

In the  
Supreme Court of Ohio

STATE OF OHIO EX REL. CITIZENS	:	
NOT POLITICIANS ET AL.,	:	Case No. 2024-1200
	:	
Relators,	:	
	:	
v.	:	Original Action in Mandamus
	:	
OHIO BALLOT BOARD ET AL.,	:	
	:	Expedited Elections Case
Respondents.	:	
	:	

ANSWER OF RESPONDENTS

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**ANSWER OF RESPONDENTS**

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Respondents, Ohio Ballot Board, Frank LaRose in his official capacities as Chair of the Ohio Ballot Board and Ohio Secretary of State, and Ohio Senator Theresa Gavarone, Ohio Senator Paula Hicks-Hudson, William Morgan, and Ohio House Representative Terrence Upchurch in their official capacities as Members of the Ohio Ballot Board, answer the Relators' Complaint as follows:

Prefatory Section<sup>1</sup>: Respondents deny the allegations stated in any and all unnumbered paragraphs found on pages 3-5 of the Complaint. Further answering, any authorities cited therein speak for themselves.

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<sup>1</sup> Respondents specifically deny any and all allegations made in any portions of the Complaint, such as the prefatory section and section headings or subheadings, that are not found within numbered paragraphs.

1. Paragraph 1 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, *Rucho v. Common Cause*, 588 U.S. 684 (2019), speaks for itself.
2. As to Paragraph 2 of the Complaint, Respondents admit that Ohioans will vote on Issue 1 in November 2024. Further answering, Relators' proposed amendment speaks for itself. To the extent that the allegations contained in Paragraph 2 of the Complaint misconstrue the contents of Relators' proposed amendment or predict how a commission would operate, Respondents deny same.
3. Paragraph 3 of the Complaint contains legal conclusions to which no response is required. Further answering, to the extent a response is required, Respondents deny any allegations or suggestions regarding the Ballot Board's language, including its substance, purpose and/or effect.
4. As to Paragraph 4 of the Complaint, Respondents admit that Respondent Secretary LaRose and/or his office drafted and introduced ballot language. Further answering, that language was amended during the course of the August 16, 2024 meeting of the Ballot Board, and the amended language was approved by the Ohio Ballot Board in a 3-to-2 vote. Further answering, the proposed amendment and ballot language speak for themselves. Respondents deny that the ballot language adopted by the Ballot Board is flawed and further deny the remaining allegations contained in Paragraph 4 of the Complaint.
5. Respondents deny the allegations in Paragraph 5 of the Complaint.
6. As to Paragraph 6 of the Complaint, Respondents admit that the Ohio Ballot Board did not adopt Relators' proposed ballot language. Respondents deny the remaining allegations contained in Paragraph 6 of the Complaint.

7. Respondents deny the allegations in Paragraph 7 of the Complaint.
8. Respondents deny the allegations in Paragraph 8 of the Complaint.
9. As to Paragraph 9 of the Complaint, Respondents admit that they are tasked with prescribing ballot language that properly identifies the substance of the proposal to be voted on and, as a whole, does not mislead, deceive, or defraud the voters. Respondents deny the remaining allegations contained in Paragraph 9 and deny that Relators are entitled to any relief.
10. As to Paragraph 10 of the Complaint, Respondents admit that Relators purport to bring this action under Article II, Section 1g, Article XVI, Section 1, and Article IV, Section 2(B)(1)(b) of the Ohio Constitution and Chapters 2731 and 3519 of the Ohio Revised Code. Respondents deny that Relators are entitled to any relief.
11. Respondents deny the allegations in Paragraph 11 of the Complaint and deny that Relators are entitled to any relief.
12. Paragraph 12 of the Complaint contains legal conclusions to which no response is required. Respondents deny that Relators are entitled to any relief.
13. As to Paragraph 13 of the Complaint, Respondents admit that the Ohio Ballot Board adopted the ballot title and language on Friday, August 16, 2024, and that this action was filed on Monday, August 19. Relators admit that August 19 is more than 64 days before the November 5, 2024 general election. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 13 of the Complaint, and said allegations are, therefore, denied.
14. Respondents admit the allegations in Paragraph 14 of the Complaint.
15. Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Complaint, and said allegations are, therefore, denied.

16. Respondents deny the allegations in Paragraph 16 of the Complaint.
17. Respondents deny the allegations in Paragraph 17 of the Complaint.
18. Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Complaint, and said allegations are, therefore, denied.
19. Respondents deny the allegations in Paragraph 19 of the Complaint.
20. Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Complaint, and said allegations are, therefore, denied.
21. As to Paragraph 21 of the Complaint, Respondents admit that the Ohio Ballot Board did not adopt Relators' proposed ballot language. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 21 of the Complaint, and said allegations are, therefore, denied.
22. Respondents deny the allegations in Paragraph 22 of the Complaint.
23. Respondents admit the allegations in Paragraph 23 of the Complaint.
24. Respondents admit the allegations in Paragraph 24 of the Complaint.
25. Paragraph 25 of the Complaint contains legal conclusions to which no response is required.
26. As to Paragraph 26 of the Complaint, Article II, Section 1g of the Ohio Constitution speaks for itself.
27. As to Paragraph 27 of the Complaint, Article XVI, Section 1 of the Ohio Constitution speaks for itself.
28. As to Paragraph 28 of the Complaint, R.C. 3505.062 speaks for itself.
29. As to Paragraph 29 of the Complaint, R.C. 3519.21 speaks for itself.
30. As to Paragraph 30 of the Complaint, R.C. 3519.21 speaks for itself.
31. As to Paragraph 31 of the Complaint, the cited cases speak for themselves.

32. As to Paragraph 32 of the Complaint, Respondents admit that an initiative petition to amend the Ohio Constitution, signed by more than 1,000 qualified electors, was submitted to Attorney General Yost on October 31, 2023, and that the petition was titled “An amendment to replace the current politician-run redistricting process with a citizen-led commission required to create fair state legislative and congressional districts through a more open and independent system.” Further answering, Relators’ Exhibit A speaks for itself.
33. As to Paragraph 33 of the Complaint, Relators’ Exhibit A speaks for itself.
34. As to Paragraph 34 of the Complaint, Relators’ Exhibit A speaks for itself. To the extent that the allegations contained in Paragraph 34 of the Complaint misconstrue the contents of Relators’ Exhibit A, Respondents deny same.
35. Paragraph 35 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, Respondents admit the allegations in Paragraph 35 of the Complaint. Further answering, R.C. 3519.01(A) and Relators’ Exhibit E speak for themselves.
36. As to Paragraph 36 of the Complaint, Respondents admit that the petition committee submitted the petition to Secretary LaRose’s office on July 1, 2024, that 535,005 signatures from 58 total counties were certified as valid, and that the proposed amendment qualified for the November 5, 2024 general-election ballot. Respondents deny the remaining allegations in Paragraph 36.
37. As to Paragraph 37 of the Complaint, Respondents admit that the Ohio Ballot Board scheduled a meeting on August 16 to adopt ballot language and that the amendment’s proponents proposed ballot language. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 37 of the Complaint, and said allegations are, therefore, denied.

38. As to Paragraph 38 of the Complaint, Relators' Exhibits H and I speak for themselves. To the extent that the allegations contained in Paragraph 38 of the Complaint misconstrue the contents of Relators' Exhibits H and I, Respondents deny same.
39. As to Paragraph 39 of the Complaint, Relators' Exhibits H, I, J, and K speak for themselves. To the extent that the allegations contained in Paragraph 38 of the Complaint misconstrue the contents of Relators' Exhibits H, I, J, and K, Respondents deny same. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 39 of the Complaint, and said allegations are, therefore, denied.
40. As to Paragraph 40 of the Complaint, Respondents admit that Relators proposed ballot language but deny that the Ballot Board was required to approve same. Further answering, Relators' Exhibit J speaks for itself.
41. As to Paragraph 41 of the Complaint, Respondents admit that the Ohio Ballot Board met to prescribe and certify ballot language for the proposed amendment on August 16. Further answering, the statements of the Ballot Board's Secretary speak for themselves.
42. Respondents admit the allegations in Paragraph 42 of the Complaint.
43. Respondents admit the allegations in Paragraph 43 of the Complaint. Further answering, Secretary LaRose's statements and Relators' Exhibit M speak for themselves.
44. Respondents deny the allegations in Paragraph 44 of the Complaint.
45. As to Paragraph 45 of the Complaint, Respondents admit that Senator Gavarone moved to substitute language in Secretary LaRose's proposed ballot language. Further answering, Senator Gavarone's statements speak for themselves. Respondents deny the remaining allegations contained in Paragraph 45 of the Complaint.

46. As to Paragraph 46 of the Complaint, Respondents admit that the Ohio Ballot Board voted 3-2 to adopt the language proposed by Secretary LaRose as amended by Senator Gavarone. Further answering, Representative Upchurch and Senator Hicks-Hudson's statements speak for themselves. Respondents deny the remaining allegations contained in Paragraph 46 of the Complaint.
47. Respondents incorporate the preceding paragraphs as if set forth herein.
48. Respondents deny the allegations in Paragraph 48 of the Complaint.
49. As to Paragraph 49 of the Complaint, R.C. 3505.062(B) and Article II, Section 1g and Article XVI of the Ohio Constitution speak for themselves.
50. Paragraph 50 of the Complaint contains legal conclusions to which no response is required. Further answering, the cited cases speak for themselves.
51. Paragraph 51 of the Complaint contains legal conclusions to which no response is required. Further answering, *Markus v. Trumbull Cty. Bd. of Elections*, 22 Ohio St.2d 197 (1970), speaks for itself.
52. Respondents deny the allegations in Paragraph 52 of the Complaint.
53. Respondents deny the allegations in Paragraph 53 of the Complaint.
54. Respondents deny the allegations in Paragraph 54 of the Complaint.
55. As to Paragraph 55 of the Complaint, the ballot language adopted by the Ballot Board, as well as Relators' Exhibits A and B, speak for themselves. Respondents deny the remaining allegations contained in Paragraph 55 of the Complaint.
56. Paragraph 56 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, Article XI, Section 6 of the Ohio Constitution and Relators'



Exhibit H speak for themselves. Respondents deny the remaining allegations contained in Paragraph 56 of the Complaint.

57. As to Paragraph 57 of the Complaint, Relators' Exhibit B speaks for itself. Respondents deny the remaining allegations contained in Paragraph 57 of the Complaint.

58. As to Paragraph 58 of the Complaint, Relators' Exhibit A speaks for itself. Respondents deny the remaining allegations contained in Paragraph 58 of the Complaint.

59. As to Paragraph 59 of the Complaint, Relators' Exhibit A and R.C. 3513.19(A)(3) speak for themselves. Respondents deny the remaining allegations contained in Paragraph 59 of the Complaint.

60. As to Paragraph 60 of the Complaint, Relators' Exhibit A speaks for itself. Respondents deny the remaining allegations contained in Paragraph 60 of the Complaint.

61. As to Paragraph 61 of the Complaint, Relators' Exhibit A speaks for itself. Respondents deny the remaining allegations contained in Paragraph 61 of the Complaint.

62. Respondents deny the allegations in Paragraph 62 of the Complaint.

63. Respondents deny the allegations in Paragraph 63 of the Complaint.

64. Respondents deny the allegations in Paragraph 64 of the Complaint.

65. As to Paragraph 65 of the Complaint, Relators' Exhibit A speaks for itself.

66. As to Paragraph 66 and footnote 1 of the Complaint, Relators' Exhibit A speaks for itself.

67. As to Paragraph 67 of the Complaint, Relators' Exhibit A speaks for itself.

68. As to Paragraph 68 of the Complaint, Relators' Exhibit A speaks for itself. Respondents deny the remaining allegations contained in Paragraph 68 of the Complaint.

69. As to Paragraph 69 of the Complaint, Relators' Exhibit A and the cited cases speak for themselves. Respondents deny the remaining allegations contained in Paragraph 69 of the Complaint.
70. Relators deny the allegations contained in Paragraph 70 of the Complaint and deny that the ballot language is defective. Further answering, *State ex rel. Voters First v. Ohio Ballot Bd.*, 2012-Ohio-4149, speaks for itself.
71. Relators deny the allegations contained in Paragraph 71 of the Complaint. Further answering, Relators' Exhibit B speaks for itself.
72. Paragraph 72 of the Complaint contains legal conclusions to which no response is required. Further answering, the cited cases speak for themselves.
73. Paragraph 73 of the Complaint contains legal conclusions to which no response is required. Further answering, the cited cases speak for themselves.
74. As to Paragraph 74 of the Complaint, Respondents deny that the ballot language is inaccurate. Further answering, Relators' Exhibit A speaks for itself.
75. As to Paragraph 75 of the Complaint, Relators' Exhibit A speaks for itself.
76. As to Paragraph 76 of the Complaint, Relators' Exhibit A speaks for itself.
77. Respondents deny the allegations in Paragraph 77 of the Complaint.
78. Respondents deny the allegations in Paragraph 78 of the Complaint.
79. Respondents deny the allegations in Paragraph 79 of the Complaint.
80. As to Paragraph 80 of the Complaint, Relators' Exhibit B speaks for itself.
81. Respondents deny the allegations in Paragraph 81 of the Complaint. Further answering, Relators' Exhibit B speaks for itself.

82. Paragraph 82 of the Complaint contains legal conclusions to which no response is required.

To the extent an answer is necessary, Respondents deny the allegations in Paragraph 82 of the Complaint. Further answering, Relators' Exhibits A and B speak for themselves.

83. Paragraph 83 of the Complaint contains legal conclusions to which no response is required.

To the extent a response is required, Respondents deny the allegations in Paragraph 83 of the Complaint. Further answering, Relators' Exhibits A and B speak for themselves.

84. Respondents deny the allegations in Paragraph 84 of the Complaint. Further answering, Relators' Exhibit B speaks for itself.

85. Respondents deny the allegations in Paragraph 85 of the Complaint. Further answering, the cited provisions of the Ohio Constitution and Relators' Exhibit B speak for themselves.

86. Respondents deny the allegations in Paragraph 86 of the Complaint.

87. Respondents deny the allegations in Paragraph 87 of the Complaint and deny that Relators are entitled to any relief.

88. Paragraph 88 of the Complaint contains legal conclusions to which no response is required. Further answering, Respondents deny that Relators are entitled to any relief.

89. Respondents deny the allegations in Paragraph 89 of the Complaint.

90. Respondents deny the allegations in Paragraph 90 of the Complaint.

91. Respondents deny the allegations in Paragraph 91 of the Complaint.

92. Respondents incorporate the preceding paragraphs as if set forth herein.

93. As to Paragraph 93 of the Complaint, R.C. 3519.21 speaks for itself.

94. Respondents deny the allegations in Paragraph 94 of the Complaint.

95. Respondents deny the allegations in Paragraph 95 of the Complaint. Further answering, Relators' Exhibits A and B speak for themselves.

96. Respondents deny the allegations in Paragraph 96 of the Complaint.
97. Respondents deny the allegations in Paragraph 97 of the Complaint. Further answering, Relators' Exhibit J speaks for itself.
98. Paragraph 98 of the Complaint contains legal conclusions to which no response is required. Further answering, Respondents deny that Relators are entitled to any relief.
99. Respondents deny the allegations in Paragraph 99 of the Complaint.
100. Paragraph 100 of the Complaint contains legal conclusions to which no response is required. Respondents deny the remaining allegations in Paragraph 100 of the Complaint.
101. Respondents deny the allegations in Paragraph 101 of the Complaint.
102. Any allegations not specifically answered herein, including but not limited to those contained in any prefatory remarks, titles, footnotes, or section headers, and the narrative occurring before the Complaint's numbered paragraphs are hereby denied.

### **Respondents' Response to Relators' Prayer for Relief**

1. Respondents deny all allegations set forth in the request for relief and specifically deny that Relators are entitled to any relief.
2. As to the prayer for relief, Respondents ask for judgment in their favor and deny that Relators are entitled to any relief.
3. Respondents deny any and all allegations of the Complaint not expressly admitted herein.

## **AFFIRMATIVE DEFENSES**

### **FIRST DEFENSE**

Relators fail to state a claim upon which relief can be granted.

## **SECOND DEFENSE**

Relators do not have a clear legal right to the requested relief.

## **THIRD DEFENSE**

Respondents do not owe Relators a duty to perform the requested relief.

## **FOURTH DEFENSE**

This Court lacks jurisdiction to award the requested relief.

## **RESERVATION OF ADDITIONAL DEFENSES**

Respondents reserve the right to supplement their Answer with additional defenses, including affirmative defenses, as litigation in this matter proceeds.

Thus, having fully answered Relators' Complaint, Respondents request that this Court dismiss Relators' claims, with prejudice, and that Relators be awarded no relief, no award of costs, and no award of fees.

Respectfully submitted,

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Ohio Attorney General

*/s/ Julie M. Pfeiffer*

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## **CERTIFICATE OF SERVICE**

I hereby certify that on August 26, 2024, the foregoing was filed electronically using the Court's e-filing system. I further certify that the foregoing was served by electronic mail on the following:

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