

IN THE SUPREME COURT OF OHIO

**League of Women Voters of Ohio, et al.,**

**Petitioners,**

v.

**Secretary of State Frank LaRose, et al.,**

**Respondents.**

**Case No. 2022-0303**

Original Action Filed Pursuant to Ohio  
Constitution, Article XIX

**ANSWER AND AFFIRMATIVE DEFENSES OF  
RESPONDENTS HUFFMAN AND CUPP TO  
PETITIONERS' FIRST AMENDED COMPLAINT**

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*Counsel for Respondents Huffman and Cupp*

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

### “INTRODUCTION”

1. Respondents admit that on November 20, 2021, Governor Michael DeWine signed S.B. 258 into law. Respondents further admit that S.B. 258 and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 1.

2. Paragraph 2 contains legal conclusions to which no response is required. Respondents admit that Article XIX of the Ohio Constitution and *Adams v. DeWine*, Slip Opinion No. 2022-Ohio-89, speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 2.

3. Respondents admit that the Ohio Redistricting Commission (the “Commission”) enacted a new congressional plan on March 2, 2022. Except as expressly admitted herein, Respondents deny the allegations in Paragraph 3.

4. Respondents deny the allegations of Paragraph 4.

5. Respondents admit that Petitioners do not currently seek relief as to the 2022 election. Respondents further admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 5.

6. Respondents admit that Article XIX of the Ohio Constitution and the cited case speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 6.

7. Respondents admit that the cited case speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 7.

## **“JURISDICTION”**

8. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 8.

9. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 9.

10. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 10.

11. Respondents admit that Petitioners seek to invalidate the Revised Plan. In all other respects, Respondents deny the allegations in Paragraph 11.

12. Respondents admit that the Petitioners seek for this Court to retain jurisdiction, but deny that this is permissible under Article XIX. In all other respects, Respondents deny the allegations of Paragraph 12.

## **“PARTIES”**

### **“A. Petitioners”**

13. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13.

14. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14.

15. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 15.

16. Respondents deny the allegations of Paragraph 16.

17. Respondents deny the allegations of Paragraph 17.

18. Respondents deny the allegations of Paragraph 18.

19. Respondents deny the allegations of Paragraph 19.

20. Respondents admit that Plaintiff League of Women Voters of Ohio purports to bring suit on its own and on behalf of its members. In all other respects, the allegations of Paragraph 20 are denied.

21. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 21.

22. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 22.

23. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 23.

24. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 24.

25. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 25.

26. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 26.

27. Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 27.

28. Respondents deny that Congressional District 15 was drawn to submerge Democratic Votes, or that this prevents any Democratic Voters from electing their candidates of choice. In all other respects, Respondents lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 28.

29. Respondents deny the allegations of Paragraph 29.

## **“B. Respondents”**

30. Paragraph 30 contains legal conclusions to which no response is required. In all other respects, Respondents deny the allegations of Paragraph 30.

31. Respondents admit that Respondent Frank LaRose is the Ohio Secretary of State and a member of the Commission, and was sued in his official capacity. In all other respects, Respondents deny the allegations of Paragraph 31.

32. Respondents admit that Respondent Matt Huffman is the President of the Ohio State Senate and a member of the Commission, and was sued in his official capacity. Further admitted that the General Assembly has primary authority for drawing Ohio’s congressional districts. In all other respects, Respondents deny the allegations in Paragraph 32.

33. Respondents admit that Respondent Bob Cupp is the Speaker of the Ohio House of Representatives, a Co-Chair of the Commission and a member of the Commission, and was sued in his official capacity. Further admitted that the General Assembly has primary authority for drawing Ohio’s congressional districts. In all other respects, Respondents deny the allegations in Paragraph 33.

34. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 34.

35. Respondents admit that the General Assembly did not pass a congressional district plan within 30 days of the Court’s January 14, 2022 opinion, and that Commission enacted the Revised Plan on March 2, 2022. In all other respects, Respondents deny the allegations in Paragraph 35.

## **“LEGAL BACKGROUND”**

36. Respondents admit the allegations in Paragraph 36.

37. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 37.

**“A. Redistricting Process and Deadlines”**

38. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 38.

39. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 39.

40. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 40.

41. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 41.

42. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 42.

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

**“B. Bars on Undue Partisanship and Undue Splitting”**

44. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 44

45. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 45.

46. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 46.

### **“C. The Process for Revising an Invalidated Plan”**

47. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 47.

48. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 48.

49. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 49.

50. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 50.

51. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 51.

### **“FACTUAL BACKGROUND”**

#### **“A. The 2011 Plan—an Extreme Partisan Gerrymander”**

Respondents deny the allegations contained in section “A” of Petitioners’ First Amended Complaint.

52. Respondents admit that Ohio’s election results speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 52.

53. Respondents deny the allegations in Paragraph 53.

54. Respondents deny the allegations in Paragraph 54.

#### **“B. The 2018 Constitutional Amendments”**

55. Respondents admit that Ohio voters enacted Article XIX of the Ohio Constitution. In all other respects, Respondents deny the allegations in Paragraph 55.



56. Respondents admit that the cited materials speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 56.

57. Respondents admit that S.J.R. 5 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 57.

58. Respondents admit that S.J.R. 5 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 58.

59. Respondents admit that S.J.R. 5 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 59.

60. Respondents admit that S.J.R. 5 and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 60.

61. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 61.

### **“C. The Enactment of the 2021 Congressional District Plan”**

#### **“1. The Failure to Provide a Plan Until November 3, 2021”**

62. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 62.

63. Respondents admit that the General Assembly did not pass a congressional district plan by September 30, 2021. In all other respects, Respondents deny the allegations in Paragraph 63.

64. Respondents admit that the Commission did not adopt a congressional district plan by October 31, 2021, and that Exhibits 6 and 7 speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 64.

65. Respondents admit that the Commission did not adopt a congressional district plan by October 31, 2021, and that the cited article speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 65.

66. Respondents admit that H.B. 479, S.B. 258, and the public record speak for themselves. In all other respects, Respondents deny the allegations of Paragraph 66.

67. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations of Paragraph 67.

### **“2. The Adoption of the Original Enacted Plan”**

68. Respondents admit that the public record, including Exhibit 9, speaks for itself. In all other respects, Respondents deny the allegations in paragraph 68.

69. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 69.

70. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 70.

### **“3. The Section 1(C)(3)(d) Statement”**

71. Respondents admit that the Section 1(C)(3)(d) Statement and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 71.

### **“D. The Constitutional Defects of the Original Enacted Plan”**

Respondents deny the allegations contained in section “D” of Petitioners’ First Amended Complaint.

72. Respondents admit that the record of *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, No. 2021-1449, speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 72.

**“1. Three Distinct Methods Confirm That the Enacted Plan Unduly Favored the Republican Party”**

Respondents deny the allegations contained in subsection “D.1” of Petitioners’ First Amended Complaint.

73. Respondents admit that Exhibit 3 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 73.

**“2. The General Assembly’s Inaccurate Contention that the Enacted Plan Contained a Large Number of ‘Competitive’ Districts”**

Respondents deny the allegations contained in subsection “D.2” of Petitioners’ First Amended Complaint.

74. Respondents admit that S.B. 258 and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 74.

75. Respondents admit that Exhibit 3 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 75.

76. Respondents admit that Exhibit 3 (the Warshaw Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 76.

77. Respondents admit that Exhibit 3 (the Warshaw Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 77.

**“3. The Enacted Plan Unduly Favored Republican Incumbents”**

Respondents deny the allegations contained in subsection “D.3” of Petitioners’ First Amended Complaint.

78. Respondents admit that Exhibit 3 (the Warshaw Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 78.

79. Respondents admit that Exhibit 3 (the Warshaw Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 79.

**“4. The Undue Splitting To Advance Partisan Advantage in the Enacted Plan”**

Respondents deny the allegations contained in subsection “D.4” of Petitioners’ First Amended Complaint.

80. Respondents deny the allegations in Paragraph 80.

81. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 81.

82. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 82.

83. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 83.

84. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 84.

85. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 85.

86. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 86.

87. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 87.

88. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 88.

89. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 89.

90. Respondents admit that Exhibit 2 (the Rodden Report) speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 90.

91. Respondents deny the allegations in Paragraph 91.

**“E. The Invalidation of the Enacted Plan”**

92. Respondents admit that *Adams*, Slip Opinion No. 2022-Ohio-89, speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 92.

93. Respondents admit that *Adams*, Slip Opinion No. 2022-Ohio-89, speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 93.

**“F. The Enactment of the Revised Plan”**

94. Respondents admit that Article XIX, *Adams*, and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 94.

95. Respondents admit that Article XIX and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 95.

**“1. The General Assembly Failed to Pass a New Plan in Accordance with the Court’s January 14 Opinion”**

Respondents deny the allegations contained in subsection “F.1” of Petitioners’ First Amended Complaint.

96. Respondents admit that S.B. 286 and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 96.

97. Respondents admit that the public record and the cited article speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 97.

98. Respondents admit that the public record and the cited article speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 98.

99. Respondents admit that *League of Women Voters of Ohio v. Ohio Redistricting Commission*, 2022-Ohio-342 and the state legislative districting proceedings speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 99.

100. Respondents admit that the public record, the cited article, and tweets, speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 100.

101. Respondents admit that the public record and cited article speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 101.

102. Respondents admit that the public record and cited article speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 102.

**“2. The Commission Takes Up the Task of Enacting a Revised Plan”**

Respondents deny the allegations contained in subsection “F.2” of Petitioners’ First Amended Complaint.

103. Respondents admit that Article XIX and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 103.

104. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 104.

105. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 105.

106. Respondents admit that the public record speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 106.

**“G. The Constitutional Defects in the Revised Plan”**

Respondents deny the allegations contained in section “G” of Petitioners’ First Amended Complaint.

107. Respondents admit that the Commission enacted the Revised Plan on March 2, 2022. In all other respects, Respondents deny the allegations in Paragraph 107.

108. Respondents admit that the cited exhibits and reports speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 108.

**“1. Congressional District 15”**

109. Respondents admit that Exhibit 16 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 109.

110. Respondents admit that Exhibit 15 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 110.

111. Respondents admit that Exhibit 16 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 111.

112. Respondents admit that Exhibits 16 and 17 speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 112.

**“2. Congressional District 1”**

113. Respondents admit that Exhibit 16 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 113.

114. Respondents admit that Exhibit 15 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 114.

115. Respondents admit that Exhibit 17 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 115.

### **“3. Statistical Analysis”**

116. Respondents deny the allegations in Paragraph 116.

117. Respondents admit that Exhibit 15 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 117.

118. Respondents admit that Exhibit 16 speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 118.

119. Respondents deny the allegations in Paragraph 119.

### **“4. The Commission Did Not Consider An Alternative Plan That Was Constitutionally Compliant”**

Respondents deny the allegations contained in subsection “G.4” of Petitioners’ First Amended Complaint.

120. Respondents admit that the Revised Plan, Exhibits 16 and 18 and the public record speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 120.

121. Respondents admit that the Revised Plan and Exhibit 18 speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 121.

122. Respondents admit that the Revised Plan and Exhibit 16 speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 122.

123. Respondents admit that the Revised Plan and Exhibit 16 speak for themselves. In all other respects, Respondents deny the allegations in Paragraph 123.

### **“FIRST CAUSE OF ACTION”**

#### **“Violation of Article XIX, Section 1(C)(3)(a) and Section 3(B)(2) of the Ohio Constitution”**

124. To the extent that Paragraph 124 restates and reincorporates other paragraphs of the Complaint, all defenses and averments are specifically incorporated by reference.



125. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 125.

126. Respondents admit that this Court's January 14, 2022 Opinion speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 126.

127. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 127.

128. Respondents deny the allegations in Paragraph 128.

129. Respondents deny the allegations in Paragraph 129.

130. Respondents deny the allegations in Paragraph 130.

131. Respondents deny the allegations in Paragraph 131.

#### **"SECOND CAUSE OF ACTION"**

#### **"Violation of Article XIX, Section 1(C)(3)(b) and Section 3(B)(2) of the Ohio Constitution"**

132. To the extent that Paragraph 132 restates and reincorporates other paragraphs of the Complaint, all defenses and averments are specifically incorporated by reference.

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

134. Respondents admit that this Court's January 14, 2022 Opinion speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 134.

135. Respondents admit that Article XIX of the Ohio Constitution speaks for itself. In all other respects, Respondents deny the allegations in Paragraph 135.

136. Respondents deny the allegations in Paragraph 136.

137. Respondents deny the allegations in Paragraph 137.

138. Respondents deny the allegations in Paragraph 138.

139. Respondents deny the allegations in Paragraph 139.

**“PRAYER FOR RELIEF”**

Respondents deny that Petitioners are entitled to any relief in this action.

**FIRST DEFENSE**

1. Petitioners’ 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. The congressional district plan passed by the Ohio Redistricting Commission on March 2, 2022 (the “Second Plan”) complies with all of the applicable sections and subsections of Article XIX of the Ohio Constitution, and any other requirements of the Ohio Constitution.

**THIRD DEFENSE**

3. The Commission’s consideration of partisan factors did not prevail over the requirements of Article XIX.

**FOURTH DEFENSE**

4. This Court is obligated to defer to the Commission’s reasonable interpretation of Article XIX.

**FIFTH DEFENSE**

5. Under applicable law, the Second Plan is presumed to be constitutional.

**SIXTH DEFENSE**

6. Petitioners cannot prove that the Second Plan is unconstitutional beyond a reasonable doubt.

**SEVENTH DEFENSE**

7. The Second Plan does not unduly favor or disfavor a political party or its incumbents.

**EIGHTH DEFENSE**

8. The Second 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 that the Court dismiss Petitioners' Complaint and award Respondents such other relief as may be just and equitable.

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Respectfully submitted this the 15th day of April, 2022.

/s/ Phillip J. Strach

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of April, 2022, I have served the foregoing document by email:

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