

IN THE SUPREME COURT OF OHIO

Regina Adams, et al.,

Relators,

v.

Governor Mike DeWine, et al.,

Respondents.

Case No. 2021-1428

Original Action Filed Pursuant to Ohio
Constitution, Article XIX, Section 3(A)

**ANSWER AND AFFIRMATIVE DEFENSES OF
RESPONDENTS HUFFMAN AND CUPP**

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By and through counsel, Respondents Senate President Matt Huffman and Speaker Robert R. Cupp (“Respondents”) answer the Relators’ Complaint as follows:

“INTRODUCTION”

1. As to Paragraph 1, the Respondents admit that the 2021 Congressional District Plan created by the passage of Sub. S.B. 258 was passed without bipartisan support as specifically contemplated and permitted by Art. XIX, Sec. 1(C)(3) of the Ohio Constitution. The remaining allegations are legal conclusions to which no response is required. Further answering, Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 1.

2. Paragraph 2 contains legal conclusions to which no response is required. Further answering, Article XIX, Section 1(C)(3) of the Ohio Constitution and Exhibit 41 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 2.

3. Respondents admit that Ohioans voted to amend the Ohio Constitution in 2018, and that Exhibits 1 and 2 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 3.

4. Respondents admit that Exhibit 3 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 4.

5. Paragraph 5 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 5.

6. Paragraph 6 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 6.

7. Respondents deny the allegations of paragraph 7.
8. Respondents deny the allegations of Paragraph 8.
9. Respondents admit that the Ohio Redistricting Commission met on October 28, 2021.

In all other respects, Respondents deny the allegations of Paragraph 9.

10. Respondents admit that Exhibit 6 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 10.

11. Respondents admit that the attached exhibits speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 11.

12. Respondents admit that Exhibit 9 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 12.

13. Respondents deny the allegations of Paragraph 13.

14. Respondents deny the allegations of Paragraph 14.

15. As to Paragraph 15, Respondents admit that Governor DeWine signed the General Assembly's bill approving the 2021 Congressional Plan. In all other respects, Respondents deny the allegations of Paragraph 15.

16. Respondents deny the allegations of Paragraph 16.

“NATURE OF THE ACTION AND JURISDICTION”

17. Respondents admit the allegations of Paragraph 17.

18. Respondents admit that Relators seek to invalidate the 2021 Congressional Plan.

In all other respects, Respondents deny the allegations of Paragraph 18.

19. Paragraph 19 contains legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 19.

20. Respondents deny the allegations of Paragraph 20.

“PARTIES”

21. Respondents deny that all of the named respondents are necessary parties before the Court and deny that all necessary parties are before the Court. The remaining allegations of Paragraph 21 are legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 21.

22. Respondents admit the allegations of Paragraph 22.

23. Respondents admit the allegations of Paragraph 23.

24. Respondents admit the allegations of Paragraph 24.

25. Respondents admit the allegations of Paragraph 25.

26. Respondents admit that the Relators correctly identified the seven members of the Ohio Redistricting Commission. The remaining allegations are legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 26.

27. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 27 and therefor deny those allegations.

28. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28 and therefor deny those allegations.

29. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and therefor deny those allegations.

30. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 and therefor deny those allegations.

31. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31 and therefor deny those allegations.

32. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32 and therefor deny those allegations.

33. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 33 and therefor deny those allegations.

34. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34 and therefor deny those allegations.

35. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 35 and therefor deny those allegations.

36. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36 and therefor deny those allegations.

37. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37 and therefor deny those allegations.

38. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 38 and therefor deny those allegations.

39. Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 39 and therefor deny those allegations.

“LEGAL BACKGROUND”

40. Paragraph 40 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 40.

41. Paragraph 41 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 41.

42. Paragraph 42 contains legal conclusions to which no response is required. Respondents admit that Articles XI and XIX of the Ohio Constitution speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 42.

43. Paragraph 43 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 43.

44. Paragraph 44 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 44.

45. Paragraph 45 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 45.

46. Paragraph 46 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 46.

47. Paragraph 47 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 47.

48. Paragraph 48 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 48.

49. Paragraph 49 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 49.

50. Paragraph 50 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 50.

51. Paragraph 51 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 51.

52. Paragraph 52 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 52.

“FACTS”

“A. Before 2018, Ohio’s Congressional Redistricting process lacked transparency and frequently produced gerrymandered congressional maps.”

Respondents deny the allegations contained in subsection “A” of Relators’ Complaint.

53. The allegations of Paragraph 53 contain legal conclusions to which no response is required. Respondents admit that the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 53.

54. Respondents admit that Exhibit 11 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 54.

55. Respondents admit that Exhibit 11 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 55.

56. Respondents admit that Exhibit 11 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 56.

57. Respondents admit that Exhibit 2 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 57.

58. Respondents admit that Exhibit 2 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 58.

59. Respondents admit that Exhibit 2 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 59.

60. Respondents deny the allegations of Paragraph 60.

61. Respondents deny the allegations of Paragraph 61.

62. Paragraph 62 contains legal conclusions to which no response is required. Respondents admit that the referenced court decisions speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 62.

“B. Ohioans enact Article XIX to end Congressional gerrymandering.”

Respondents deny the allegations contained in subsection “B” of Relators’ Complaint.

63. Respondents deny the allegations of Paragraph 63.

64. Respondent admit that S.J.R. 5, Exhibit 12, and Exhibit 13 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 64.

65. Respondents deny the allegations of Paragraph 65.

66. Respondents admit that the Ohio Constitution and the attached exhibit speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 66.

67. Respondents admit that the Ohio Constitution and the attached exhibit speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 67.

68. Respondents admit that the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 68.

69. Paragraph 69 contains legal conclusions to which no response is required. Further answering, the referenced sections of the Ohio Constitution speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 69.

70. Paragraph 70 contains legal conclusions to which no response is required. Further answering, the referenced sections of the Ohio Constitution speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 70.

71. Paragraph 71 contains legal conclusions to which no response is required. Respondents admit that Exhibit 16 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 71.

72. Paragraph 72 contains legal conclusions to which no response is required. Respondents admit that Exhibit 17 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 72.

73. Respondents admit Exhibit 18 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 73.

74. Respondents admit the allegation in Paragraph 74 that the voters approved what is now Article XIX of the Ohio Constitution in 2018 which speaks for itself. Respondents admit that the General Assembly and the Redistricting Commission are required to comply with certain provisions of the Ohio Constitution. In all other respects, Respondents deny the allegations of Paragraph 74.

“C. The 2021 congressional redistricting process ignored the new reforms, lacked transparency, and produced gerrymandered congressional maps.”

“1. The General Assembly and Commission sat on their hands for two months as Ohioans waited for proposed congressional maps.”

Respondents deny the allegations in subsections “C” and “C.1” of Relators’ Complaint.

75. Respondents admit the allegations of Paragraph 75.

76. Paragraph 76 contains legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 76.

77. Respondents admit that Exhibit 4 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 77.

78. Respondents admit that Exhibit 19 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 78.

79. Respondents admit that Exhibit 20 speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 79.

80. Respondents admit that Exhibits 5 and 21 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 80.

81. Respondents admit that the Ohio Redistricting Commission held a hearing on October 28, 2021, that the Commission did not approve a congressional map, and that Exhibits 5 and 22 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 81.

“2. The House and Senate Republican Caucuses introduced egregiously gerrymandered maps with no notice to the public, in an inaccessible format, and with no meaningful opportunity for the public to comment.”

Respondents deny the allegations of subsection “C.2” of Relators’ Complaint.

82. Paragraph 82 contains legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 82.

83. Respondents admit that Exhibits 6, 7, 8 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 83.

84. Respondents admit that Exhibits 6, 7, 8 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 84.

85. Respondents admit that Exhibit 7 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 85.

86. Respondents admit that Exhibits 7, 23 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 86.

87. Respondents admit that Exhibits 8, 23 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 87.

88. Respondents admit that Exhibit 7 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 88.

89. Respondents admit that Exhibit 24 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 89.

“3. The General Assembly convened a Joint Committee that saw near-uniform public opposition to the proposed Republican plans.”

Respondents deny the allegations of subsection “C.3” of Relators’ Complaint.

90. Respondents admit that Article XIX, Section 1(G) of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 90.

91. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 91.

92. Respondents admit that the public record and Exhibit 27 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 92.

93. Respondents admit that the public record and Exhibit 28 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 93.

94. Respondents admit that the public record and Exhibit 28 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 94.

95. Respondents admit that the public record and Exhibit 29 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 95.

96. Respondents admit that the public record and Exhibit 29 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 96.

“4. The General Assembly adopted a congressional map that is even more gerrymandered than the 2011 map.”

Respondents deny the allegations of subsection “C.4” of Relators’ Complaint.

97. Respondents admit that the public record and Exhibit 30, 31 and 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 97.

98. Respondents deny the allegations of Paragraph 98.

99. Respondents deny the allegations of Paragraph 99.

100. Respondents deny the allegations of Paragraph 100.

101. Respondents admit that the public record and Exhibit 31 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 101.

102. Respondents admit that Article XIX of the Ohio Constitution and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 102.

103. Respondents admit that the public record and exhibits cited by Relators speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 103.

104. Respondents admit that the public record and Exhibit 34 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 104.

105. Respondents admit that the public record and Exhibit 36 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 105.

106. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 106.

107. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 107.

108. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 108.

109. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 109.

110. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 110.

111. Respondents admit that the exhibit cited by Relators speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 111.

112. Respondents admit that the public record, including the enrolled version of Sub. S.B. 258, and Exhibit 32 speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 112.

“5. The General Assembly adopted a congressional map that violates the Ohio Constitution.”

Respondents deny the allegations of subsection “C.5” of Relators’ Complaint.

113. Paragraph 113 contains legal conclusions to which no response is required. Further answering, Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 113.

114. Respondents deny the allegations of Paragraph 114.

“a. The 2021 Congressional Plan unduly favors the Republican Party and its incumbents, while disfavoring the Democratic Party.”

Respondents deny the allegations of subsection “C.5.a” of Relators’ Complaint.

115. Respondents deny the allegations of Paragraph 115.

116. Respondents deny the allegations of Paragraph 116.

117. Respondents deny the allegations of Paragraph 117.

118. Respondents deny the allegations of Paragraph 118.

119. Respondents deny the allegations of Paragraph 119.

120. Respondents deny the allegations of Paragraph 120.

121. Respondents deny the allegations of Paragraph 121.

122. Paragraph 122 contains legal conclusions to which no response is required. Further answering, Respondents deny the allegations of Paragraph 122.

123. Respondents admit that the exhibit cited by Relators speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 123.

124. Respondents deny the allegations of Paragraph 124.

125. Respondents admit that Exhibit 39 speaks for itself. Further answering, Respondents admit that the State of Ohio will lose a congressional seat after the 2020 Census. In all other respects, Respondents deny the allegations of Paragraph 125.

“b. The 2021 Congressional Plan unduly splits governmental units.”

Respondents deny the allegations of subsection “C.5.b” of Relators’ Complaint.

126. Respondents deny the allegations of Paragraph 126.

127. Respondents deny the allegations of Paragraph 127.

128. Respondents deny the allegations of Paragraph 128.

129. Respondents deny the allegations of Paragraph 129.

130. Respondents deny the allegations of Paragraph 130.

“FIRST CAUSE OF ACTION – Violation of Article XIX, Section 1(C)(3)(a) of the Ohio Constitution”

131. To the extent that Paragraph 131 restates and reincorporates other paragraphs of the Complaint, all defenses and averments are specifically incorporated by reference.

132. Respondents admit that the public record and Article XIX of the Ohio Constitution speak for themselves. Further answering, Paragraph 132 includes legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 132.

133. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 133.

134. Respondents deny the allegations of Paragraph 134.

135. Respondents deny the allegations of Paragraph 135.

136. Respondents deny the allegations of Paragraph 136.

137. Respondents deny the allegations of Paragraph 137.

138. Respondents deny the allegations of Paragraph 138.

139. Respondents admit that Article XIX speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 139.

“SECOND CAUSE OF ACTION – Violation of Article XIX, Section 1(C)(3)(b) of the Ohio Constitution”

140. To the extent that Paragraph 140 restates and reincorporates other paragraphs of the Complaint, all defenses and averments are specifically incorporated by reference.

141. Respondents admit that the public record and Article XIX of the Ohio Constitution speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 141.

142. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 142.

143. Respondents deny the allegations of Paragraph 143.

144. Respondents deny the allegations of Paragraph 144.

145. Respondents deny the allegations of Paragraph 145.

FIRST DEFENSE

1. Relators Complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Ohio Rule of Civil Procedure 12(b)(6).

SECOND DEFENSE

2. Relators Complaint should be dismissed pursuant to Rules 12(b)(7) and 19 of the Ohio Rules of Civil Procedure for failure to join the State of Ohio as a Respondent in this case.

THIRD DEFENSE

3. The 2021 Congressional Plan challenged by Relators complies with all of the applicable sections and subsections of Article XIX, of the Ohio Constitution, and any other requirements of the Ohio Constitution.

FOURTH DEFENSE

4. The General Assembly consideration of partisan factors did not prevail over the requirements of Article XIX.

FIFTH DEFENSE

5. This Court is obligated to defer to the General Assembly's reasonable interpretation of Article XIX.

SIXTH DEFENSE

6. Under applicable law, the 2021 Congressional Plan is presumed to be constitutional.

SEVENTH DEFENSE

7. Relators cannot prove that the 2021 Congressional Plan is unconstitutional beyond a reasonable doubt.

EIGHTH DEFENSE

8. The 2021 Congressional Plan does not unduly favor or disfavor a political party or its incumbents.

NINTH DEFENSE

9. The 2021 Congressional Plan does not unduly split governmental units and gave preference in keeping whole, in order, Counties, then townships and municipal corporations.

PRAYER FOR RELIEF

Respondents move the Court for an order dismissing Relators' Complaint and awarding Respondents such other relief as may be just and equitable.

Respectfully submitted this the 3rd day of December, 2021.

/s/ Phillip J. Strach _____
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December, 2021, I have served the foregoing document by email:

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