

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.	:	

EVIDENCE OF PETITION RESPONDENTS – VOLUME I

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

EVIDENCE OF PETITION RESPONDENTS – VOLUME I

Petition Respondents hereby file Volume I of their Evidence in the instant case:

Exhibit No.

Secretary of State’s Responses to Petition Respondents’ Interrogatories and Requests for Production of Documents.....	1
December 23, 2015 Email from PhRMA to Secretary of State Staff.....	2
Secretary of State Special Counsel Agreements.....	3
December 30, 2015 Email from PhRMA to Secretary of State Staff.....	4
Secretary of State Directive 2015-40.....	5
Secretary of State Directive 2016-01.....	6
Secretary of State’s Ohio Drug Price Relief Act Transmittal Letter to General Assembly.....	7
Affidavit of Fifi Harper.....	8
Affidavit of Angelo Paparella.....	9
Chapter 11 of the Ohio Elections Official Manual.....	10
Butler County Prosecutor’s Office Letter to Secretary of State.....	11
Secretary of State Tie Vote on February 11, 2015 on Motion to Invalidate Josh Ford’s Nominating Petition for City Council.....	12
Secretary of State Email to Board of Elections Regarding Instructions for Reviewing Circulator Statements.....	13

Respectfully submitted,

/s/ Donald J. McTigue

Donald J. McTigue (0022849)*

**Counsel of Record*

J. Corey Colombo (0072398)

Derek S. Clinger (0092075)

McTIGUE & COLOMBO LLC

545 E. Town Street

Columbus, OH 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*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Evidence of Petition Respondents – Volume I 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
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
steven.voigt@ohioattorneygeneral.com
brodi.conover@ohioattorneygeneral.com

Counsel for Respondent Ohio Secretary of State

/s/ Derek S. Clinger

Derek S. Clinger (0092075)

PETITION RESPONDENTS' EXHIBIT 1

**(Secretary of State's Responses to Petition Respondents'
Interrogatories and Requests for Production of Documents)**

IN THE SUPREME COURT OF OHIO

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

**RESPONDENT OHIO SECRETARY OF STATE'S RESPONSE TO PETITION
RESPONDENTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION**

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@elecitonlawgroup.com
ccolombo@electionlawgroup.com
dclinger@electionlawgroup.com

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

MICHAEL DEWINE (0009181)
Ohio Attorney General

STEVEN T. VOIGT (0092879)*
**Counsel of Record*
Principal Assistant Attorney General
BRODI J. CONOVER (0092082)
Assistant Attorney General
Constitutional Offices Section
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
Ohio Secretary of State Jon Husted

Pursuant to S.Ct.Prac.R. 14.01(C)(2) and Rules 26, 33, and 34 of the Ohio Rules of Civil Procedure, Respondent Ohio Secretary of State Jon Husted hereby responds to Petition Respondents' Interrogatories and Requests for Production of Documents, which were served on April 25, 2016.

GENERAL OBJECTIONS

1. Respondent Secretary Husted objects to these Interrogatories to the extent they seek information protected by the attorney-client privilege and work product doctrine.
2. Respondent Secretary Husted objects to these interrogatories to the extent that they are overbroad, unduly burdensome, vague, duplicative, or not reasonably calculated to lead to the discovery of admissible evidence.
3. Respondent Secretary Husted objects to these Interrogatories to the extent they fail to comply with or seek to alter the rights and obligations imposed by the Ohio Rules of Civil Procedure or local rules.
4. Respondent Secretary Husted objects to these Interrogatories to the extent that they seek information not in Respondent Secretary Husted's possession or control.
5. Respondent Secretary Husted objects to these Interrogatories to the extent the information sought is publicly available, is already in Petition Respondents' possession, or is in the possession or control of third parties.
6. Respondent Secretary Husted expressly reserves all objections as to competency, relevancy, materiality, and admissibility of the answers contained herein and any objections to future discovery requests.
7. Respondent Secretary Husted states that he is responding to these discovery requests to the best of his present knowledge and belief and expressly reserves the right to amend, alter, revise, and/or supplement his responses. No response shall be construed as a waiver of any further objection.
8. Respondent Secretary Husted hereby incorporates each of these general objections into each and every specific response to each of the Requests listed below.

SPECIFIC RESPONSES AND OBJECTIONS

INTERROGATORY #1

Please provide the date, time, form and a synopsis of any and all communications with any attorney or employee of the law firm of Bricker & Eckler LLP concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted has previously provided communications regarding the Petition and the Act with the law firm of Bricker & Eckler LLP in a public records request to Petition Respondents' counsel. All oral communications below are reported to the best of the individual or individuals within the office's recollection. The following communications have been identified in response to Interrogatory No. 1:

- March 8, 2016, 12:16 and 12:17 PM emails (two) from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email provided Ms. Yano with documents responsive to her public records request for part-petitions.
- On or about March 8, 2016, phone call between Marjorie Yano, an associate at Bricker & Eckler LLP, and David Bowling, Elections Counsel for the Ohio Secretary of State's office. During the phone call, Ms. Yano made a public records request for part-petitions.
- February 29, 2016, 12:25 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email provided Ms. Yano with documents responsive to her public records request for part-petitions.
- On or about February 29, 2016, phone call between Marjorie Yano, an associate at Bricker & Eckler LLP, and David Bowling, Elections Counsel for the Ohio Secretary of State's office. During the phone call, Ms. Yano made a public records request for part-petitions.
- February 9, 2016, 5:16 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email provided Mr. Bowling with a question related to the documents Mr. Bowling sent to Ms. Yano earlier in the day.
- February 9, 2016, 3:44 PM email from Marjorie Yano, an associate at Bricker &

Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for certain part-petitions.

- February 9, 2016, 1:43 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for correspondence sent to or received from boards of election regarding the Drug Price Relief Act.
- February 9, 2016, 9:32, 9:34, 9:36, and 9:36 AM emails (four) from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. These emails were in response to a public records request from Ms. Yano for post-review part-petitions from Licking County.
- February 5, 2016, 3:30 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for post-review part-petitions from Licking County.
- February 5, 2016, 3:16 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for the recertification forms of the Petition from certain counties.
- February 5, 2016, 1:36 PM email from Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office, to Christopher Slagle, a partner at Bricker & Eckler LLP. This email was a courtesy copy of the signature verification letter issued to petitioners and the letter transmitting the Drug Price Relief Act to the General Assembly.
- February 4, 2016, 6:48 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP. This email was to follow up on a public records request for the recertification forms of the Petition from certain counties.
- February 2, 2016, 11:07 AM email from Marjorie Yano, an associate at Bricker & Eckler LLP. This email was a public records request for the recertification forms of the Petition from certain counties.
- January 28, 2016, 9:40 AM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for the recertification forms of the Petition received by the Secretary's office from the county boards of elections.
- January 28, 2016, 9:36 AM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Marjorie Yano, an associate at Bricker & Eckler

LLP. This email was in response to a public records request submitted by Ms. Yano for additional documents that the county boards of elections submitted along with the recertification forms of the Petition.

- January 27, 2016 Memorandum from Bricker & Eckler LLP to the Ohio County Boards of Elections, carbon copying Ohio Secretary of State Jon Husted. This memorandum purports to provide “additional relevant information” concerning the Petition “that the Petitioning Committee’s communications omitted.”
- January 27, 2016, 3:23 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State’s office. This email was a public records request for documents that the county boards of election submitted along with the recertification forms of the Petition.
- January 27, 2016, 3:20 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State’s office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for the recertification forms of the Petition received by the Secretary’s office from the county boards of elections.
- January 26, 2016, 1:33 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State’s office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for the Form 15 filed by Direct Democracy Unlimited.
- January 26, 2016, 1:07 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State’s office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for certification forms.
- January 26, 2016, 11:28 AM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State’s office. This email was a public records request for the Form 15 filed by Direct Democracy Unlimited.
- January 22, 2016, 5:29 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State’s office, to Marjorie Yano, an associate at Bricker & Eckler LLP. This email was in response to a public records request submitted by Ms. Yano for the recertification forms of the Petition received by the Secretary’s office from the county boards of elections.
- January 21, 2016, 6:26 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State’s office. This email was to follow up on a prior public records request submitted to the Secretary’s office for the recertification forms of the Petition submitted to the Secretary’s office from the county boards of elections.

- January 14, 2016, 1:25 PM email from Marjorie Yano, an associate at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for the recertification forms of the Petition received by the Secretary's office from the county boards of elections.
- On or about January 7, 2016, approximately two phone calls between Christopher Slagle, a partner at Bricker & Eckler LLP, and other employees of Bricker & Eckler LLP, and Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office, Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office, and Matthew Walsh, Legislative Counsel for the Ohio Secretary of State's office. During these phone calls, Mr. Slagle and others at Bricker & Eckler, who attended boards of election hearings on the part-petitions, relayed the testimony and results of these hearings to Mr. Christopher, Ms. Kuruc, and Mr. Walsh.
- January 5, 2016, 3:49 PM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Christopher Slagle, a partner at Bricker & Eckler LLP. This email was an acknowledgement to a public records request submitted by Mr. Slagle.
- January 5, 2016, 11:14 AM email from Christopher Slagle, a partner at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for all communications related to the Drug Price Relief Act.
- December 31, 2015, 9:57 and 9:58 AM emails (two) between David Bowling, Elections Counsel for the Ohio Secretary of State's office, and Christopher Slagle, a partner at Bricker & Eckler LLP. These emails provide documents responsive to Mr. Slagle's December 24, 2015 public records request.
- December 30, 2015 letter from Christopher Slagle, a partner at Bricker & Eckler LLP, to Ohio Secretary of State Jon Husted. This letter was sent to the Secretary regarding alleged inconsistencies in the part-petitions submitted for the Petition to the Ohio Secretary of State's office by the county boards of elections.
- December 30, 2015, 5:02 PM email from Christopher Slagle, a partner at Bricker & Eckler LLP, to Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office. This email attached a letter to Ohio Secretary of State Jon Husted and spreadsheets. All attached documents concerned issues with the part-petitions identified by Bricker & Eckler LLP.
- December 30, 2015, 11:07 and 11:09 AM emails (two) between David Bowling, Elections Counsel for the Ohio Secretary of State's office, and Christopher Slagle, a partner at Bricker & Eckler LLP. These emails provide documents responsive to Mr. Slagle's December 24, 2015 public records request.

- December 29, 2015, 11:46 AM email from David Bowling, Elections Counsel for the Ohio Secretary of State's office, to Christopher Slagle, a partner at Bricker & Eckler LLP. This email was a public records response to Mr. Slagle's request for county certification information sent to the Secretary of State's office from the county boards of election.
- On or about December 24, 2015, phone call between Christopher Slagle, a partner at Bricker & Eckler LLP, and other employees of Bricker & Eckler LLP, and Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office, Matthew Damschroder, Assistant Secretary of State and Chief of Staff for the Ohio Secretary of State's office, Craig Forbes, Deputy Chief of Staff for the Ohio Secretary of State's office, and Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office. During the phone call, Mr. Slagle and other employees of Bricker & Eckler LLP informed the employees from the Secretary of State's office of some potential issues identified in the part-petitions.
- December 24, 2015, 2:57 PM email from Christopher Slagle, a partner at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for the certification information sent to the Secretary of State's office from the county boards of election.
- December 23, 2015, 7:07 PM email from Christopher Slagle, a partner at Bricker & Eckler LLP, to Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office. This email follows up on the phone call Mr. Slagle and Mr. Christopher had earlier in the day. This email details some of the potential issues identified in the part-petitions.
- December 23, 2015 phone call between Christopher Slagle, a partner at Bricker & Eckler LLP, and Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office. During the phone call, Mr. Slagle informed Mr. Christopher of some potential issues identified in the part-petitions.
- December 22, 2015, 2:44 PM email from Christopher Slagle, a partner at Bricker & Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email clarified Mr. Slagle's public records request submitted to Mr. Bowling on December 22, 2015 at 1:12 PM.
- December 22, 2015 phone call between Christopher Slagle, a partner at Bricker & Eckler LLP, and Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office. During the phone call, Mr. Christopher acknowledged receipt of Mr. Slagle's public records request submitted on December 22, 2015 at 1:12 PM. Mr. Christopher also informed Mr. Slagle that documents responsive to his public records request should be available later that day.
- December 22, 2015, 1:12 PM email from Christopher Slagle, a partner at Bricker &

Eckler LLP, to David Bowling, Elections Counsel for the Ohio Secretary of State's office. This email was a public records request for a complete electronic copy of the filing made by the proponents of the Ohio Drug Price Relief Act and a copy of the overview distribution spreadsheet accompanying the filing indicating the gross number of signatures and petitions filed and associated distribution among Ohio's eighty-eight counties.

INTERROGATORY #2

Please provide the date, time, form and a synopsis of any and all communications with any member or employee of the Ohio General Assembly concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted transmitted the Petition to the General Assembly on February 4, 2016. A letter from Secretary Husted to Speaker Cliff Rosenberger, President Keith Faber, Minority Leader Fred Strahorn, and Minority Leader Joe Schiavoni was sent on February 4, 2016 indicating that the Secretary was transmitting the Petition, albeit with reservations. In addition to the letter sent directly to Speaker Rosenberger, President Faber, Leader Strahorn, and Leader Schiavoni, Craig Forbes, Deputy Chief of Staff for the Ohio Secretary of State's office, emailed a copy of the letter to Mike Lenzo, Frank Strigari, Bethany Sanders, and Sarah Cherry on February 4, 2016. Mr. Forbes also placed a phone call on or around February 4, 2016 to Mr. Lenzo and Mr. Strigari informing them that the transmittal letter was forthcoming.

INTERROGATORY #3

Please provide the date, time, form and a synopsis of any and all communications with any board member, officer, employee, or representative of The Ohio Manufacturers' Association concerning the Petition or the Act.

ANSWER: At this time, Respondent Secretary Husted has not identified any

communications responsive to this request.

INTERROGATORY #4

Please provide the date, time, form and a synopsis of any and all communications with any board member, officer, employee, or representative of The Ohio Chamber of Commerce concerning the Petition or the Act.

ANSWER: At this time, Respondent Secretary Husted has not identified any communications responsive to this request.

INTERROGATORY #5

Please provide the date, time, form and a synopsis of any and all communications with any board member, officer, employee, or representative of the Pharmaceutical Research and Manufacturers of America concerning the Petition or the Act.

ANSWER: At this time, Respondent Secretary Husted has not identified any communications responsive to this request.

INTERROGATORY #6

Please provide the date, time, form and a synopsis of any and all communications between or among the Secretary, the Secretary's employees, agents, or representatives, or other persons acting on the Secretary's behalf or under the Secretary's control concerning the Petition or the Act.

ANSWER:

OBJECTION: Defendant objects on the ground that this Request is overbroad.

Defendant objects to this Interrogatory on the ground that it asks for information that is subject to the attorney-client privilege.

RESPONSE: Based on the above-offered objection, Respondent Secretary Husted will produce responsive, non-privileged documents in a timely manner.

INTERROGATORY #7

Please provide the date, time, form and a synopsis of any and all communications between or among the Secretary, the Secretary's employees, agents, or representatives, or other persons acting on the Secretary's behalf or under the Secretary's control concerning the law firm of Bricker & Eckler LLP, The Ohio Manufacturers' Association, The Ohio Chamber of Commerce, and/or the Pharmaceutical Research and Manufacturers of America concerning the Petition or the Act.

ANSWER:

OBJECTION: This Interrogatory calls for duplicative information that has already been provided.

RESPONSE: *See* Interrogatory Responses #1, 2, 3, 4, 5, and 6.

INTERROGATORY #8

Please provide the date, time, form and a synopsis of any and all communications with any other person concerning the Petition or the Act.

ANSWER: On February 4, 2016 at 9:42 AM, David Bowling, Elections Counsel for the Ohio Secretary of State's office, received an email from Joseph Walker, a reporter for the Wall Street Journal, seeking public records for communications between the Secretary's

office and the Pharmaceutical Research and Manufacturers Association, its representatives, and Bricker & Eckler LLP. On February 4, 2016 at 12:38 PM, David Bowling, Elections Counsel for the Ohio Secretary of State's office, responded to that email acknowledging the request.

INTERROGATORY #9

Please provide the date, time, form and a synopsis of any and all communications with any person concerning Ohio Secretary of State Directive 2016-01.

ANSWER:

OBJECTION: Defendant objects on the ground that this Interrogatory is overbroad.

RESPONSE: The following communications have been identified in response to Interrogatory No. 9:

- January 29, 2016, 10:39 AM email (and attached letter and spreadsheet) from Emily Bright, Elections Assistant for the Ohio Secretary of State's office, to Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office, and Laura Pientenpol, Deputy Elections Administrator for the Ohio Secretary of State's office. This email included the results from the Franklin County Board of Elections' review pursuant to Directive 2016-01.
- January 28, 2016 letter from Marques Binnette, Assistant Prosecuting Attorney in Huron County, to Sharon Locke, Director of the Huron County Board of Elections. This letter is an advisory opinion on how the Huron County Board of Elections should proceed pursuant to Directive 2016-01.
- January 27, 2016 Memorandum from Bricker & Eckler LLP to the Ohio County Boards of Elections, carbon copying Ohio Secretary of State Jon Husted. This memorandum purports to provide "additional relevant information" concerning the Petition "that the Petitioning Committee's communications omitted."
- January 26, 2016, 3:57 PM email (and attached letter and spreadsheet) from Emily Bright, Elections Assistant for the Ohio Secretary of State's office, to Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office. This email

included the results from the Butler County Board of Elections' review pursuant to Directive 2016-01.

- January 26, 2016, 3:22 PM email (and attached letter) from Emily Bright, Elections Assistant for the Ohio Secretary of State's office, to Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office. This email included additional documentation provided by the Fayette County Board of Elections.
- January 22, 2016, 1:37 PM email (and attached letter) from Laura Pietenpol, Deputy Elections Administrator for the Ohio Secretary of State's office, to Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office. This email noted that Greene County submitted their certification report consistent with Directive 2016-01.
- January 13, 2016 letter from Kenneth W. Oswalt, Licking County Prosecuting Attorney, to Secretary Husted. This letter included the results from the Licking County Board of Elections' review pursuant to Directive 2016-01.
- January 12, 2016 letter (and attached spreadsheet) from Mary Lynne Birck, Assistant Prosecuting Attorney in Clermont County, to Secretary Husted responding to Directive 2016-01.
- January 11, 2016, 10:22 AM email from Steve Wildermuth to Bill Freytag, Deputy Director of the Richland County Board of Elections. This email discusses Directive 2016-01 and the process for complying with Directive 2016-01.
- January 7, 2016, 9:45 AM email from Craig Forbes, Deputy Chief of Staff for the Ohio Secretary of State's office, to Matthew Walsh, Legislative Counsel for the Ohio Secretary of State's office, Jack Christopher, Deputy Assistant Secretary of State and General Counsel for the Ohio Secretary of State's office, Matthew Damschroder, Assistant Secretary of State and Chief of Staff for the Ohio Secretary of State's office, and Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office. This email was a copy of the email sent from Respondent Petition Committees' counsel, Don McTigue, Corey Colombo, and Derek Clinger, to the County Boards of Elections regarding their interpretation of Directive 2016-01.
- January 7, 2016, 9:37 AM email from Meghan Lee, Deputy Director of the Meigs County Board of Elections, to Rachel Kasper, Elections Counsel for the Ohio Secretary of State's office. The email sought guidance in light of Directive 2016-01.
- January 6, 2016, 8:27 AM email from Michele Lockard, from the Pickaway County Board of Elections, to Rachel Kasper, Elections Counsel for the Ohio Secretary of State's office. The email sought to discuss Directive 2016-01.
- January 5, 2016, 2:37 PM email from Laura Pietenpol, Deputy Elections

Administrator for the Ohio Secretary of State's office, to the County Boards of Elections. This email described the submission process for certification forms.

- January 4, 2016, 2:27 PM email from Pat Wolfe, Elections Administrator for the Ohio Secretary of State's office, to the County Boards of Elections. This email attached Directive 2016-01.

INTERROGATORY #10

Identify all statewide initiative petitions proposing a law to the Ohio General Assembly that have been filed with the Ohio Secretary of State's office since January 1, 1991, including: (1) the date the petition was filed with the Secretary of State's office, and, if applicable, (2) the date the proposed law was transmitted by the Secretary of State to the General Assembly, including and identifying any such law that was transmitted to the General Assembly on a conditional or contingent basis.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad.

RESPONSE: The document attached to these Interrogatory responses as Attachment "A" provides information responsive to Interrogatory No. 10.

INTERROGATORY #11

For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, identify any petition that contained part-petitions that, upon completion of the review performed by the boards of elections, were returned or re-submitted to the boards of elections, by the Secretary of State, for an additional review.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad.

RESPONSE: Respondent Secretary Husted assumed office on January 10, 2011. The Secretary's office is unaware of any petition containing part-petitions that, upon completion of the review performed by the boards of elections, were returned to the boards.

INTERROGATORY #12

Identify any analysis, since January 1, 1991, regarding the date that the Secretary of State is obligated under Article II, Section 1b of the Ohio Constitution to transmit laws proposed by initiative petition to the General Assembly.

ANSWER:

OBJECTION: This Interrogatory calls for the release of information protected by the attorney-client privilege.

RESPONSE: Based on the above-offered objection, Respondent Secretary Husted offers no response.

INTERROGATORY #13

For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, identify any review, analysis, or data of signatures that were struck out from any number of part-petitions.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad, confusing, and ambiguous.

RESPONSE: Respondent Secretary Husted has previously provided a number of part-petitions to Petition Respondents' counsel pursuant to a public records request. Respondent Secretary Husted will provide any additional responsive documents in a timely manner.

INTERROGATORY #14

For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, identify all part-petitions that contain struck out signatures.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad. This is a burdensome request and would require an unreasonable expenditure of time and resources.

RESPONSE: Respondent Secretary Husted has previously provided a number of part-petitions to Petition Respondents' counsel pursuant to a public records request.

INTERROGATORY #15

For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, identify any review, analysis, or data of discrepancies in the number of actual signatures appearing on the part-petitions compared to the number of signatures attested to in the corresponding circulator statements.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad, confusing, and ambiguous. Respondent Secretary Husted also objects to this Interrogatory to the extent it calls for the release of information protected by the attorney-client privilege.

RESPONSE: Respondent Secretary Husted will provide any responsive, non-privileged documents in a timely manner.

INTERROGATORY #16

For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, identify any part-petitions that contain circulator statements that attest to a number of signatures appearing on the part-petition that is higher than the actual number of signatures appearing on the part-petition.

ANSWER:

OBJECTION: Respondent Secretary Husted objects to this Interrogatory on the ground that this request is overbroad. Collecting, sorting, and reviewing documents from a 25 year span to respond to this Interrogatory would be unreasonably burdensome in both time and expense.

RESPONSE: Subject to the foregoing objections, Respondent Secretary Husted has previously provided a number of part-petitions to Petition Respondents' counsel pursuant to public records requests. Respondent Secretary Husted will provide any additional responsive documents that the Secretary is able to reasonably gather in a timely manner.

INTERROGATORY #17

Please state the name, address, telephone number and e-mail address of each person consulted or who provided information in preparing responses to these interrogatories.

ANSWER:

OBJECTION: This Interrogatory calls for information protected by attorney-client privilege.

RESPONSE: Subject to the foregoing objection, two individuals answered the interrogatories: (1) David Bowling, Elections Counsel for the Ohio Secretary of State's office, (2) Jack Christopher, Deputy Assistant Secretary of State for the Ohio Secretary of State's office, (3) Craig Forbes, Deputy Chief of Staff, (4) Carolyn Kuruc, Senior Elections Counsel for the Ohio Secretary of State's office, and (5) Matthew Walsh, Legislative Counsel for the Ohio Secretary of State's office.

INTERROGATORY #18

Please identify by date of execution, subject matter, and end date, each contract and contract extension with the law firm of Bricker & Eckler LLP to provide legal services to the Secretary or his office on any matter.

ANSWER: The Office of the Ohio Attorney General possess the special counsel contracts requested in Interrogatory No. 18. However, based upon Ohio Attorney General Assignment Letters in the possession of the Ohio Secretary of State's office, the following have been identified:

- Amended Assignment Letter of November 10, 2015 assigning Bricker & Eckler

LLP to represent the Secretary's office in *State ex rel. Walker, et al. v. Husted*, Case No. 2015-1371 (Ohio Supreme Court 2015).

- Assignment Letter of August 26, 2015 assigning Bricker & Eckler LLP to represent the Secretary's office in *State ex rel. Walker, et al. v. Husted*, Case No. 2015-1371 (Ohio Supreme Court 2015).
- Assignment Letter of January 30, 2015 assigning Bricker & Eckler LLP to represent the Secretary's office and provide labor advice.
- Assignment Letter of September 18, 2012 assigning Bricker & Eckler LLP to represent the Secretary's office in *Lieberman v. Husted*, Case No. 3:12-CV-297.
- Assignment Letter of August 15, 2012 assigning Bricker & Eckler LLP to represent the Secretary's office in *Obama for America v Husted*, Case No. 2:12-CV-636.

REQUESTS FOR PRODUCTION OF DOCUMENTS

GENERAL OBJECTIONS

1. Respondent Secretary of State objects to the Requests to the extent they do not describe with reasonable particularity each item or category of items to be inspected as required by Rule 34 of the Ohio Rules of Civil Procedure.
2. Respondent Secretary of State objects to the place of delivery in so far as it conflicts with the method of delivery to which the parties have previously agreed.
3. Respondent Secretary of State objects to the Requests to the extent they are overbroad, unduly burdensome, vague, duplicative, or not reasonably calculated to lead to the discovery of admissible evidence.
4. Respondent Secretary of State objects to the Requests to the extent that they seek information protected by the attorney-client privilege or the work product doctrine.
5. Respondent Secretary of State objects to the Requests to the extent they fail to comply with or seek to alter the rights and obligations imposed by the Ohio Rules of Civil Procedure or local rules.
6. Respondent Secretary of State objects to the Requests to the extent that they seek information not in Respondent Secretary of States' possession, custody, or control.
7. Respondent Secretary of State objects to the Requests to the extent that they seek information that is publically available, already in Plaintiffs' possession, or in the possession or control of third parties.
8. Respondent Secretary of State objects to the Requests as confusing, ambiguous, or vague.
9. Respondent Secretary of State objects to the Requests to the extent that they seek documents not kept in the ordinary course of business and/or that do not exist.
10. Respondent Secretary of State expressly reserves all objections as to competency, relevancy, materiality, and admissibility of the answers contained herein and any objections to future discovery Requests.
11. Respondent Secretary of State expressly reserves the right to alter, amend, revise, and/or supplement these responses. No response shall be construed as a waiver of any further objection.

12. Respondent Secretary of State hereby incorporates each of these general objections into each and every specific response to each of the Requests below.

SPECIFIC RESPONSES AND OBJECTIONS

1. Please produce all documents identified in response to or in any way used, relied upon, referred to, or reviewed by Respondent Secretary in the preparation of Respondent Secretary's responses to the foregoing interrogatories.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

2. Please produce any and all documents that Respondent Secretary intends to use as exhibits in this matter.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege and subject to the trial preparation privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

3. Please produce any communications and notes of communications between Respondent Secretary and any attorney, employee, or representatives of the law firm of Bricker & Eckler LLP concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted has already provided, through various public records requests submitted by Respondent Petitioning Committee's counsel, documents responsive to this request. That said, subject to the General Objections, all of which are incorporated herein as if stated in full, any additional responsive non-privileged documents, to the extent they exist, will be produced.

4. Please produce any communications and notes of communications between Respondent Secretary and any member, employee, or representatives of the Ohio General Assembly concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted has already provided, through various public records requests submitted by Respondent Petitioning Committee's counsel, documents responsive to this request. That said, subject to the General Objections, all of which are incorporated herein as if stated in full, any additional responsive non-privileged documents, to the extent they exist, will be produced.

5. Please produce any communications and notes of communications between Respondent Secretary and any board member, officer, employee, or representative of The Ohio Manufacturers' Association concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Subject to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

6. Please produce any communications and notes of communications between Respondent Secretary and any board member, officer, employee, or representative of The Ohio Chamber of Commerce concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Subject to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

7. Please produce any communications and notes of communications between Respondent Secretary and any board member, officer, employee, or representative of the Pharmaceutical Research and Manufacturers of America concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Subject to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

8. Please produce any communications and notes of communications between or among the Secretary's employees, agents, representatives or other persons acting on the Secretary's behalf or under the Secretary's control concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted has already provided, through various public records requests submitted by Respondent Petitioning Committee's counsel, documents responsive to this request. That said, subject to the General Objections, all of which are incorporated herein as if stated in full, any additional responsive non-privileged documents, to the extent they exist, will be produced.

9. Please produce any communications and notes of communications between Respondent Secretary and any other person concerning the Petition or the Act.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted has already provided, through various public records requests submitted by Respondent Petitioning Committee's counsel, documents responsive to this request. That said, subject to the General Objections, all of which are incorporated herein as if stated in full, any additional responsive non-privileged documents, to the extent they exist, will be produced.

10. Please produce any communications and notes of communications with any person concerning Ohio Secretary of State Directive 2016-01.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted has already provided, through various public records requests submitted by Respondent Petitioning Committee's counsel, documents responsive to this request. That said, subject to the General Objections, all of which are incorporated herein as if stated in full, any additional responsive non-privileged documents, to the extent they exist, will be produced.

11. Please produce any documents relating to the development and/or implementation of Ohio Secretary of State Directive 2016-01, including, but not limited to, any communications or notes of communications with county boards of elections.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague.

Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

12. Please produce any documents relating to any review by the Ohio Secretary State's office of any part-petitions comprising the ODPRA Petition before they were first transmitted to the county boards of elections.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

13. Please produce any documents relating to any review by the Ohio Secretary State's office of any of the part-petitions comprising the ODPRA Petition after they were first transmitted to the county boards of elections and before they were transmitted a second time to the county boards of elections.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

14. Please produce any documents relating to any review by the Ohio Secretary State's office of any part-petitions comprising the ODPRA Petition after they were transmitted to the county boards of elections for the second time and before the certification of the sufficiency of the ODPRA Petition by the Secretary.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

15. Please produce any documents relating to any review by the Ohio Secretary State's office of any part-petitions comprising the ODPRA Petition after the certification of the sufficiency of the ODPRA Petition by the Secretary.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

16. Please produce any documents relating to any review by the Ohio Secretary State's office at any time of the electronic copy of the ODPRA Petition filed at the same time as the ODPRA Petition.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it

seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

17. Please produce any documents relating to any consideration by the Ohio Secretary of State's office since January 1, 2011 of the legal or other effect of signatures struck out on a petition or part-petition of any kind.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

18. Please produce any documents relating to any consideration by the Ohio Secretary of State's office since January 1, 2011 of the legal or other effect of the stated number of signatures in a circulator's statement on a petition or part-petition of any kind being different than the number of signatures and/or non-struck out signatures on a petition or part-petition.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are

subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

19. Please produce any documents regarding felony convictions of any circulators of the Petition, or investigation of whether any of such circulators have been convicted of a felony.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

20. Please produce any documents investigation of the residence of any circulator of the Petition or information that the residence of the circulator of the Petition is or is not the same as listed on the circulator's statement on the Petition.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

21. Please produce all letters of sufficiency or deficiency for all statewide initiative,

referendum, or supplementary petitions by the Ohio Secretary of State's office since January 1, 1991.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

22. Please produce that contain any analysis regarding the date that the Secretary of State is obligated under Article II, Section 1b of the Ohio Constitution to transmit laws proposed by initiative petition to the General Assembly.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

23. For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, produce all documents that contain any review, analysis, or data of signatures that were struck out from any number of part-petitions.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist.

Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

24. For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, produce all documents that contain any review, analysis, or data regarding discrepancies in the number of actual signatures appearing on the part-petitions compared to the number of signatures attested to in the corresponding circulator statements.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

25. For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, produce all part-petitions that contain struck out signatures.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the

General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

26. For any statewide initiative, referendum, or supplementary petition filed with the Ohio Secretary of State's office since January 1, 1991, produce any petitions or part-petitions that contain circulator statements that attest to a number of signatures appearing on the part-petition that is higher than the actual number of signatures appearing on the part-petition.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

27. Please produce copies of all contracts and extensions of contracts with the law firm of Bricker & Eckler LLP or any of its attorneys to provide legal services to the Secretary or his office with respect to any matter.

ANSWER: Respondent Secretary Husted objects to this Request to the extent it seeks documents not kept in the ordinary course of business and/or that do not exist. Respondent Secretary Husted further objects because the Request is vague and overbroad. Respondent Secretary Husted further objects because it seeks documents that are subject to the attorney-client privilege. Subject to the foregoing and to the General Objections, all of which are incorporated herein as if stated in full, responsive non-privileged documents, to the extent they exist, will be produced.

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

s/ Brodi J. Conover

BRODI J. CONOVER (0092082)

Assistant Attorney General

STEVEN T. VOIGT (0092879)*

** Lead and Trial Counsel*

Principal Assistant Attorney General

Constitutional Offices Section

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 Ohio Secretary of
State Jon Husted*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by e-mail on April 25, 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

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*

/s Brodi J. Conover

BRODI J. CONOVER (0092082)
Assistant Attorney General

PETITION RESPONDENTS' EXHIBIT 2

(December 23, 2015 Email from PhRMA to Secretary of State Staff)

Christopher, Jack

From: Slagle, Christopher <CSlagle@bricker.com>
Sent: Wednesday, December 23, 2015 7:07 PM
To: Christopher, Jack
Cc: Slagle, Christopher; Tunnell, Kurtis; Armstrong, Maria
Subject: Follow up / Drug Price Relief Act examples
Attachments: FRANKLIN_1_000280.pdf; BROWN_000045.pdf; GEAUGA_000055.pdf

Jack – thanks for taking a couple minutes to discuss a few questions we had earlier today. We thought it might be helpful to highlight with examples of the petitions issues we are wondering about.

Franklin County Petition (attached). The first is the questionable marking out of signatures in bold, black marker, but yet the signature totals attested by the circulator does not change – in what clearly appears to have been done by someone other than the circulator, in contravention of Ohio law where only a signor or circulator can make modifications to a petition. Of the 3,400 petitions we have reviewed in multiple counties, nearly 64 percent of the petitions have this type of issue included.

Brown County Petition, Geauga County Petition (attached). The second troubling issue is where the circulator attests in the circulator statement to having witnessed 28 signatures, but there only 1 signature is included actually on the petition (Brown County). The Geauga County petition includes both the first issue – a bold signature strike through – and an attestation of 28 signatures. Here, it seems clearly evident that the circulator did not make the strike out and did not truthfully complete the circulator statement. There are myriad reasons for the circulator statement and it seems clear that there are rampant issues with circulators attesting to a full petition and the actual signature included at only 1 or 2. Certainly, the law provides that if the number attested to is greater than the actual number, the petition is good. But, Ohio law surely could never have been intended to apply to this situation – are the circulators actually witnessing the signatures? Signing and attesting to the circulator page first and then collecting signatures? If the circulator statement are not truthfully attested to under Ohio law, what else may be happening? Of the 3,400 petitions we have checked as of today, this issue of attesting to 28 signatures while only having 1 signature actual appears on 50 percent of the petitions. Across all counties.

It seems clear that both of these issues were systematically orchestrated across this entire initiative. While we have only worked through about 1/3 of the petitions, the issues are significantly present and across all the counties.

Anyway, thought it might be helpful to have an example or two of what we are seeing as you continue internal discussions. Thanks Jack – look forward to discussing more tomorrow. - C



Christopher N. Slagle

Bricker & Eckler LLP | 100 South Third Street | Columbus, OH 43215

Direct Dial 614.227.8826 | cslagle@bricker.com | **v-card** | www.bricker.com

Think green — please print only if necessary.

This electronic transmission contains information from the law firm of Bricker & Eckler LLP which is privileged, confidential or otherwise the exclusive property of the intended recipient or Bricker & Eckler LLP. This information is intended for the use of the individual or entity that is the intended recipient. If you have received this electronic transmission in error, please notify us by telephone at 614-227-8899, or by electronic mail at webmaster@bricker.com. Please promptly destroy the original transmission. Thank you for your assistance.

PETITION RESPONDENTS' EXHIBIT 3

(Secretary of State Special Counsel Agreements)



RICHARD CORDRAY
OHIO ATTORNEY GENERAL

September 21, 2010

Assignment Letter
Tax ID Number: 31-1414688

Wayne E. Hassay, Esq.
Maguire & Schneider
250 Civic Center Drive, Suite 500
Columbus, OH 43215

RE: Assignment Number AGO-4956

Dear Mr. Hassay:

Pursuant to your Appointment as Special Counsel to the Attorney General, I hereby assign you to my client, the SECRETARY OF STATE. I request that you provide legal services to this client for litigation matters. During this Assignment, you will be working with Kent Shimeall, Chief of the Constitutional Offices Section of the Attorney General's Office.

Effective September 13, 2010, you will be compensated for your services by the SECRETARY OF STATE up to the rate of \$175.00 per hour. For services rendered pursuant to and during the term of this Assignment, the total of fees, including expenses, that you shall receive shall not exceed \$30,000.00 and you shall not be compensated by any other party, by any other agency or by the State in excess of this amount without an Amended Assignment letter from the Chief of Legal Services. Pursuant to Ohio Revised Code Section 126.07, this Assignment shall not be valid and enforceable until the agency encumbers funds in the amount of \$30,000.00.

Your Assignment will terminate June 30, 2011, unless earlier terminated pursuant to the provisions in your Retention Agreement, or as a result of all work on this matter being completed. Thank you.

Sincerely,

Richard Cordray
Attorney General

Sheryl Creed Maxfield
Chief Counsel

RC:ac

cc: Brian Shinn
Russ Balthis
Kent Shimeall



RICHARD CORDRAY
OHIO ATTORNEY GENERAL

December 13, 2010

Amended Assignment Letter
Tax ID Number: 31-1414688

Wayne E. Hassay, Esq.
Maguire & Schneider
250 Civic Center Drive, Suite 500
Columbus, OH 43215

RE: Assignment Number AGO-4956

Dear Mr. Hassay:

Pursuant to your Appointment as Special Counsel to the Attorney General, I hereby assign you to my client, the SECRETARY OF STATE. I request that you provide legal services to this client for litigation matters. During this Assignment, you will be working with Kent Shimeall, Chief of the Constitutional Offices Section of the Attorney General's Office.

Effective December 13, 2010, you will be compensated for your services by the SECRETARY OF STATE up to the rate of \$175.00 per hour. For services rendered pursuant to and during the term of this Assignment, the total of fees, including expenses, that you shall receive shall not exceed \$60,000.00 and you shall not be compensated by any other party, by any other agency or by the State in excess of this amount without an Amended Assignment letter from the Chief of Legal Services.

Pursuant to Ohio Revised Code Section 127.16(B), this Assignment will be, or has been, submitted by the Attorney General for consideration by the Controlling Board and in the event of disapproval, this Assignment shall be null and void. Further, pursuant to Ohio Revised Code Section 126.07, this Assignment shall not be valid and enforceable until the agency encumbers funds in the amount of \$60,000.00.

This Amended Assignment hereby supersedes the prior Assignment letter and increases the budget amount by \$30,000.00.

Your Assignment will terminate June 30, 2011, unless earlier terminated pursuant to the provisions in your Retention Agreement, or as a result of all work on this matter being completed. Thank you.

Sincerely,

Richard Cordray
Attorney General

Russell W. Balthis
Chief of Legal Services

RWB:ac

cc: Brian Shinn
Kent Shimeall

Erin E. Ley

From: Victoria L. Serrani
Sent: Monday, August 13, 2012 3:18 PM
To: 'wconsovoy@wileyrein.com'
Cc: Michael Hall; Allison Lawson; Ann C. Collinger; 'JChristopher@ohiosecretaryofstate.gov'; Richard N. Coglianesse
Subject: Obama for America v. Husted - Special Counsel Assignment Letter

Follow Up Flag: Follow up
Flag Status: Completed



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

August 13, 2012

Dear William,

Wiley Rein has been approved as Special Counsel to Ohio Secretary of State in the matter of *Obama for America v. Husted and DeWine*. Please contact Jack Christopher and Rich Coglianesse, Assistant Attorney General to begin work immediately. This is your assignment letter.

The fee for this matter is a flat fee of \$45,000. The AGO# is 5496. Ohio Secretary of State will compensate you for your services. You are required to bill using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Rich Coglianesse



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

April 12, 2013

AMENDED ASSIGNMENT LETTER

Dear Mr. Consovoy,

Attached please find a list of matters for Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Wiley Rein LLP for fiscal year 2013. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Rich Coglianesse

Assignment Summary by Attorney

Secretary of State

Assignment amended to increase budget from \$45,000 to \$295,000.

Client Name	Case Name	Rate	Budget	AAG
Consovoy, William S. (Wiley Rein)				
AGO-5496 2013 Secretary of State	Obama for America v. Husted and DeWine	Flat fee/\$45,000.00	\$295,000.00	Rich Coglianese
Report total assignments: 1			\$295,000.00	

Printed On: 4/12/2013 11:44:45 AM

Page: 1 of 1

Erin E. Ley

From: Victoria L. Serrani
Sent: Wednesday, August 15, 2012 12:06 PM
To: 'Armstrong, Maria (marmstrong@bricker.com)'
Cc: Michael Hall; Allison Lawson; Ann C. Collinger; 'JChristopher@ohiosecretaryofstate.gov'; Richard N. Coglianesi
Subject: Obama for America v. Husted - Special Counsel Assignment Letter

Follow Up Flag: Follow up
Flag Status: Completed



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

August 15, 2012

Dear Maria,

Bricker & Eckler has been approved as Special Counsel to Ohio Secretary of State for *Obama for America v. Husted*. Please contact Jack Christopher and Rich Coglianesi, Assistant Attorney General to begin work immediately. This is your assignment letter.

The budget for this matter is \$20,000 and the hourly rate is \$200. The AGO# is 5497. Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

April 15, 2013

AMENDED ASSIGNMENT LETTER

Dear Ms. Armstrong,

Attached please find a list of matters for Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Bricker & Eckler for fiscal year 2013. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Rich Coglianesse

Assignment Summary by Attorney

Secretary of State

Assignments amended to increase budgets by \$73,000.

Client Name		Case Name	Rate	Budget	AAG
Armstrong, Maria J. (Bricker & Eckler)					
AGO-5497 2013	Secretary of State	Obama for America v. Husted	\$200.00	\$25,000.00	Rich Coglianese
AGO-5540 2013	Secretary of State	Lieberman v. Husted (3:17-cb-297)	\$200.00	\$88,000.00	Damian Sikora
Armstrong, Maria J. (Bricker & Eckler) total assignments: 2				\$113,000.00	
Report total assignments: 2				\$113,000.00	

Printed On: 4/15/2013 12:13:58 PM

Page: 1 of 1

Erin E. Ley

From: Victoria L. Serrani
Sent: Tuesday, September 18, 2012 2:39 PM
To: Armstrong, Maria (marmstrong@bricker.com)
Cc: Kent M. Shimeall; Michael Hall; Allison Lawson; Ann C. Collinger; JChristopher@ohiosecretaryofstate.gov; Daniel Murry
Subject: Lieberman v. Husted - Special Counsel Assignment Letter

Follow Up Flag: Follow up
Flag Status: Completed



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

September 18, 2012

Dear Maria,

Bricker & Eckler has been approved as Special Counsel to represent the Ohio Secretary of State in *Lieberman v. Husted* (Case No. 3:12-cv-297) . Please contact Kent Shimeall and Jack Christopher to begin work immediately. This is your assignment letter.

The budget for this matter is \$20,000 and the hourly rate is \$200. The AGO# is 5540. Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

April 15, 2013

AMENDED ASSIGNMENT LETTER

Dear Ms. Armstrong,

Attached please find a list of matters for Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Bricker & Eckler for fiscal year 2013. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2013, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Rich Coglianese

Assignment Summary by Attorney

Secretary of State

Assignments amended to increase budgets by \$73,000.

Client Name		Case Name	Rate	Budget	AAG
Armstrong, Maria J. (Bricker & Eckler)					
AGO-5497 2013	Secretary of State	Obama for America v. Husted	\$200.00	\$25,000.00	Rich Coglianese
AGO-5540 2013	Secretary of State	Lieberman v. Husted (3:17-cb-297)	\$200.00	\$88,000.00	Damian Sikora
Armstrong, Maria J. (Bricker & Eckler) total assignments: 2				\$113,000.00	
Report total assignments: 2				\$113,000.00	

Printed On: 4/15/2013 12:13:58 PM

Page: 1 of 1

Erin E. Ley

From: Daniel Murry <Daniel.Murry@ohioattorneygeneral.gov>
Sent: Friday, January 30, 2015 4:44 PM
To: Armstrong, Maria
Cc: jchristopher@ohiosecretaryofstate.gov; Damian Sikora; Michael Hall; Ann C. Collinger; Erin E. Ley
Subject: 2015 Assignment Letter - Labor Advice - Special Counsel Assignment



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

January 30, 2015

Dear Maria,

Bricker & Eckler has been appointed Special Counsel to represent Ohio Secretary of State for labor advice. Please contact Jack Christopher, Chief Counsel & Deputy Assistant Secretary of State (614-728-5639), to begin work immediately. Damian Sikora, Section Chief of Constitutional Offices, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter.

The budget for this matter is \$45,000 and the hourly rate is \$140. The AGO# is 6172. Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website.](#)

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2015, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora

Erin E. Ley

From: Daniel Murry
Sent: Wednesday, August 26, 2015 5:22 PM
To: Armstrong, Maria
Cc: 'jchristopher@ohiosecretaryofstate.gov'; Damian Sikora; Michael Hall; Erin E. Ley; Kathy Davis; Bridget E. Coontz
Subject: State ex rel. Walker, et al. v. Husted - Special Counsel Assignment



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

August 26, 2015

Dear Maria,

Bricker & Eckler has been appointed Special Counsel to represent Ohio Secretary of State in a mandamus action regarding *State ex rel. Walker, et al. v. Husted*. Please contact Jack Christopher, General Counsel (614-728-5639), to begin work immediately. Damian Sikora, Section Chief of Constitutional Offices, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter.

The budget for this matter is \$20,000 and the hourly rate is \$225. The AGO# is 6339. Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

November 10, 2015

AMENDED ASSIGNMENT LETTER

Dear Ms. Armstrong,

Attached please find a list of special counsel matters for Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Bricker & Eckler for fiscal year 2016. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora

Assignment Summary by Attorney

Secretary of State

<u>Client Name</u>	<u>Case Name</u>	<u>Rate</u>	<u>Budget</u>	AAG
Armstrong, Maria J. (Bricker & Eckler)				
AGO-6339 2016 Secretary of State	State ex rel. Walker, et al. v. Husted	225/hr	\$35,000.00	Damian Sikora
	Report total assignments: 1		\$35,000.00	

Erin E. Ley

From: Daniel Murry
Sent: Wednesday, November 25, 2015 2:21 PM
To: 'mlandes@isaacwiles.com'
Cc: 'jchristopher@ohiosecretaryofstate.gov'; Damian Sikora; Bridget E. Coontz; Nicole M Koppitch; Michael Hall; Erin E. Ley; Kathy Davis
Subject: Husted v. James - Special Counsel Assignment



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

November 25, 2015

Dear Mark,

Isaac, Wiles, Burkholder & Teetor has been appointed Special Counsel to represent the Ohio Secretary of State in *Husted v. James* (Franklin County Court of Common Pleas; Case No. 15-MS-000448). Please contact Jack Christopher, General Counsel (614-728-5639), to begin work immediately. Damian Sikora, Section Chief of Constitutional Offices, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter.

The budget for this matter is \$20,000 and the hourly rate is \$200. The AGO# is 6401. The Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website.](#)

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora



MIKE DeWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

December 4, 2015

AMENDED ASSIGNMENT LETTER

Dear Mr. Landes,

Attached please find a list of special counsel matters for the Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Isaac, Wiles, Burkholder & Tector for fiscal year 2016. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora

Assignment Summary by Attorney

Secretary of State

<u>Client Name</u>	<u>Case Name</u>	<u>Rate</u>	<u>Budget</u>	<u>AAG</u>	
Landes, Mark (Isaac, Wiles)					
AGO-6401 2016	Secretary of State	Husted v. James	\$200.00	\$12,500.00	Damian Sikora
AGO-6402 2016	Secretary of State	Doe v. Husted	\$200.00	\$12,500.00	Damian Sikora
Landes, Mark (Isaac, Wiles) total assignments: 2				\$25,000.00	
Report total assignments: 2				\$25,000.00	

Erin E. Ley

From: Daniel Murry
Sent: Wednesday, November 25, 2015 2:22 PM
To: 'mlandes@isaacwiles.com'
Cc: 'jchristopher@ohiosecretaryofstate.gov'; Damian Sikora; Bridget E. Coontz; Nicole M Koppitch; Michael Hall; Erin E. Ley; Kathy Davis
Subject: Doe v. Husted - Special Counsel Assignment



Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 East Broad Street, 16th Floor
Columbus, OH 43215
www.OhioAttorneyGeneral.gov

November 25, 2015

Dear Mark,

Isaac, Wiles, Burkholder & Teetor has been appointed Special Counsel to represent the Ohio Secretary of State in *Doe v. Husted* (United States District Court for the Southern District of Ohio; Case No. 1:15cv570). Please contact Jack Christopher, General Counsel (614-728-5639), to begin work immediately. Damian Sikora, Section Chief of Constitutional Offices, will be responsible for ongoing oversight of this engagement on behalf of the Attorney General. Pursuant to your retention agreement, this is your assignment letter.

The budget for this matter is \$20,000 and the hourly rate is \$200. The AGO# is 6402. The Ohio Secretary of State will compensate you for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website.](#)

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Outside Counsel
Office 614-466-8240
Fax 614-728-2392

30 E. Broad Street, 17th Floor
Columbus, OH 43215

December 4, 2015

AMENDED ASSIGNMENT LETTER

Dear Mr. Landes,

Attached please find a list of special counsel matters for the Ohio Secretary of State that Ohio Attorney General Mike DeWine has assigned to Isaac, Wiles, Burkholder & Tector for fiscal year 2016. This is your amended assignment letter.

Your firm may receive additional assignments throughout the fiscal year. If your firm is assigned a matter after the date of this letter, you will receive a single matter assignment letter via email. The Outside Counsel Section will not send an updated list after each new assigned matter.

The budgets and billing rates for your firm's assigned matters are detailed in the attached list. If applicable, assignments are contingent upon Controlling Board approval. The state client will compensate your firm for your services. You are required to bill monthly using the TyMetrix online billing system. [TyMetrix 360 Website](#).

Please note that all subsequent or new legal matters first require the approval of the Attorney General's Office before they may be billed under the AGO number(s) designated in this Assignment Letter. This assignment will terminate June 30, 2016, unless terminated earlier by the Attorney General's Office.

Please do not hesitate to contact the Outside Counsel Section (614-466-8240) should you have any questions.

Thank you for your service.

Sincerely,

Mike DeWine
Ohio Attorney General

Michael J. Hall
Director of Outside Counsel
[Outside Counsel Webpage](#)

cc: Jack Christopher
Damian Sikora

Assignment Summary by Attorney

Secretary of State

<u>Client Name</u>	<u>Case Name</u>	<u>Rate</u>	<u>Budget</u>	<u>AAG</u>	
Landes, Mark (Isaac, Wiles)					
AGO-6401 2016	Secretary of State	Husted v. James	\$200.00	\$12,500.00	Damian Sikora
AGO-6402 2016	Secretary of State	Doe v. Husted	\$200.00	\$12,500.00	Damian Sikora
Landes, Mark (Isaac, Wiles) total assignments: 2				\$25,000.00	
Report total assignments: 2				\$25,000.00	

PETITION RESPONDENTS' EXHIBIT 4

(December 30, 2015 Email from PhRMA to Secretary of State Staff)

Christopher, Jack

From: Slagle, Christopher <CSlagle@bricker.com>
Sent: Wednesday, December 30, 2015 5:02 PM
To: Christopher, Jack
Cc: Slagle, Christopher; Armstrong, Maria; Tunnell, Kurtis
Subject: Drug Price Relief Act - Issues of Concern w/in Petitions (December 2015)
Attachments: Drug Price Relief Act 2015 - Altered Petition Issues.XLSX; Drug Price Relief Act 2015 - False Circulator Statement Issue.XLSX; LTRSOS12302015.pdf

Importance: High

Jack – please find attached our letter and associated data of issues and concerns on the recently filed Drug Price Relief Act. For your review and consideration. We look forward to working with you on the attached. Certainly, let us know if you have any questions in advance. Thanks. - CS



Christopher N. Slagle
Bricker & Eckler LLP | 100 South Third Street | Columbus, OH 43215
Direct Dial 614.227.8826 | cslagle@bricker.com | **v-card** | www.bricker.com

Think green — please print only if necessary.

This electronic transmission contains information from the law firm of Bricker & Eckler LLP which is privileged, confidential or otherwise the exclusive property of the intended recipient or Bricker & Eckler LLP. This information is intended for the use of the individual or entity that is the intended recipient. If you have received this electronic transmission in error, please notify us by telephone at 614-227-8899, or by electronic mail at webmaster@bricker.com. Please promptly destroy the original transmission. Thank you for your assistance.



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
MAIN: 614.227.2300
FAX: 614.227.2390

www.bricker.com
info@bricker.com

Christopher N. Siagle
614.227.8826
cslagle@bricker.com

December 30, 2015

The Honorable Jon A. Husted
Secretary of State
Ohio Secretary of State
180 East Broad Street, 16th Floor
Columbus, OH 43215

Re: Ohio Drug Price Relief Act Petition

Dear Secretary Husted:

On behalf of our client, PhRMA, we respectfully request your consideration of several issues that suggest violations of Ohio law and potentially fraudulent practices in connection with the Ohio Drug Price Relief Act petition (the "Petition") filed on December 22, 2015. We would appreciate your review and instruction to the Boards of Elections regarding two statistically and legally significant issues:

1. False Circulator Affidavits: A sizable percentage of the part-petitions contain false circulator affidavits because they attest, under penalty of election falsification, to having witnessed significantly more signatures than actually appear on the actual part petition. There appears to have been a systemic, widespread practice of falsifying the circulators' attestation across the state and by numerous circulators who declared under penalty of election falsification that they were the circulator of "the foregoing petition paper containing 28 signatures. . ." although the part-petitions contain only one or two signatures. See attached Exhibit A listing the 6,435 part-petitions (containing 40,612 signatures) that include this type of false certification.

Failure to provide an accurate number of signatures gathered renders a part-petition invalid. Ohio law requires, in mandatory terms, that the circulator of a petition "**shall indicate the number of signatures contained on it**, and shall sign a statement made under penalty of election falsification. . ." R.C. 3501.38(E) (emphasis added). "No initiative or referendum part-petition is properly verified if it appears on the face thereof. . . [that the circulator's] statement is false in any respect." R.C. 3519.06(D).

Ohio law requires **strict** compliance with these provisions and courts have recognized on numerous occasions that the requirement for circulators to accurately list the number of signatures witnessed is a reasonable requirement that protects against a fraudulent practice of signatures being added later.

The Ohio Election Official Manual ("OEM"), and the Ohio case law on which it is based, allow room for minor discrepancies and a plausible

Secretary Husted – Ohio Drug Price Relief Act Petition Issues
December 30, 2015
Page 2 of 4

explanation for a miscount. However, the BOEs should only accept a circulator's statement at face value **unless there "are inconsistencies with the number of signatures witnessed."** There are significant, blatant, discrepancies clearly apparent on the face of 6,435 part-petitions filed by Petitioners. Petitioners have taken the limited reasonable latitude permitted in a fair election scheme to an intentionally abusive extreme.

Both the OEM and numerous Ohio court decisions consistently support a reasonable approach that allows circulators to demonstrate that their part-petition should not be rejected where: 1) the signature discrepancies in the circulator's statement were minor and isolated; and 2) a reasonable explanation was provided by the circulator to the BOE. However, there should be distinction between a minor, explainable counting error on a single part-petition and a systemic, wide-spread falsification on thousands of part-petitions. Circulators are required to attest to the number of signatures on a part-petition under penalty of election law. They should not be permitted to attest to a fabricated number and then leave the petition open for other signatures to be added after the fact. Allowing such a practice to occur renders the statutory requirement for a circulator to witness signatures effectively meaningless. Consistent with Ohio law, every part-petition which contains more or fewer signatures than were attested to, and for which no plausible and lawful explanation is provided, should be rejected. We respectfully urge you to instruct the BOEs accordingly.

2. Altered Petitions. A review of the part-petitions also reveals that a significant number of petitions appear to have been altered by someone other than the circulator or the signer. Attached at Exhibit B is a comprehensive list of the 5598 part-petitions (118,574 signatures) which contain signatures that were clearly stricken by someone other than the circulators or signer. R.C. 3501.38 (G) and (H) authorize only three people to strike signatures from a petition before it is filed: 1) the circulator; 2) the signer; or 3) an attorney in fact acting pursuant to R.C. 3501.382. Here, it is apparent that some other person struck these signatures, and, thus, unlawfully altered the petition such that the petition cannot not be properly verified.

R.C. 3519.06 (C) provides that: "No initiative or referendum part-petition is properly verified if it appears on the face thereof, or is made to appear by satisfactory evidence. . . That the statement is altered by erasure, interlineation, or otherwise . . ." Except in the rare situations noted above and specifically authorized by law, it is of the utmost importance that petitions cannot be altered before they are submitted to any election official. Otherwise, the requirement for a circulator attestation (or for circulators at all) is significantly undermined.

There is no doubt that petition circulation has become a big business in Ohio, significantly for out of state individuals and petition companies. However, that lucrative money-maker for out of state entities with little regard for Ohio law cannot be allowed to undermine the integrity of our elections process or usurp the authority of Ohio BOEs or your Office. Statutes are clear that the BOEs - and not out of state, money-making, petition circulation companies - are entrusted and authorized to verify petition signatures and strike those that do not qualify. R.C. 3501.11(K) imposes the duty to review, examine, and certify the sufficiency and validity of

Secretary Husted – Ohio Drug Price Relief Act Petition Issues
December 30, 2015
Page 3 of 4

petition signatures upon the BOEs and not on any other entity, public or private. Numerous courts have determined that it is incumbent on the BOEs to determine the validity of any signature on a part-petition.

Thus, only the signer, circulator, or attorney in fact may strike a signature from a part-petition before it is filed. And only the BOEs have the statutory authority to determine the validity of a signature on a part-petition. Those fundamental requirements have been repeatedly violated on this Petition and call the validity of these part-petitions into question. We respectfully urge you to instruct the BOEs to disqualify any part-petition that has been improperly altered in this fashion. At the very least, BOEs should conduct a review of these stricken signatures to determine if the electors involved authorized their attorney-in-fact to strike their signatures as permitted by R.C. 3501.382.

As the chief elections officer for Ohio, the Secretary has the duty to “compel the observance by election officers in the several counties of the requirements of the elections laws.” R.C. 3501.05(M). In furtherance of this duty, you have the statutory power and duty to issue directives and advisories to the county boards as to the proper methods of carrying out their duties. R.C. 3501.05(B). Both the county boards and the Secretary have the power and authority to reject any initiative petition that violates *any* requirement established by law. R.C. 3501.39(A)(3). We respectfully ask you to direct the BOEs, consistent with Ohio law and with protecting the sanctity of the ballot and electors’ signatures, to strike those part-petitions that demonstrate the issues outlined above.

Additionally, we respectfully ask that you refrain from certifying the petition and/or transmitting the Petition to the General Assembly until such time as a thorough investigation of these issues can be conducted. This investigation would allow time for determining whether the Petition actually contains the requisite number of lawful signatures, or alternatively whether any supposedly requisite number of signatures was achieved solely through fraud and violations of Ohio election laws. R.C. 3501.05(N)(1) clearly empowers the Secretary to investigate “the administration of election laws, fraud, and irregularities in elections in any county.”

Moreover, until such time as the Secretary can investigate and determine the sufficiency of the Petition, the Secretary cannot and should not transmit the Petition to the General Assembly. The plain language of Article II, Section 1b of the Ohio Constitution states that the Secretary “shall transmit” the Petition to the General Assembly only “[w]hen . . . there shall have been filed with the [Secretary] a petition signed by three per centum of the electors **and verified as herein provided**” (emphasis added). See *Mahaffey v. Blackwell*, 10th Dist. No. 06-AP-963, 2006-Ohio-5319, ¶ 33 (the Constitution requires the Secretary to act to transmit the initiated law to the General Assembly only upon the filing of a petition with the requisite number of signatures that is “verified as provided herein”). The Petition must first be “verified” before it can be transmitted to the General Assembly, which involves confirming the “correctness, truth, or authenticity by oath or affidavit” of the signatures and part-petitions. See *Black’s Law Dictionary* at 1561 (6th ed. 1990).

Secretary Husted – Ohio Drug Price Relief Act Petition Issues
December 30, 2015
Page 4 of 4

In *Cappelletti v. Celebreeze*, 58 Ohio St.2d 395, 396 (1979), the Ohio Supreme Court recognized that the phrase “verified as herein provided” as used throughout Article II of the Constitution requires the Secretary “as chief elections officer to first determine that the petition contains the purported signatures of [3 percent] of the electors of the state, for that requirement is fundamental to the constitutional reservation of the right of initiative to the people.” The Supreme Court then expressly “reject[ed] relators’ argument that the presumption of sufficiency of the petition and its signatures, contained in Section 1g of Article II eliminates the further steps of determining whether the petition has been properly verified and establishing the eligibility of the signers as electors.” *Id.* at 396-97. The Secretary and the boards of elections are plainly permitted to look behind the face of the Petition, especially where, as here, there is *prima facie* evidence of a significant amount of fraud and irregularities.

Moreover, Judge French in *Mahaffey*, 2006-Ohio-5319, citing *Cappelletti*, stated that proof of an invalid part-petition or signatures may be established “in various ways,” and that board review of the signatures is but one method of proving or disproving the sufficiency of the signatures. *Id.* at ¶¶ 37-40. Furthermore, the Supreme Court in *State ex rel. Scioto Downs, Inc. v. Brunner*, 123 Ohio St.3d 24, 27 (2009), implicitly found that the Secretary may use the results of his investigatory power under R.C. 3501.05(N)(1) to invalidate part-petitions so long as that power is exercised before the constitutional deadline for his sufficiency determination, which is mid-July (105 days before the election).

While the Secretary may be acting in a ministerial duty in transmitting the Petition to the General Assembly **once sufficiency has been determined**, the Secretary has a corresponding duty to **not** transmit the Petition if sufficiency is in question. A duty to transmit to the General Assembly arises only where first the Secretary has verified that the Petition contains the requisite number of **valid** signatures. *See Cappelletti*, 58 Ohio St.2d at 398 (Supreme Court refused to issue writ and held that there was no clear legal duty for Secretary to transmit the petition to the General Assembly or certify a deficiency because protests involving investigation of signatures and petitions were ongoing). If fraud and violations of law indicate that the Petition fails to contain the requisite number of valid signatures, then it is incumbent upon the Secretary not to transmit the Petition to the General Assembly. Any other result leads to a perversion of the democratic process and an incentive to engage in election fraud.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me.

Sincerely,



Christopher N. Slagle

CNS

PETITION RESPONDENTS' EXHIBIT 5

(Secretary of State Directive 2015-40)



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

DIRECTIVE 2015-40

December 23, 2015

To: All County Boards of Elections
Directors, Deputy Directors, and Board Members

Re: Instructions Regarding the Review, Examination, and Verification of the Petition
Proposing an Initiated Statute (Ohio Drug Price Relief Act)

SUMMARY

This Directive provides instructions to county board of elections on the review, examination, and verification of signatures on the petition proposing an initiated statute.¹ Each board of elections must complete its review, examination, and verification consistent with the instructions outlined in this Directive and return its certification to the Secretary of State's Office no later than noon on December 30, 2015. Please note that the Secretary of State's Office is open until 5:00 p.m. on December 24, 2015, and county boards of elections are encouraged to return certification forms at any time prior to December 30, 2015.

PETITION SUBMITTED

The Secretary of State's Office received a petition for an initiated statute on Tuesday, December 22, 2015. Boards of elections must examine each part-petition in order to determine the number of qualified electors who signed it.

CHECKING SIGNATURES ON THE PETITIONS

Before checking any petition, the board must review the instructions contained in Chapter 11 of the [Election Official Manual \(Directive 2015-33\)](#) regarding the review of circulator's statements and signatures and marking signatures.

Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator's statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator's statement is not completed as required by law.

PART-PETITION BELONGS TO ANOTHER COUNTY

If you receive a part-petition that belongs to another county, please follow the process outlined below. It is imperative that a copy of a part-petition belonging to another county is transmitted to the other county as quickly as possible for signature verification.

¹ R.C. 3501.11(K).

In the event that a board receives a part-petition on which the majority of signatures on the part-petitions are in another county, that board of elections may not determine the validity of that part-petition or review the signatures contained on it. Instead, it must forward the original part-petition to the other county following the steps below and utilize the two spreadsheets provided and return them in the envelopes provided when all part-petitions are returned to the Secretary of State's Office:

1. Part-Petitions Sent Spreadsheet (Original Part-Petition(s))
2. Part-Petitions Received Spreadsheet (Emailed or Faxed Part-Petition(s))

If a board of elections receives a part-petition(s) for another county, it should follow the steps below to send a copy of it to the correct county:

1. Contact the Director or Deputy Director at the other county board by phone to notify him or her that your board will be forwarding a copy of a part-petition(s) and determine if it should be emailed or faxed.
2. Log the transfer of the part-petition(s) being sent on the "Part-Petitions Sent" spreadsheet.
3. Send the copy of the part-petition(s) via either email or fax as agreed to.
4. Return the original part-petition(s) with the "Part-Petitions Sent" spreadsheet in the envelope provided and marked as such. When the board returns its checked part-petitions to the Secretary of State's Office, place this envelope on top of the checked part-petitions so it can be easily located and retrieved from the box.

If a board receives a part-petition from another county:

1. Log the part-petition(s) that the board received on the "Part-Petitions Received" spreadsheet.
2. Process the part-petition(s).
3. Return the emailed or faxed part-petition(s) with the "Part-Petitions Received" spreadsheet in the envelope provided and marked as such. When the board returns its checked part-petitions to the Secretary of State's Office, place this envelope on top of the checked part-petitions so it can be easily located and retrieved from the box.

Note: Even if a board does not send a part-petition(s) to another county and/or does not receive a copy of a part-petition from another county, the board must mark the box (X) in the bottom right hand corner of the spreadsheet and place it in the correct envelope. When the board returns its checked part-petitions to the Secretary of State's Office, place both envelopes on top of the checked part-petitions so they can be easily located and retrieved from the box.

FULFILLING PUBLIC RECORDS REQUESTS

Your board of elections may receive one or more public records requests for copies of the part-petitions. Boards should consult with their statutory legal counsel, the prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

SCANNING THE PETITIONS

After you have completed checking the signatures on the part-petitions, you should electronically scan the relevant pages of each part-petition (including at least the cover page, the pages containing signatures, and the page containing the circulator statement). A copy of the scanned images should be saved onto one or as many CDs, DVDs, thumb-drives, or other similar electronic media as may be necessary and a copy sent to the Secretary of State's Office along with the part petitions and certification form. You must keep an electronic copy of the images for your records.

CERTIFICATION AND RETURN OF THE PETITIONS

As soon as you finish verifying the signatures on your county's part-petitions, you must return your completed certification form. The certification form must be completed and submitted electronically via Elect Collect by clicking the "Submit" button. The certification form must also be saved and printed. The Director must sign the certification form and return the signed certification form to Emily Bright via email to Ebright@ohiosecretaryofstate.gov.

All certification forms must be received by NOON on December 30, 2015.

After you have sent your certification form to Emily Bright, you must return all part-petitions to the Secretary of State's Office, Elections Division, 180 East Broad Street, 15th Floor, Columbus, Ohio 43215, via a trackable delivery method, no later than Monday, January 4, 2016.

All part-petitions must be received by the Secretary of State's Office no later than Monday, January 4, 2016.

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Sincerely,


Jon Husted

PETITION RESPONDENTS' EXHIBIT 6

(Secretary of State Directive 2016-01)



Jon Husted

Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

DIRECTIVE 2016-01

January 04, 2016

To: All County Boards of Elections
Directors, Deputy Directors, and Board Members

Re: Re-Review of Ohio Drug Price Relief Act Part-Petitions

BACKGROUND

It has come to this Office's attention that several boards of elections have approved part-petitions on which it appears that a person other than the signer of the petition or the circulator may have, contrary to Ohio law, removed one or more signer's name from the part-petition prior to it being filed with the appropriate election official (i.e., striking a signature). Additionally, it appears that some circulators may have pre-affixed the number of signatures they purportedly witnessed prior to actually circulating the petition, potentially calling into question how many signatures the circulator properly witnessed and attested to in his or her circulator statement.

STRIKING A SIGNATURE

State law clearly restricts removal of a petition signer's name from a part-petition except in the following, limited circumstances:

- "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,"¹; and
- "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."²

These provisions of law exist to protect the integrity of the elections process and the circulator, who is required to attest under penalty of election falsification that the circulator witnessed every signature and that he or she believes all of the signatures witnessed are genuine and affixed by qualified electors. Most importantly, however, the witness and attestation requirements serve to protect the registered Ohio voters exercising their right under the state constitution to petition state government (in this case, to propose a state law for consideration by the General Assembly) from having their signature improperly removed from a part-petition.

¹ R.C. 3501.38(G).

² R.C. 3501.38(H).

Reviewing a large cross-section of part-petitions from across the state has revealed that a strikingly similar method of eliminating a petition signer's name exists across an alarmingly large number of part-petitions, thus raising a question of fact whether someone other than the petition signer or circulator may have illegally removed a petition signer's signature from part-petitions.

More specifically, it appears that this same or similar method of signature elimination (i.e., a thick, bold stroke of black ink) was used on part-petitions circulated by different individuals, some of whom were paid by different petition circulating firms. If true, a board of elections could conclude that there is sufficient evidence that a part-petition bearing such a bold strike-through was used to remove a signature contrary to Ohio law.

PRE-AFFIXING THE NUMBER OF SIGNATURES WITNESSED ON A CIRCULATOR STATEMENT

Ohio law requires every circulator of a part-petition to complete a statement affirmed under penalty of election falsification indicating the number of signatures contained on that part-petition, and that the circulator witnessed the affixing of every signature he or she reported thereon.³ This provision is "a substantial, reasonable requirement"⁴ and functions to prevent at least two types of petition fraud: (1) fraud resulting from signatures being placed on a part-petition after the circulator has executed the affirmation, and (2) fraud resulting from a circulator executing the affirmation with a number that is close to, or corresponds with, the number of pre-printed blank lines on the part-petition and subsequently leaving it in a public location or distributing it serially to friends and family to sign without the circulator being present to witness signatures.

The Ohio Supreme Court has accorded flexibility to circulators, providing that "...arithmetic errors will be tolerated, but only if the error does not promote fraud."⁵ The relevant example in the Election Official Manual recognizes that "arithmetic errors" may occur:

The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition. If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the board does not reject the part-petition because of the inconsistent signature numbers.⁶

By their nature, however, "arithmetic errors" should be isolated, unintentional oversights.

³ R.C. 3501.38(E)(1).

⁴ *State ex rel. Loss v. Bd. of Elections of Lucas Cty.*, 29 Ohio St. 2d 233 (1972).

⁵ *State ex rel. Citizens For Responsible Taxation v. Scioto Cty. Bd. of Elections*, 65 Ohio St. 3d 167 (1992), interpreting *Loss*, Id.

⁶ [Ohio Election Official Manual, Chapter 11, page 9](#), discussing *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139 (2005).

The “over-reporting of signatures” (e.g., a circulator statement purporting to witness 28 signatures on a part-petition bearing only two signatures) is so strikingly prevalent in this submission that the suggestion that unintentional “arithmetic errors” are to blame strains credibility. This cannot be the result envisioned by case law; otherwise the exception would swallow the rule.

INSTRUCTIONS

Ohio law⁷ vests authority in the boards of elections to determine the validity of signatures contained on part-petitions of proposed initiated statutes. It is ultimately the Secretary of State, however, who must “determine and certify to the sufficiency of those petitions.”⁸

As such, my office is returning all part petitions to the boards of elections to conduct a re-review to determine whether or not the evidence on the part petitions themselves in each county is such that the board determines a signature was improperly removed in violation of R.C. 3501.38(G) and/or (H) or that the circulator’s statement is invalid under R.C. 3501.38(E)(1).

Boards of elections must complete this re-review, including any evidentiary hearings that they may believe necessary to complete their duties, and re-certify their findings to the Secretary of State’s Office no later than January 29, 2016. Boards of elections must follow the other relevant instructions of [Directive 2015-40](#) as a part of their re-review and re-certification process.

If you have any questions regarding this Directive, please contact the Secretary of State’s elections counsel assigned to your county at (614) 466-2585. Questions regarding issuing and serving subpoenas and/or conducting a lawful evidentiary hearing should be directed to the board’s legal counsel, the county’s prosecuting attorney.

Sincerely,


Jon Husted

⁷ R.C. 3501.11(K) and 3519.15.

⁸ R.C. 3501.05(K).

PETITION RESPONDENTS' EXHIBIT 7

(Secretary of State's Ohio Drug Price Relief Act Transmittal Letter to General Assembly)



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

February 4, 2016

The Honorable Cliff Rosenberger
Speaker, Ohio House of Representatives
77 South High St., 14th Floor
Columbus, Ohio 43215

The Honorable Keith Faber
President, Ohio Senate
Statehouse, 2nd Floor
Columbus, Ohio 43215

The Honorable Fred Strahorn
Minority Leader, Ohio House of Representatives
77 South High St., 14th Floor
Columbus, Ohio 43215

The Honorable Joe Schiavoni
Minority Leader, Ohio Senate
Statehouse, 3rd Floor
Columbus, Ohio 43215

Re: Ohio Drug Price Relief Act Proposed Initiated Statute

Dear Speaker Rosenberger, President Faber, and Minority Leaders Strahorn and Schiavoni:

Pursuant to Article II, Section 1b, I am transmitting, effective today, the full text of the Ohio Drug Price Relief Act (DPRA) proposed law to the Ohio General Assembly for its consideration.

However, I do so with reservations.

Despite having gathered the vast majority of their signatures by mid-November 2015, petitioners waited until December 22, 2015 to file with my office, pursuant to Article 2, Section 1b of the Ohio Constitution, an initiative petition purporting to contain 171,205 signatures proposing an addition to the Ohio Revised Code. The next day, I forwarded the part-petitions to the county boards of elections for review. Because petitioners waited so long to file their petitions, I instructed the county boards of election to complete their review no later than December 30, 2015—an uncommonly quick turn-around time.

Subsequently, my office became aware of an unprecedented quantity of suspicious “strikethroughs” of signatures on the part-petitions and other factual circumstances suggesting improper, potentially fraudulent circulator attestations—evidence that I simply cannot ignore. To clarify, this does not appear to be a case of just a few “irregularities,” or “math errors,” or random “strikethroughs” in a few, isolated counties across the state.

Rather, an initial review uncovered that a strikingly similar method of crossing out a petition signer’s name (a bold, black marker) existed on an alarmingly large number of part-petitions in virtually every county in the state. Add to that what appeared to be a widespread, intentional effort to permit circulators to over-report the number of signatures they actually witnessed by claiming to witness as many signatures as there are lines on the petition form when the part-petition actually contained only a few signatures, thereby skirting the requirement that a circulator actually witness each signature and *then* write down the exact number of signatures witnessed.

Consequently, based on my authority as Chief Elections Officer of the state, and my statutory responsibility to “determine and certify to the sufficiency” of statewide petitions¹, I issued Directive 2016-01 and instructed all 88 county boards of elections to conduct a more thorough review of all part-petitions, suggesting evidentiary hearings in consultation with their county prosecutors, and report their findings by January 29, 2016.

A number of counties did conduct a thoughtful review of the petitions circulated in their counties according to the Directive and some conducted quasi-judicial hearings to elicit testimony from petition circulation management companies and petition circulators. The sworn testimony they have shared paints a picture of how the laws protecting the integrity of the sacred right to petition one’s government were abused in this instance.

In my opinion, the Cuyahoga County Board of Elections produced the most sufficient and probative evidence in their review of the part-petitions. Cuyahoga County’s evidence included sworn testimony from Ms. Pamela Lauter of Ohio Petitioning Partners, LLC, who referred to a purging process called “purging the deck” to improperly strike the signatures of others, undertaken primarily at the behest of the petition company PCI Consultants, Inc.

According to Ms. Lauter:

- *“PCI was the head contractor for the State of Ohio,” explaining that PCI Consultants, Inc. has instructed them to strike signatures on petitions prior to filing, usually with a black washable marker.*
- *“... it's called purging the deck.”*
- *“So someone other than the circulator was striking the petitions?” “That would be me... Yes.”*

¹ R.C. 3501.05(K).

The political action committee (PAC) supporting this petition effort (Ohioans for Fair Drug Prices) underscores Ms. Lauter's contention that PCI Consultants, Inc., a California company, is, indeed, the head contractor in the State of Ohio, under whose direction all the other petitioning companies involved in this petition effort operated. According to campaign finance details filed last week, Ohioans for Fair Drug Prices paid \$743,473.20 to PCI Consultants, Inc. (out of a total \$799,941.95) for signature gathering. There were no other petition companies on their report.

PCI Consultants, Inc. website bills them as the "largest and most successful full service petition and field management firm in the country." Indeed they earned nearly \$750,000 in Ohio alone for this effort. In a message to prospective customers, PCI boldly admits that they "...actively cross off all invalid signatures by hand" with their own "proprietary database system."²

I believe the evidence confirms my suspicion that, at some high level of this campaign, the order was given to strike thousands of petition signatures—ignoring Ohio laws that exist to protect the integrity of the elections process and to safeguard the right of the Ohio voter whose choice it is to sign in support of an initiative, and who may not want his or her name illegally removed from a petition.

Ohio law is clear that (1) ONLY the signer of a petition (or the signer's designated attorney-in-fact³) or the circulator of a petition may remove a petition signer's name from a part-petition⁴, and (2) it is the duty of election officials, not a petition company, to determine whether a signature is valid.⁵ Ohio law further provides that no part-petition is properly verified if it appears on the face thereof, or is made to appear by satisfactory evidence, that the statement is altered by erasure, interlineation, or otherwise, or that the statement is false in any respect.⁶

Based on the reliable, substantive evidence my office has received from Cuyahoga County, I am invalidating all the signatures on every part-petition that was circulated by the petition companies DRW Campaigns, LLC and Ohio Petitioning Partners, LLC in Cuyahoga County. It is unlikely that these improper petition practices by DRW and OPP under the direction of PCI were limited only to those petitions circulated in Cuyahoga County. Indeed, Ms. Lauer testified that she performed the same interlineation activity in other counties. Absent similar sworn testimony before those county boards of elections, I lack sufficient evidence to invalidate part-petitions beyond those in Cuyahoga County where the testimony was actually presented.

² Interestingly, petitioners could have jeopardized their own efforts by illegally striking signatures. One county prosecutor reported in a letter submitted to me along with their number of certified signatures that only 79% of the stricken signatures were truly invalid.

³ R.C. 3501.382.

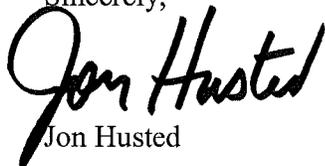
⁴ R.C. 3501.38(G) and (H).

⁵ R.C. 3501.05(K), R.C. 3501.11(K).

⁶ R.C. 3519.06.

Nevertheless, as mentioned above, pursuant to Ohio Constitution Article II, Section 1b, the petition proposing the Ohio Drug Price Relief Act Initiated Statute is hereby transmitted as of this day to the General Assembly with 96,936 valid signatures.

Sincerely,

A handwritten signature in black ink that reads "Jon Husted". The signature is written in a cursive, flowing style with a large initial "J".

Jon Husted

Enclosure

cc: Brad Young, House Clerk
Vince Keeran, Senate Clerk

FULL TEXT OF LAW

Be it Enacted by the People of the State of Ohio that the following chapter and section are added to Title I of the Revised Code.

Chapter 194: Drug Price Relief

Section 194.01

(A) Title.

This Act shall be known as "The Ohio Drug Price Relief Act" (the "Act").

(B) Findings and Declarations.

The People of the State of Ohio hereby find and declare all of the following:

- (1) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in Ohio.
- (2) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.
- (3) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancers, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.
- (4) The pharmaceutical industry's practice of charging inflated drug prices has resulted in pharmaceutical company profits exceeding those of even the oil and investment banking industries.
- (5) Inflated drug pricing has led to drug companies lavishing excessive pay on their executives.
- (6) Excessively priced drugs continue to be an unnecessary burden on Ohio taxpayers that ultimately results in cuts to health care services and providers for people in need.
- (7) Although Ohio has engaged in efforts to reduce prescription drug costs through rebates, drug manufacturers are still able to charge the State more than other government payers for the same medications, resulting in a dramatic imbalance that must be rectified.
- (8) If Ohio is able to pay the same prices for prescription drugs as the amounts paid by the United States Department of Veterans Affairs, it would result in significant savings to Ohio and its taxpayers. This Act is necessary and appropriate to address these public concerns.

(C) Purposes and Intent.

The People of the State of Ohio hereby declare the following purposes and intent in enacting this Act:

- (1) To enable the State of Ohio to pay the same prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs, thus rectifying the imbalance among government payers.
- (2) To enable significant cost savings to Ohio and its taxpayers for prescription drugs, thus helping to stem the tide of rising health care costs in Ohio.
- (3) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

(D) Drug Pricing.

- (1) Notwithstanding any other provision of law and insofar as may be permissible under federal law, neither the State of Ohio, nor any state department, agency or other state entity, including, but not limited to, the Ohio Department of Aging, the Ohio Department of Health, the Ohio Department of Insurance, the Ohio Department of Jobs and Family Services, and the Ohio Department of Medicaid, shall enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug or agree to pay, directly or indirectly, for a prescribed drug, unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, or any other discounts or credits, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (2) The price ceiling described in subsection (1) above also shall apply to all programs where the State of Ohio or any state department, agency or other state entity is the ultimate payer for the drug, even if it did not purchase the drug directly. This includes, but is not limited to, the Ohio Best Rx Program and the Ohio HIV Drug Assistance Program. In addition to agreements for any cash discounts, free goods, volume discounts, rebates, or any other discounts or credits already in place for these programs, the responsible department, agency or entity shall enter into additional agreements with drug manufacturers for further price reductions so that the net cost of the drug, as determined by the purchasing department, agency or entity, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.
- (3) All state departments, agencies and other state entities that enter into one or more agreements with the manufacturer of any drug for the purchase of prescribed drugs or agreement to pay directly or indirectly for prescribed drugs shall implement this section no later than July 1, 2017.
- (4) Each such department, agency or other state entity, may adopt administrative rules to implement the provisions of this section and may seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this section.
- (5) The General Assembly shall enact any additional laws and the Governor shall take any additional actions required to promptly carry out the provisions of this section.

(E) Liberal Construction.

This Act shall be liberally construed to effectuate its purpose.

(F) Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. If this Act and another law are approved by the voters at the same election with one or more conflicting provisions and this Act receives fewer votes, the non-conflicting provisions of this Act shall go into effect.

(G) Legal Defense.

If any provision of this Act is challenged in court, it shall be defended by the Attorney General of Ohio. The People of Ohio, by enacting this Act, hereby declare that the committee of individuals

responsible for the circulation of the petition proposing this Act ("the Proponents") have a direct and personal stake in defending this Act from constitutional or other challenges. In the event of a challenge, any one or more of the Act's Proponents shall be entitled to assert their direct and personal stake by defending the Act's validity in any court of law, including on appeal. The Proponents shall be indemnified by the State of Ohio for their reasonable attorney's fees and expenses incurred in defending the validity of the challenged Act. In the event that the Act or any of its provisions or parts are held by a court of law, after exhaustion of any appeals, to be unenforceable as being in conflict with other statutory or constitutional provisions, the Proponents shall be jointly and severally liable to pay a civil fine of \$10,000 to the State of Ohio, but shall have no other personal liability to any person or entity.

PETITION RESPONDENTS' EXHIBIT 8

(Affidavit of Fifi Harper)

AFFIDAVIT OF FIFI HARPER

State of Arkansas)
) SS.
County of Pulaski)

I, Fifi Juanita Harper, being first duly sworn and cautioned, do hereby state that:

1. I am over the age of eighteen and competent to testify from personal knowledge as to the facts set forth herein.
2. I am a veteran of the United State Navy, having served on active duty from February 1, 1982 until July 22, 1985. I received an honorable discharge. I do have disabilities which the Veterans Administration has determined are due to my military service.
3. I am self-employed as a professional petition circulator when work is available. I have been self-employed in this profession for since 2002, off-and-on. This profession requires me to consistently travel throughout the United States. Since 2013 I have been circulating petitions non-stop all over the United States.
4. Because of my military service connected disabilities and my employment as a professional circulator I have not been able to maintain a permanent residence. I have not had a fixed or permanent residential address or permanent residence since the summer of 2015
5. When my service connected disabilities allow me perform the duties of this profession, the profession requires me to travel throughout the United States.
6. While travelling, I stay at hotels and motels for very short periods of time. Sometimes I stay at different hotels and motels in the same state as I move around the state circulating petitions. At times while travelling I sleep in my car. When I am not travelling for work I temporarily stay with friends and family throughout the United States for brief periods of time.

7. I am unmarried and have no children. I have few tangible possessions and those that I do have are taken with me as I travel throughout the United States circulating petitions. I live out of my car and out of my suitcase.
8. In 2015 I was hired to circulate part-petitions for the Ohio Drug Price Relief Act in parts of Ohio.
9. On these part-petitions I listed as my address as 4022 East Greenway Road, #11312 Phoenix, Arizona 85032.
10. This is the address of a business facility that, among other services, hosts mail boxes. This is the only address where I receive personal and professional correspondence. This is the only location at which I can be contacted that is of a permanent, on-going nature. The only other method by which I may be contacted is on my cell phone.
11. I rented this mailbox on August 27, 2015 for a period of three-months and have subsequently continued to renew my rental agreement every three months and continue to use this service to receive correspondence. This is the only place from which when I am absent I have a specific present intention to return.
12. The operator of this facility receives all of my correspondence and provides immediate notification to me by text message when I receive a piece of certified mail at this address.
13. Prior to renting this mailbox my address was 4082 North 12th St Apt 2102 Phoenix, AZ 85014. I resided there from approximately January 2015 to August 2015. During this time, I was travelling and working as a petition circulator and also receiving assistance from veteran's assistance. After June 2015 this assistance ended and I could not afford this apartment while working on the road.
14. While working in Ohio in 2015 I held an Arizona driver's license that was issued in February 2015. I obtained this driver's license exclusively for the purposes of obtaining healthcare from a

Department of Veteran's Affairs medical facility in Arizona, which would not accept me as patient without an Arizona identification.

15. My service connected disabilities have often caused me to become homeless. The employment as a professional petition circulator has allowed me to perform services to others and function in society because the nature of the profession allows me to perform this type of activity even though I have not maintained a permanent residence.

Further Affiant sayeth naught.

Fifi Juanita Harper

Fifi Juanita Harper

SWORN TO and subscribed before me on this 23rd day of May, 2016.



Andrea Faulkner

Notary Public

My commission expires: August 4, 2020

PETITION RESPONDENTS' EXHIBIT 9

(Affidavit of Angelo Paparella)

AFFIDAVIT

State of California
County of Los Angeles^{1ss}

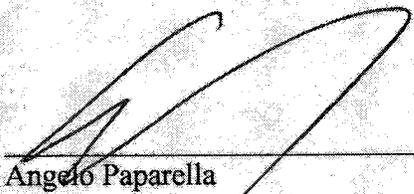
I, Angelo Paparella, having been duly sworn and cautioned according to the law, hereby state as follows:

1. I am the Founder and President of Progressive Campaigns, Inc. and PCI Consultants, Inc. ("PCI"), which are nationwide petition management firms that have been in operation since 1992, and are based in Los Angeles, California.
2. PCI is regularly engaged by political organizations and committees seeking to place initiatives on the ballot. PCI provides the full range of services for qualifying ballot measures, including the recruiting, training and supervision of signature gathering companies, and complete petition processing and verification. Since 1992, PCI has gathered more than 58 million signatures and qualified hundreds of state and local initiatives for placement on election ballots.
3. Prior to forming PCI, I served in several senior campaign roles, including as the California Statewide Field Director for the Public Interest Research Groups ("PIRG") and as the National PIRG Field Director.
4. I have been involved with the oversight, management, and supervision of the collection of over one million five hundred thousand (1,500,000) petition signatures in the State of Ohio. This includes four statewide ballot issues since 2002 involving proposed statutes and constitutional amendments, including drug treatment programs (2002), smoke free work places (2006), livestock care and standards (2010), and pharmaceutical prices (2015-2016). I have also been involved with local ballot issues throughout Ohio.
5. I have utilized paid, professional petition circulators in every petition drive that I have managed throughout my career.
6. Based on my experience managing petition drives, professional petition circulators are resource that is indispensable to the success of a petition drive. Professional circulators are experienced in communicating policy ideas to the average voter and have a facility with conversing on diverse policy subjects that can only come with extensive experience in political canvassing, signature collection, and petition circulating. Successfully circulating petitions is both an art and a science, and it takes time and experience to hone the skills necessary to be efficient and successful in this profession.
7. Based on my experience, most petition drives would not succeed if they relied entirely upon unpaid and/or inexperienced petition circulators, as opposed to a

mixture of volunteers and compensated, experienced professionals. Based on my experience, signatures collected by travelling, professional petition circulators almost always represent more than 50% of signatures collected during petition drives in every state other than California.

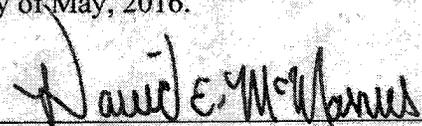
8. Based on my experience managing petition drives, a significant number of professional petition circulators do not have a fixed residential address. Circulating petitions as a profession generally requires extensive travel, irregular pay schedules, and uncertain long-term employment prospects. Based on my observations while managing petition drives and petition circulators, many who engage in this profession choose not to maintain a traditional residence, which is largely incompatible with their profession, but instead live their lives on the road and in motels while they travel and work. They generally own few material possessions. Some will rent a storage unit and others simply keep their few possessions with them as they travel. In most cases, temporary lodging is provided by the company managing the petition drive as they move from one drive to the next and one state to the next. When not on the road working, professional petition circulators may stay with friends throughout the country for brief periods as they wait for their next petition drive assignment. Based on my observations, many professional petition circulators must rely on post office boxes as the only consistent and reliable method to receive communications, other than by cell phone or email.

FURTHER AFFIANT SAYETH NAUGHT



Angelo Paparella

Sworn to and subscribed before me this 23RD day of May, 2016.



Notary Public



PETITION RESPONDENTS' EXHIBIT 10

(Chapter 11 of the Ohio Elections Official Manual)

SECTION 1.03 PETITIONS GENERALLY

The board of elections reviews candidate petitions and most issue petitions for validity and sufficiency.¹ The Secretary of State prescribes certain candidate and issue petition forms as required by law and many other frequently used petition forms as a courtesy. The Secretary of State's forms are provided in PDF format on the Secretary of State's website. The board must ensure that, if it is providing petition forms to candidates or issue groups, it is providing the most current version of the prescribed form.² Forms are updated promptly in response to law changes, so it is imperative that boards pull petitions directly from the Secretary of State's website when providing them to the public.

A. Candidate Petitions³

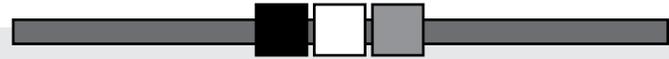
The statutes prescribing the form of candidate petitions generally require substantial compliance.

When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case

¹ [R.C. 3501.11\(K\)](#).

² [R.C. 3501.38\(L\)](#).

³ [R.C. Chapter 3513](#).



of all other candidates, must determine whether the prospective candidate substantially complied with the form of the petition.

In determining whether a prospective candidate substantially complied with the form of the petition, the inquiry is typically fact-specific. The board should consult with its legal counsel, the county prosecutor, when reviewing petitions.

The board also should check municipal charters for additional requirements and qualifications for candidates seeking a municipal office.

B. Local Question and Issue Petitions

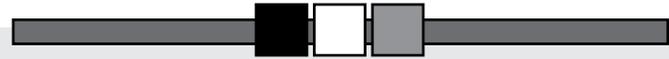
The board must review, examine, and certify the sufficiency and validity of a local question and issue petitions. Sometimes the governing legal provisions vest another public office with the initial responsibility of certifying the sufficiency and validity of the petition before the petition comes to the board of elections. The board should check municipal charters for additional requirements and qualifications for initiated ordinances and referendums.

The Secretary of State's office publishes two resources that help boards of elections, taxing authorities, and the public gain a general overview of the laws governing ballot questions and issues. [*The Ohio Ballot Questions and Issues Handbook: A Guide for Board of Elections, Taxing Authorities and Political Subdivisions to Placing Questions and Issues on the Ballot*](#), along with the [*Guide to Local Liquor Options Elections*](#) both contain summaries of the statutes relevant to different types of ballot questions and issues. Both resources are accessible via the Secretary of State's website.

C. Petition Pre-Checks

No board of elections shall pre-check any petition to determine the petition's validity and sufficiency before such time as the original petition has been filed, along with the appropriate filing fee, with a board of elections, the





Secretary of State's Office, or other public office as provided by law.⁴

While pre-checks may appear to be a public service that potential candidates might rely on to improve their chances of being certified to the ballot, in reality, pre-checks provide a false sense of security for candidates and issue groups. It is a well-established principle of Ohio election law that the candidate is solely responsible for ensuring that his or her own petition satisfies the requirements of law. Candidates and issue groups are obligated to investigate, learn, and know the law governing the election process.⁵

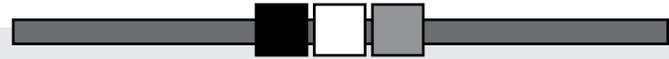
To assist prospective candidates and issue petitioners, the Secretary of State's Office provides uniform guidance to through several free publications, including the [*Ohio Candidate Requirement Guide*](#), [*the Guide to Local Liquor Option Elections*](#), [*the Ohio Presidential Guide*](#), [*The Ohio Ballot Questions and Issues Handbook*](#), and the [*Campaign Finance Handbook*](#). This office also prescribes many of the forms used by candidate and issue petitioners. Boards can, and should, be helpful to potential candidates and issue petitioners by providing them with copies of these guides as well as information about the process of filing and the process elections officials will follow once the filing deadline has expired. With this information, and the public access terminals provided by many boards of elections, candidates have the tools to check their own petitions.

However, it is imprudent for a board of elections to engage in a practice that allows any candidate or petitioner to believe that his or her petition is valid

⁴ *State ex rel. McMillan v. Ashtabula Cty. Bd. of Elections*, 65 Ohio St.3d 186, 1992 -Ohio -85 (candidate's reliance on the misinformation of the board employee does not estop the board from removing a candidate's name from the ballot); *State ex rel. Shaw v. Lynch* (1991), 62 Ohio St.3d 174, 176-177 (estoppel does not apply against election officials in the exercise of governmental functions); *State ex rel. Senn v. Cuyahoga Cty. Bd. of Elections* (1977), 51 Ohio St.2d 173 (candidate could not file necessary part petition after having filed other petition papers); *State ex rel. Svete v. Bd. of Elections* (1965), 4 Ohio St.2d 16 (advice by board of elections deputy clerk that nominating petition appeared to be in order does not stop the board of elections from declaring such petitions to be invalid).

⁵ *State ex rel. Chevalier v. Brown* (1985), 17 Ohio St.3d 61, 63; *State ex rel. Sturgill v. Lorain Cty. Bd. of Elections* (Ohio App. 9 Dist., 2005), 164 Ohio App.3d 272, 2005 -Ohio- 5660; *State ex rel. Donegan v. Cuyahoga Cty. Bd. of Elections* (2000), 136 Ohio App.3d 589, 595.





and sufficient before the petition is filed, because, if the board subsequently determines that the petition is invalid, then the board must reject it regardless of whether the board staff previously pre-checked the identical petition. The practice of pre-checking petitions has resulted in some boards of elections being accused of incompetence, political favoritism, and misconduct.

SECTION 1.02 GENERAL RULES FOR VERIFYING CANDIDATE AND ISSUE PETITIONS

Reviewing Declarations of Candidacy

As mentioned above, the statutes prescribing the form of candidate petitions generally require substantial compliance. When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case of all other candidates, must determine whether the prospective candidate substantially complied with the form.

A. Candidate Name

If any person desiring to become a candidate for public office has had a change of name within five years immediately preceding the filing of the person's declaration of candidacy, the person's declaration of candidacy and petition shall both contain, immediately following the person's present name, the person's former names.⁶ This does not apply to a name change due to marriage.⁷

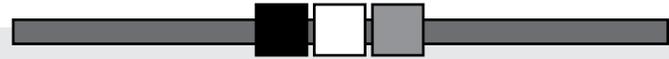
B. Office

The statement of candidacy signed by the prospective candidate must identify the office sought so that both the electors signing the petition and the board of elections are able ascertain from the petition which office the candidate seeks.

⁶ *Martinez v. Cuyahoga Cty. Board of Elections*, 2006 WL 847211; *McLaughlin v. Cuyahoga Cty. Bd. of Elections*, 156 Ohio App.3d 98.

⁷ [R.C. 3513.06](#).





C. Term

Ohio law requires each person filing a declaration of candidacy or a nominating petition as a candidate for the unexpired term of any office to designate the date on which that unexpired term ends.⁸

D. Date of the Election

The purpose of the date of the election on a declaration of candidacy is to inform those signing the petition as to the election at which the candidate seeks to be on the ballot. The board must determine whether those signing the petition understand which election is at issue.⁹

E. Candidate Signature¹⁰

A candidate must sign the statement of candidacy.

The question of whether the prospective candidate signed the statement of candidacy before the petition was circulated is a question of fact for the members of the board of election to decide.

It is only necessary for the candidate to sign one part-petition paper, but the declaration of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it.

F. Nominating Petition Portion

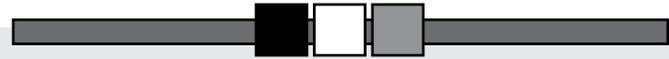
The question of whether the board may certify a prospective candidate's petition when the "Nominating Petition" portion of the form is incomplete is a substantial compliance decision for the board of elections to make in consultation with its legal counsel, the county prosecuting attorney.

⁸ [R.C. 3513.08](#); [R.C. 3513.28](#).

⁹ *Hill v. Cuyahoga County Bd. of Elections*, 68 Ohio St.2d 39 (1981); *State ex rel. Stewart v. Clinton Cty. Bd. of Elections*, 124 Ohio St.3d 584.

¹⁰ [R.C. 3513.09](#).





G. Verifying the Validity of Part-Petitions

Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator's statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator's statement is not completed as required by law.

H. Fulfilling Public Records Requests

Boards of elections may receive one or more public records requests for copies of the part-petitions for particular candidate or issue. Boards should consult with their statutory legal counsel, the county prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

SECTION 1.03 CIRCULATOR STATEMENTS

A. Qualifications of Circulators:

- A circulator must be at least 18 years of age.¹¹
- A circulator is not required to be an Ohio elector or an Ohio resident.
- Each circulator of a candidate petition must be a member of the political party named in the declaration of candidacy.

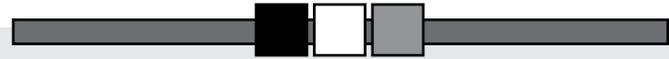
A board of elections will determine a circulator's party affiliation as follows:

Not an Ohio Elector:

- If the circulator is not an Ohio elector, the board of elections should accept as true the claim of political party membership that is included in the circulator's statement, unless the board has knowledge to the contrary.

¹¹ [R.C. 3503.06\(C\)](#); *Citizens in Charge v. Husted*, Case No. 2:13-cv-00935 (S.D. Ohio, Mar. 16, 2015).





Ohio Elector:

- An Ohio elector who circulates another person's declaration of candidacy and petition for the nomination or election at a partisan primary must not have voted in any other party's primary election in the preceding two calendar years.¹² The board of elections should examine the circulator's Ohio voting history using the statewide voter registration database. If the board determines that the circulator voted in another political party's primary election during the prior two calendar years, then the part-petition is invalid.

B. Candidate as Circulator

A candidate may circulate his or her own part-petition regardless of how he or she may have voted in the prior two calendar years. If the candidate does not hold an elective office, or if the candidate holds an elective office other than one for which candidates are nominated at a party primary, the candidate does not need to file any additional forms. If the candidate holds partisan public office, the candidate can still run for office for a different party, if the candidate has filed a Declaration of Intent to Change Political Party Affiliation ([Form 10-Y](#)).¹³

C. Convicted Felons

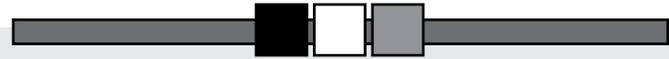
Some convicted felons are prohibited from circulating petitions.¹⁴ However, state law does not require a circulator to provide key data points (e.g., date of birth, Social Security number, driver's license number, etc.) that constitute "satisfactory evidence" that the person that circulated a petition is the same individual who may be listed in a county's local voter registration database as cancelled due to incarceration of a felony conviction.

¹² [R.C. 3513.05, ¶7.](#)

¹³ [R.C. 3513.191.](#)

¹⁴ [Ohio Attorney General Advisory Opinion 2010-02.](#)





Thus, when verifying petitions, boards of elections should presume that a circulator is qualified to circulate petitions, unless there is “satisfactory evidence” that the individual is not qualified.

D. Circulator’s Statement on Each Part-Petition¹⁵

Each part-petition must contain a circulator’s statement that includes the following completed information:

- circulator’s signature,
- the number of signatures witnessed by the circulator,
- and, for a *statewide* candidate or issue petition:
 - circulator’s name,
 - address of the circulator’s residence¹⁶ , and
 - the name and address of the person employing the circulator to circulate the petition, if any.

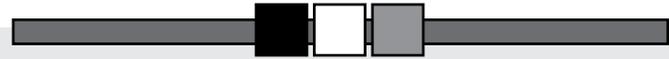
Note: If the circulator is a qualified elector of Ohio, there is no requirement that the address of the circulator match the address on file with the board of elections. A board must not invalidate a part-petition solely because the address of the circulator in the circulator’s statement differs from the address on file with the board of elections.

The board must review each part-petition to determine that information required as a part of the circulator’s statement is entered on each part-petition. The board must accept the circulator statements of part-petitions

¹⁵ [R.C. 3501.38\(E\)\(1\)](#).

¹⁶ State law does not define “permanent residence address” for purposes of circulating issue petitions. A board of elections should presume that the address provided by the circulator is the circulator’s permanent residence as the statement is signed under penalty of election falsification, which is a fifth degree felony. To the extent that an entity other than the Board believes that the circulator’s written permanent residence address is not accurate, an informal objection or formal protest is not properly before a board of elections and should be filed with the Ohio Supreme Court as described in Section VI below.





at face value unless there are inconsistencies with the number of signatures witnessed (see below) or with information about the circulator across part-petitions reviewed within a single county (i.e., the circulator writes different permanent residence addresses on different part-petition).

If the number of signatures reported in the statement is less than the total number of uncrossed out signatures submitted on the part-petition, then the board *must reject the entire part-petition*.¹⁷

Example: The circulator's statement indicates 20 signatures witnessed, but there are 22 signatures on the petition, none of which were crossed out prior to the petition being filed.

If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the board does not reject the part-petition because of the inconsistent signature numbers.¹⁸ Instead, the board must review the validity of each signature as usual.

Example: The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.

Note: In determining whether the number of signatures reported by a circulator of a non-statewide candidate's petition matches the number of signatures on that part petition, particularly with regard to crossed-out signatures, board of elections should take care so as to not make a determination that is "too technical, unreasonable, and arbitrary" given the unique fact set of that petition and information available to the board, if any.¹⁹

¹⁷ *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 841 N.E.2d 766 (2005).

¹⁸ *State ex rel. Citizens for Responsible Taxation v. Scioto Cty. Bd. of Elections*, 65 Ohio St.3d 167, 602 N.E.2d 615 (1992).

¹⁹ *State ex rel. Schwarz v. Hamilton Cty. Bd. of Elections*, 173 Ohio St. 321, 181 N.E.2d 888 (1962); *State ex rel. Curtis v. Summit Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-3787.





For a statewide petition, if a circulator identifies an employer on the circulator's statement but does not provide a corresponding address, the board must invalidate the entire part-petition.²⁰ If no employer or address is provided or if both the name of the employer and an address are provided, that aspect of the circulator's statement is presumed, on its face, to be valid and sufficient.

SECTION 1.04 PROCESSING VOTER REGISTRATION FORMS

When processing a statewide petition, each county board of elections must process all new, valid voter registrations and changes of name and/or address to existing registrations received by the board or the Secretary of State's Office as of the date the petition was filed with the Secretary of State *before* verifying the signatures on the part-petitions.²¹

For petitions filed with the board of elections, each board first must process all new, valid voter registrations and changes of name and /or address to existing registrations received by the board as of the date the petition was filed with the county board of elections' office.

²⁰ [R.C. 3519.06\(A\)](#).

²¹ [R.C. 3501.38\(A\)](#); [R.C. 3519.15](#).





SECTION 1.05 SIGNERS

A. Qualifications of Signers

- Must be a qualified elector of Ohio.²²
- Must be registered to vote at the address provided on the petition as of the date that the petition was filed with the applicable office.²³ For statewide issue petitions, the date the board of elections examines the petition.²⁴
- If signing a petition for a candidate seeking nomination in a partisan primary, must be a member of the political party of the candidate named on the declaration of candidacy. For purposes of signing candidate petitions for these parties, the person signing is considered to be a member of a political party if the signer voted in that party's primary election, or did not vote in any other party's primary election, in the preceding two calendar years.²⁵
- A 17-year old who will be 18 years old by the election at which the candidate or issue will appear on the ballot, and is properly registered to vote, may sign a petition.²⁶

B. Signatures²⁷

- Each signature *must* be an original signature of that voter.²⁸

²² [R.C. 3501.38\(A\)](#).

²³ [R.C. 3501.38\(A\)](#).

²⁴ [R.C. 3519.15](#).

²⁵ [R.C. 3513.05, ¶7](#).

²⁶ [R.C. 3503.06\(A\)](#).

²⁷ [R.C. 3501.011](#).

²⁸ [R.C. 3501.38\(B\)](#).





- The signature must match the signature on file with the board of elections.²⁹ A board must not invalidate a signature because an elector signed using a derivative of his/her first name if the board can confirm the identity of the elector.³⁰ Some acceptable examples include Jack for John or Peg for Margaret. Also, inclusion or omission of a voter's middle initial is not a reason to invalidate a signature.
- For identification purposes, the elector may print his or her name on the petition *in addition* to signing in cursive his or her name to the petition.³¹
- The signature must be written in ink.³²
- An elector's signature *must not be invalidated* solely because "non-signature information" was completed by another person (e.g., the elector's printed name, address, county, or the date of signing). Non-signature information may be added by a person other than the elector.³³
- No one may sign a petition more than once. If a person does sign a petition more than once, after the first signature has been marked valid, each successive occurrence of the signature must be invalidated.

Note: Most software systems deployed by county boards of elections are capable of electronically recording decisions on the validity or invalidity of each signature on a petition and tracking for duplicate signatures

²⁹ If a board of elections has conducted a hearing concerning the consideration of signatures on a candidate or issue petition, it must not disregard evidence produced at that hearing. See *State ex rel. Scott v. Franklin County Board of Elections*, 2014-Ohio-1685; "if undisputed evidence shows a nonmatching signature to be genuine, then the board must count the signature even if it does not match the elector's legal mark on the voter-registration record" *State ex rel. Crowl v. Delaware Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-4097 (O'Connor, C.J., concurring); *State ex rel. Burroughs v. Summit Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-4122.

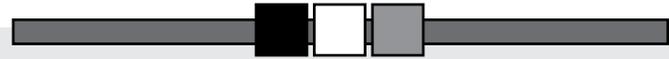
³⁰ *State ex rel. Rogers v. Taft*, 64 Ohio St.3d 193, 594 N.E.2d 576 (1992).

³¹ [R.C. 3501.38\(B\)](#).

³² [R.C. 3501.38\(B\)](#).

³³ *State ex rel. Jeffries v. Ryan*, 21 Ohio App.2d 241, 256 N.E.2d 716 (10th Dist. 1969).





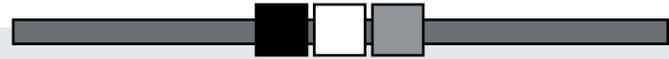
over time (including in those instances where petitioners are permitted to file supplemental petitions after an initial finding by the Secretary of State that the petition lacks sufficient signatures). These systems should be able to track more than one petition at a time. Additionally, these software systems should be able to produce an electronic file and a printed report of the names, addresses, and valid/invalid code for every signature reviewed by the board. If your county software system cannot provide any of these, or the board does not use that system component, please contact the Elections Division to determine a method that adequately and accurately records information to fulfill reporting and tracking standards.

C. Address of a Signer

The petition must contain the elector's voting residence address, including the house number and street name or Rural Free Delivery (RFD) number, and the appropriate city, village, or township.

- The elector's ward and precinct *are not* required.
- The elector's room or apartment number is not required.
- A post office box *does not* qualify as an elector's residence address.
- If an elector's address given on the petition differs from that on file with the board, then the board *must invalidate* that signature unless the signer has provided the elector's residence information in a format that is consistent with postal regulations as opposed to the political subdivision on file with the board of elections (e.g., writing "Columbus" as the city when the elector's political subdivision is "Perry Township"). A board must not reject a signature solely based on this difference.





D. Attorney in Fact

A registered elector who, by reason of disability, is unable to physically sign his or her name to a petition may authorize a qualified individual as an attorney in fact to sign the elector's name to a petition as provided in law.³⁴

A qualified person who has been appointed as an elector's attorney in fact may sign that elector's name to the petition paper in the elector's presence and at the elector's direction.³⁵ The board must compare the attorney in fact's signature on the petition with the document on file with the board office ([Form 10-F](#) or [10-G](#)).

In order to sign a petition on behalf of a registered voter as that person's attorney in fact, the board must have a completed [Form 10-F](#) or [10-G](#) on file. *Other types of power of attorney documents, filed with a court or some other agency, will not allow an individual to sign election documents on another's behalf.* The proper documentation must be on file with the board of elections.

If a person, who has not been designated the attorney in fact for elections purposes, signs another person's name to a petition, then the board must, at a minimum, invalidate that signature. If the board determines that the circulator knowingly allowed someone who they knew was unqualified to sign on another person's behalf, then the entire part-petition must be invalidated.³⁶

E. Dates

Each signature must be followed by the date it was affixed to the petition paper.³⁷ The board *must not invalidate* a signature solely because its date is out of sequence with other signatures on the same part-petition.

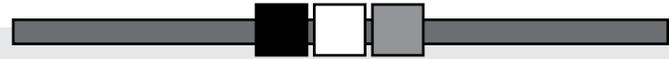
³⁴ [R.C. 3501.382](#).

³⁵ [R.C. 3501.382](#).

³⁶ [R.C. 3501.38\(F\)](#).

³⁷ [R.C. 3501.38\(C\)](#).





F. Illegible Signature

The board must invalidate illegible signatures. A signature is illegible only if *both* the signature and address are unreadable, such that it is impossible for board personnel to query the board's voter registration system to check the signature against a voter registration record.³⁸

G. Ditto Marks

Ditto marks may be used to indicate duplicate information, e.g., date, address, or county.³⁹

H. One County per Part-Petition

Each part-petition should contain signatures of electors of only one county. The board *must invalidate* signatures from any other county.⁴⁰

I. Non-Genuine Signatures

A board of elections must not invalidate an entire part-petition based solely on the number of non-genuine signatures it contains. Only if a circulator *knowingly* allows an unqualified person to sign a petition, should the entire petition be invalidated.⁴¹

SECTION 1.06 MARKING SIGNATURES

If a signature is valid, place a check mark in the margin to the left of the signature on the petition paper.

If a signature is invalid, indicate why it is invalid by writing in the margin to the left of the signature the appropriate code symbol for the reason the signature is invalid as follows:

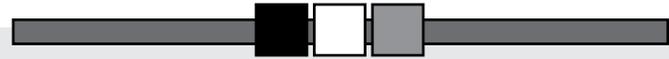
³⁸ *State ex rel. Owens v. Brunner*, 125 Ohio St.3d 130, 2010-Ohio-1374.

³⁹ *State ex rel. Donofrio v. Henderson*, 4 Ohio App.2d 183, 211 N.E.2d 854 (7th Dist. 1965).

⁴⁰ [R.C. 3513.05, ¶19](#); [R.C. 3519.10](#).

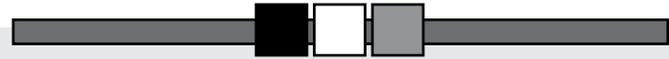
⁴¹ [R.C. 3501.38\(F\)](#).





- CIR “Circulator.” Signed as an elector the part petition he or she was circulating. (This invalidates the circulator’s signature as a signer, but not the entire part petition.)
- DUP “Duplicate.” The person has signed more than one part petition or twice on the same part petition.
- ILL “Illegible.” Applies only if both the signature and address are unreadable, so that it is impossible to check the signature against a voter registration record.
- NA “No address.” The signer must have provided his/her complete address: house number and street name or RFD, and the appropriate city, village, or township. Failure to provide the name of the county of residence is not fatal if board officials can determine the county from the other information given. Ward and precinct information is not required.
- ND “No Date.” The petition does not indicate the date on which the signature was affixed. (However, acceptable are: month-date-year, month-date, date out of sequence with other signers’ dates, ditto marks.)
- NG “Not Genuine.” The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, compared to the signature on file with the board of elections as of the date the board checks the petition.
- NR “Not Registered.” The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the petition is filed or, for a statewide issue petition, as of the date that the board examines the petition.





- NRA “Not Registered Address.” The address provided on the petition paper is not the address on file with the board of elections as of the date petition is filed, or for a statewide issue petition, as of the date the board examines the petition.
- OC “Other County.” The signer is a resident of some other county. Do not cross out signature or address; instead, place code at left margin.
- P “Pencil.” The signature was written using a pencil.
- WP “Wrong Party.” The circulator or signer is of a different political party than the party listed on the declaration of candidacy.

It is advisable to use a red ink pen for making marks by the board.

After checking an entire part petition, write on the right side of the front page of each part-petition both the number of valid signatures and the initials of the board employee who checked the part-petition under the number.

SECTION 1.07 FILING

A. Where to File Declarations of Candidacy, Nominating Petitions, and Question or Issue Petitions⁴²

For an office or issue submitted to electors throughout the entire state, including a petition for joint candidates for the offices of governor and lieutenant governor, petitions are filed with the Secretary of State's Office.

For an office or issue submitted only to electors within a county or within a district or subdivision or part thereof smaller than a county, petitions are filed with the board of elections of the county.

For an office or issue submitted only to electors of a district or subdivision or part of a subdivision that overlaps into more than one county, petitions

⁴² [R.C. 3513.05](#); [R.C. 3513.261](#).





are filed with the board of elections of the county containing the major portion of the population. The most-populous county of districts for Congress, State Senate, State Representative, State Board of Education and Court of Appeals districts is listed at the end of the Candidate Requirement Guide. If an Educational Service Center (ESC) district overlaps into more than one county, the petitions are filed in the county in which the ESC's administrative office is located.

B. Unfair Political Campaign Activities Notice

At the time a person files a declaration of candidacy, nominating petition, or declaration of intent to be a write-in candidate, the Secretary of State or the board of elections shall furnish that person with a copy of [R.C. 3517.21](#), which sets forth various unfair political campaign activities. Each person who receives the copy shall acknowledge its receipt in writing.⁴³

⁴³ [R.C. 3513.33](#). Please note the decision in *Susan B. Anthony List v. Ohio Elections Commission*, Case No. 1:10-cv-00720 (S.D. Ohio Western Division, Sept. 11, 2014).



PETITION RESPONDENTS' EXHIBIT 11

(Butler County Prosecutor's Office Letter to Secretary of State)



MICHAEL T. GMOSE
BUTLER COUNTY PROSECUTING ATTORNEY
CIVIL DIVISION



GOVERNMENT SERVICES CENTER • 10TH FLOOR
P.O. BOX 515 • 315 HIGH ST. • HAMILTON, OH 45012-0515

January 25, 2016

Hon. John Husted
Secretary of the State of Ohio
180 E. Broad St., Floor 16
Columbus, OH 43215

Re: ***Re-Review of Part-Petitions for Ohio Drug Price Relief Act***

Dear Secretary Husted:

Pursuant to your Directive 2016-01, the Butler County Board of Elections re-reviewed the part-petitions for the Ohio Drug Price Relief Act which purported to contain signatures from electors residing in Butler County.

Your Directive described concerns relating to a pattern of variance between the circulator's statement of the number of signatures contained on each part-petition and the actual number of signatures. You specifically raised the question as to whether a similar method of striking names with a heavy black marker on the various part-petitions might indicate the presence of fraudulent activity by the circulators either by completing the Circulator's Statement before the signatures were affixed or by the striking of signatures after the Circulator's Statement was executed.

Attached is a spreadsheet prepared by the Butler County Board of Elections to document its re-review of the part-petitions you returned to the Board in accordance with Directive 2016-01. As you can see, 79.59% of the signatures which were marked out on these part-petitions were determined by the Board to be facially invalid and would have been determined invalid by the Board if they had not been stricken.

Based on its review, the Board is unable to conclude that the variance between the circulator's statement of the number of signatures contained on each part-petition and the actual number of signatures alone gives rise to an inference of fraud or material misrepresentation. The Board is hopeful that this information is helpful to you in reaching a decision as to the validity of the petitions.

If you require additional information or have questions concerning preparation of the attachment, please feel free to contact the Board of Elections at your convenience.

Sincerely Yours,

Roger S. Gates
Assistant Prosecuting Attorney

Enc.
cc: Diane Noonan, Director
Jocelyn Bucaro, Deputy Director

PETITION RESPONDENTS' EXHIBIT 12

**(Secretary of State Tie Vote on February 11, 2015 on Motion to Invalidate
Josh Ford's Nominating Petition for City Council)**



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

February 23, 2015

Director Michele Lockard
Deputy Director Melanie Willeford
Pickaway County Board of Elections
141 West Main Street, Suite 800
Circleville, Ohio 43113

Re: Tie Vote on February 11, 2015 on Motion to Invalidate Josh Ford's Nominating
Petition for City Council

Dear Director Lockard and Deputy Director Willeford:

On February 11, 2015, the Pickaway County Board of Elections (the Board) met for the purpose of certifying candidates and issues to the May 5, 2015 primary election ballot. Chairperson Winner made a motion to certify the candidacy of Josh Ford for third ward councilman in the City of Circleville. Board Member Lynch seconded the motion. Board Members Bensonhaver and Welsh voted against the motion to certify Mr. Ford's candidacy. Pursuant to R.C. 3501.11(X), the tie vote of the Board was submitted to the Secretary of State for a decision.

Mr. Ford filed with the Board a declaration of candidacy seeking to be a candidate for a full term as a city council member from the third ward in the City of Circleville. His declaration of candidacy consisted of two part-petitions. One part-petition contained 21 signatures. The other part-petition contained eight signatures. The circulator statement on each part-petition, however, stated that each part-petition contained 25 signatures.

Board Members Bensonhaver and Welsh submit that because the number of signatures reflected in the circulator statement on each part-petition does not match the actual number of signatures on the part-petitions, the petitions should be invalidated. They argue that, if the failure to enter the number of signatures in the circulator statement is grounds for invalidation, then the failure to enter the correct number of signatures likewise must be grounds for invalidation.

Board Members Winner and Lynch contend that the petitions should not be invalidated because the number of signatures reported in the circulator statements is greater than the total number of signatures on the part-petitions. They cite to past directives from this office stating that a Board should not invalidate a part-petition when the circulator attests to witnessing more than the number of actual signatures on the part-petition.

A person who seeks to have his or her name certified to the ballot as a candidate for municipal office must file with the appropriate board of elections a nominating petition and statement of candidacy that complies with the applicable requirements of Ohio law. One of those

requirements is that the circulator of a part-petition must sign a statement under penalty of election falsification attesting to, among other things, the number of signatures contained on the part-petition.¹

The circulator statement on each of Mr. Ford's part-petitions includes the number of signatures witnessed by the circulator. It is well-settled law that a board of elections cannot reject a part-petition solely because the circulator statement indicates that it contains more signatures than it does.² Further, I have consistently instructed boards of elections that when examining and verifying candidate petitions:

If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the Board does not reject the part-petition because of the inconsistent signature numbers. Instead, the Board must review the validity of each signature as usual.

Example: The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.³

In light of this instruction and the long-standing case law, I break the tie in favor of validating Mr. Ford's petition and certifying him as a candidate for third ward councilman in the City of Circleville.

Sincerely,


Jon Husted

cc: Members of the Pickaway County Board of Elections

¹ R.C. 3501.38(E).

² *State ex rel. Citizens for Responsible Taxation v. Scioto Cty. Bd. of Elections*, 65 Ohio St.3d 167 (1992).

³ Directive 2014-02; Directive 2013-17; Directive 2011-40.

PETITION RESPONDENTS' EXHIBIT 13

**(Secretary of State Email to Board of Elections
Regarding Instructions for Reviewing Circulator Statements)**

Bowling, David

From: Seskes, Brandi
Sent: Monday, December 28, 2015 4:54 PM
To: Seneca
Subject: Question re: petitions

Jim,

Regarding your question, Chapter 11 (Petitions), p. 9, of the Election Official Manual states:

If the number of signatures reported in the statement is less than the total number of uncrossed out signatures submitted on the part-petition, then the board must reject the entire part-petition.

Example: The circulator's statement indicates 20 signatures witnessed, but there are 22 signatures on the petition, none of which were crossed out prior to the petition being filed.

If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the board does not reject the part-petition because of the inconsistent signature numbers. Instead, the board must review the validity of each signature as usual.

Example: The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.

Please let me know if you have additional questions.

-Brandi

Brandi Laser Seskes

Deputy Elections Administrator & Elections Counsel
Office of Ohio Secretary of State Jon Husted
(614) 466-2585

Follow Secretary Husted on:

