a precinct in which the candidacy or issue that is the subject of the petition will appear on the ballot.

(C)

(1)

(a) Except for a nominating petition for presidential electors, no person shall be entitled to circulate any petition unless the person is a resident of this state and is at least eighteen years of age.

(b) No person shall be entitled to circulate a nominating petition for presidential electors unless the person is at least eighteen years of age.

(2) All election officials, in determining the residence of a person circulating a petition under division (C)(1) of this section, shall be governed by the following rules:

(a) That place shall be considered the residence of a person in which the person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(b) A person shall not be considered to have lost the person's residence who leaves the person's home and goes into another state for temporary purposes only, with the intention of returning.

(c) A person shall not be considered to have gained a residence in any county of this state into which the person comes for temporary purposes only, without the intention of making that county the permanent place of abode.

(d) If a person removes to another state with the intention of making that state the person's residence, the person shall be considered to have lost the person's residence in this state.

(e) Except as otherwise provided in division (C)(2)(f) of this section, if a person removes from this state and continuously resides outside this state for a period of four years or more, the person shall be considered to have lost the person's residence in this state, notwithstanding the fact that the person may entertain an intention to return at some future period.

(f) If a person removes from this state to engage in the services of the United States government, the person shall not be considered to have lost the person's residence in this state during the period of that service, and likewise should the person enter the employment of the state, the place where that person resided at the time of the person's removal shall be considered to be the person's place of residence.

(g) If a person goes into another state and, while there, exercises the right of a citizen by voting, the person shall be considered to have lost the person's residence in this state.

Ohio Rev. Code 3519.02

The petitioners shall designate in any initiative, referendum, or supplementary petition and on each of the several parts of such petition a committee of not less than three nor more than five of their number who shall represent them in all matters relating to such petitions. Notice of all matters or proceedings pertaining to such petitions may be served on said committee, or any of them, either personally or by registered mail, or by leaving such notice at the usual place of residence of each of them.

Ohio Rev. Code 3519.05

(A) If the measure to be submitted proposes a constitutional amendment, the heading of each part of the petition shall be prepared in the following form, and printed in capital letters in type of the approximate size set forth:

"INITIATIVE PETITION

Amendment to the Constitution Proposed by Initiative Petition To be submitted directly to the electors"

"Amendment" printed in fourteen-point boldface type shall precede the title, which shall be briefly expressed and printed in eight-point type. The summary shall then be set forth printed in ten-point type, and then shall follow the certification of the attorney general, under proper date, which shall also be printed in ten-point type. The petition shall then set forth the names and addresses of the committee of not less than three nor more than five to represent the petitioners in all matters relating to the petition or its circulation.

Immediately above the heading of the place for signatures on each part of the petition the following notice shall be printed in boldface type:

"NOTICE Whoever knowingly signs this petition more than once; except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution."

The heading of the place for signatures shall be substantially as follows:

"(Sign with ink. Your name, residence, and date of signing must be given.) Rural Route or other Post-Signature County Township office Address Month Day Year (Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.) (Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

Signature County City or Village Street and Number Ward Precinct Month Day Year"

The text of the proposed amendment shall be printed in full, immediately following the place for signatures, and shall be prefaced by "Be it resolved by the people of the State of Ohio." Immediately following the text of the proposed amendment must appear the following form:

"I,, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by"

(Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

(Signed)

(Address of circulator's permanent residence in this state)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

(B) If the measure proposes a law, the heading of each part of the petition shall be prepared as follows:

"INITIATIVE PETITION

Law proposed by initiative petition first to be submitted to the General Assembly."

In all other respects, the form shall be as provided for the submission of a constitutional amendment, except that the text of the proposed law shall be prefaced by "Be it enacted by the people of the state of Ohio."

The form for a supplementary initiative petition shall be the same as that provided for an initiative petition, with the exception that "supplementary" shall precede "initiative" in the title thereof.

(C) The general provisions set forth in this section relative to the form and order of an initiative petition shall be, so far as practical, applicable to a referendum petition, the heading of which shall be as follows:

"REFERENDUM PETITION

To be submitted to the electors for their approval or rejection"

The title, which follows the heading, shall contain a brief legislative history of the law, section, or item of law to be referred. The text of the law so referred shall be followed by the certification of the secretary of state, in accordance with division (B)(2)(b) of section 3519.01 of the Revised Code, that it has been compared with the copy of the enrolled act, on file in the secretary of state's office, containing such law, section, or item of law, and found to be correct.

(D) The secretary of state shall prescribe a form for part petitions to be submitted during the ten-day period beginning on the first day following the date that the secretary of state notifies the chairperson of the committee interested in the petition that the petition has an insufficient number of valid signatures. The secretary of state shall provide to each particular committee a different form that contains a unique identifier and that is separate from the forms prescribed in divisions (A), (B), and (C) of this section. The secretary of state shall make the form available to the committee only as described in division (F) of section 3519.16 of the Revised Code. The form

shall not be considered a public record until after the secretary of state makes it available to the committee under that division.

The form shall comply with the requirements of Section 1g of Article II, Ohio Constitution and, except as otherwise provided in this division, with the requirements of divisions (A), (B), and (C) of this section.

Ohio Rev. Code 3519.06

No initiative or referendum part-petition is properly verified if it appears on the face thereof, or is made to appear by satisfactory evidence:

- (A) That the statement required by section 3519.05 of the Revised Code is not properly filled out;
- (B) That the statement is not properly signed;
- (C) That the statement is altered by erasure, interlineation, or otherwise;
- (D) That the statement is false in any respect;
- (E) That any one person has affixed more than one signature thereto.

Ohio Rev. Code 3519.15

Whenever any initiative or referendum petition has been filed with the secretary of state, he shall forthwith separate the part-petitions by counties and transmit such part-petitions to the boards of elections in the respective counties. The several boards shall proceed at once to ascertain whether each part-petition is properly verified, and whether the names on each part-petition are on the registration lists of such county, or whether the persons whose names appear on each part-petition are eligible to vote in such county, and to determine any repetition or duplication of signatures, the number of illegal signatures, and the omission of any necessary details required by law. The boards shall make note opposite such signatures and submit a report to the secretary of state indicating the sufficiency or insufficiency of such signatures and indicating whether or not each part-petition is properly verified, eliminating, for the purpose of such report, all signatures on any part-petition that are not properly verified.

In determining the sufficiency of such a petition, only the signatures of those persons shall be counted who are electors at the time the boards examine the petition.