

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX. REL. : CASE NO. 2024-1372
MARCELL STRBICH :
 :
Relators, : Original Action in Mandamus
 :
 :
vs. :
 :
MONTGOMERY COUNTY BOARD :
OF ELECTIONS, et al. :
 :
Respondents. :

ANSWER OF RESPONDENTS

MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY
By: Nathaniel S. Peterson, #0095312
Assistant Prosecuting Attorney
Montgomery County Prosecutor's Office
301 West Third Street, 4th Floor
P.O. Box 972 Dayton, Ohio 45422
Telephone: (937) 225-3499
Fax Number: (937) 225-4822
E-mail: petersonn@mcoho.org
Counsel for Respondents,
Montgomery County Board
Of Elections and Rhine P. McLin,
Barbara P. Gorman, Erik R. Blaine,

Curt C. Hartman, #0064242
The Law Firm of Curt C. Hartman
7394 Ridgpoint Drive, Suite 8
Cincinnati, Ohio 45230
(513) 379-2923
hartmanlawfirm@fuse.net
Counsel for Relator
Marcell Strbich

Christopher P. Finney, #0038998
Finney Law Firm
4270 Ivy Pointe Blvd., Suite 225
Cincinnati, Ohio 45245
(513) 943-6655
chris@finneylawfirm.com
Counsel for Relator
Marcell Strbich

Respondents, Montgomery County Board of Elections, Rhine L. McLin, Barbara P. Gorman, Erik R. Blaine, and Thomas A. Routsong, (hereafter “Respondent”), by and through Counsel, Answer the Relator’s Complaint as follows:

FIRST DEFENSE

1. Introductory paragraph of the Complaint: inasmuch as Paragraph 1 of the Relator’s Complaint contains any allegations, Respondents deny the same.
2. Respondents deny the allegations contained in Paragraph 2 of Relator’s Complaint.
3. Respondents deny the allegations contained in Paragraph 3 of Relator’s Complaint.
4. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4, and therefore deny said allegations.
5. Respondents admit the allegations contained in Paragraph 5 of Relator’s Complaint.
6. Respondents admit the allegations contained in Paragraph 6 of Relator’s Complaint.
7. The link provided in Paragraph 7 of Relator’s Complaint speaks for itself and requires no response. Inasmuch as a response is required, Respondents admit the allegations contained in Paragraph 7 of Relator’s Complaint.
8. The Ohio Constitution quoted in Paragraph 8 of Relator’s Complaint speaks for itself and requires no response. Inasmuch as a response is required, Respondents admit the allegations contained in Paragraph 8 of Relator’s Complaint.
9. Directive 2024-09 of the Ohio Secretary of State quoted in Paragraph 9 of Relator’s Complaint speaks for itself and requires no response. Inasmuch as a response is required, Respondents admit the allegations contained in Paragraph 9 of Relator’s Complaint.
10. The document attached as Exhibit A speaks for itself and requires no response.

Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 10 of Relator's Complaint.

11. Directive 2024-09 of the Ohio Secretary of State speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 11 of Relator's Complaint.
12. Ohio Revised Code 3501.22 quoted in Paragraph 12 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 12 of Relator's Complaint.
13. Ohio Revised Code 3501.27 quoted in Paragraph 13 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 13 of Relator's Complaint.
14. Ohio Revised Code 3501.27 quoted in Paragraph 14 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 14 of Relator's Complaint.
15. Directive 2024-09 of the Ohio Secretary of State quoted in Paragraph 15 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 15 of Relator's Complaint.
16. Directive 2024-09 of the Ohio Secretary of State quoted in Paragraph 16 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 16 of Relator's Complaint.
17. The document attached as Exhibit B speaks for itself and requires no response.

- Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 17 of Relator's Complaint.
18. The document attached as Exhibit B speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 18 of Relator's Complaint.
 19. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19, and therefore deny said allegations.
 20. Respondents deny the allegations contained in Paragraph 20 of Relator's Complaint.
 21. Respondents admit the allegations contained in Paragraph 21 of Relator's Complaint.
 22. Respondents deny the allegations contained in Paragraph 22 of Relator's Complaint.
 23. Respondents deny the allegations contained in Paragraph 23 of Relator's Complaint.
 24. Respondents deny the allegations contained in Paragraph 24 of Relator's Complaint.
 25. Respondents deny the allegations contained in Paragraph 25 of Relator's Complaint.
 26. Ohio Revised Code 3501.22 quoted in Paragraph 26 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 26 of Relator's Complaint.
 27. Ohio Revised Code 3501.11 quoted in Paragraph 27 of Relator's Complaint speaks for itself and requires no response. Insomuch as a response is required, Respondents deny the allegations contained in Paragraph 27 of Relator's Complaint.
 28. The cases quoted in Paragraph 28 of Relator's Complaint speak for themselves and require no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 28 of Relator's Complaint.
 29. The cases quoted in Paragraph 29 of Relator's Complaint speak for themselves and

require no response. Insomuch as a response is required, Respondents admit the allegations contained in Paragraph 29 of Relator's Complaint.

30. Respondents deny the allegations contained in Paragraph 30 of Relator's Complaint.

31. Respondents deny the allegations contained in Paragraph 31 of Relator's Complaint.

32. In the Concluding paragraph of the Complaint: insomuch as the paragraph contains any allegation, Respondents deny the same.

SECOND DEFENSE

33. Relator fails to state a claim against Respondents upon which relief may be granted.

THIRD DEFENSE

34. Relator failed to exhaust any applicable administrative remedies.

FOURTH DEFENSE

35. The Court may not have personal jurisdiction over the Respondents.

FIFTH DEFENSE

36. Relator may not have standing, capacity to sue, and/or may not be the real party in interest.

SIXTH DEFENSE

37. The Relator may have failed to comply with applicable statutes and/or regulations regarding the assertion of the Relator's claims.

SEVENTH DEFENSE

38. Respondents reserve the right and give notice that this Answer may be amended as additional facts become known during the pendency of this litigation.

EIGHTH DEFENSE

39. Relator has failed to join necessary parties per Ohio Civil Rule 19.

NINTH DEFENSE

40. This Court lacks subject matter jurisdiction over this matter.

TENTH DEFENSE

41. Respondents acted reasonably, in good faith, and did not violate clearly established law.

WHEREFORE, having fully answered, Respondents respectfully request that Relator's Complaint for a Writ of Mandamus be dismissed with prejudice.

Respectfully submitted,

MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

By: /s/ Nathaniel S. Peterson
Nathaniel S. Peterson, #0095312
Assistant Prosecuting Attorney
Montgomery County Prosecutor's Office
P.O. Box 972
Dayton, Ohio 45422
Telephone: (937) 225-3499
Fax Number: (937) 225-4822
E-mail: peteronn@mcOhio.org
Attorney for Respondents
Montgomery County Board of Elections
and Rhine P. McLin, Barbara P. Gorman, Erik R.
Blaine, Thomas A. Routsong, Members.

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2024, the document was served on all parties or their counsel of record by providing a copy to the following counsel of record via electronic mail.

Curt C. Hartman, #0064242
hartmanlawfirm@fuse.net

Christopher P. Finney, #0038998
chris@finneylawfirm.com

/s/ Nathaniel S. Peterson
Nathaniel S. Peterson, #0095312
Assistant Prosecuting Attorney