

In the
Supreme Court of Ohio

*State of Ohio ex rel., OHIOANS
UNITED FOR REPRODUCTIVE
RIGHTS, et al.,*

Relators,

v.

OHIO BALLOT BOARD, et al.,

Respondents.

:
: **Case No. 2023-1088**
:
:
:
: **Original Action in Mandamus**
: **Expedited Elections Case**
: **Supreme Court Rule of Practice 12.08**
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ANSWER OF RESPONDENTS

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	:	
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ANSWER OF RESPONDENTS

By and through counsel, Respondents Ohio Ballot Board, Frank LaRose in his official capacities as Chair of the Ohio Ballot Board and Ohio Secretary of State, and Theresa Gavarone, Paula Hicks-Hudson, William Morgan, and Elliot Forhan in their official capacities as Members of the Ohio Ballot Board, answer the Relators' Complaint as follows:

1. In response to Paragraph 1, Respondents admit that Ohioans will vote on Issue 1 in November. Further answering, *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022), speaks for itself.
2. Paragraph 2 contains legal conclusions to which no response is required.
3. Paragraph 3 contains legal conclusions to which no response is required.
4. In response to Paragraph 4, Respondents admit that the Ohio Ballot Board approved the ballot language in a 3-to-2 vote. Respondents deny that the ballot language adopted by the Ballot Board is flawed and further deny the remaining allegations contained therein.
5. Respondents deny the allegations contained in Paragraph 5 of the Complaint.

6. In response to Paragraph 6, Respondents admit that the Board “was asked” to adopt the full language of the proposed amendment as the official ballot language. Respondents admit that the Board was under no duty to grant such a request. Respondents deny the remaining allegations contained therein.
7. Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7, and said allegations are, therefore, denied. Further answering, *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022), speaks for itself.
8. In response to Paragraph 8, Respondents admit that Attorney General Yost certified the Amendment’s petition summary as “fair and truthful” pursuant to R.C. 3519.01(A) and that the Ohio Supreme Court has denied two challenges involving the proposed constitutional amendment at issue here. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.
9. Respondents deny the allegations contained in Paragraph 9 of the Complaint.
10. Respondents deny the allegations contained in Paragraph 10 of the Complaint.
11. In response to Paragraph 11, Respondents deny that Relators are entitled to a writ of mandamus. Further answering, this paragraph contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Finally, *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022), speaks for itself.
12. Respondents admit the allegations contained in Paragraph 12 but deny that Relators are entitled to relief.
13. In response to Paragraph 13, Respondents deny that the Ballot Language chosen by the Ballot Board is unlawful and further deny that Relators are entitled to any relief whatsoever.

14. Respondents admit the allegations contained in Paragraph 14. Further answering, see response to Paragraph 13.
15. As to Paragraph 15, Respondents admit that the Ballot Board adopted the Ballot Language on August 24, 2023. Respondents further admit that this action was filed on August 28, 2023. Any remaining allegations are legal conclusions to which no response is required.
16. Respondents admit the allegations contained in Paragraph 16.
17. Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, and said allegations are, therefore, denied.
18. Respondents admit the allegations contained in Paragraph 18.
19. Respondents deny the allegations contained in Paragraph 19.
20. As to Paragraph 20, Respondents deny that the ballot language adopted by the Ballot Board is incomplete, inaccurate, and misleading. Any remaining allegations are denied due to lack of knowledge.
21. As to Paragraph 21, Respondents admit that the named individual Relators are members of the Committee Representing the Petitioners with Respect to the Initiative Petition Proposing an Amendment to the Ohio Constitution Entitled the Right to Reproductive Freedom with Protections for Health and Safety. Any remaining allegations are denied due to lack of knowledge.
22. Respondents deny the allegations contained in Paragraph 22.
23. Respondents admit the allegations contained in Paragraph 23.
24. Respondents admit the allegations contained in Paragraph 24.
25. Paragraph 25 contains legal conclusions to which no response is required.
26. As to Paragraph 26, Article II, Section 1g of the Ohio Constitution speaks for itself.

27. As to Paragraph 27, Article XVI, Section 1 of the Ohio Constitution speaks for itself.
28. Paragraph 28 contains legal conclusions to which no response is required. Further answering, R.C. 3505.06 and 3505.062 speak for themselves.
29. Respondents admit the allegations contained in Paragraph 29. Further answering, Exhibit 6 speaks for itself.
30. In response to Paragraph 30, Exhibit 6 speaks for itself.
31. Respondents admit the allegations contained in Paragraph 31. Further answering, Exhibit 6 speaks for itself.
32. Respondents admit the allegations contained in Paragraph 32. Further answering, Exhibit 7 and R.C. 3519.01 speak for themselves.
33. In response to Paragraph 33, Exhibit 7 speaks for itself.
34. Respondents admit the allegations contained in Paragraph 34. Further answering, Exhibit 8, R.C. 3505.062, and Article II, Section 1g of the Ohio Constitution speaks for itself.
35. Respondents admit the allegations contained in Paragraph 35. Further answering, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.
36. In response to Paragraph 36, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.
37. In response to Paragraph 37, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.
38. In response to Paragraph 38, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.

39. Respondents admit the allegations contained in Paragraph 39. Further answering, Exhibits 9 and 10 as well as the cited provisions of the Ohio Constitution speak for themselves.
40. Paragraph 40 contains legal conclusions to which no response is required. Further answering, any remaining allegations are denied due to lack of knowledge.
41. Respondents admit the allegations contained in Paragraph 41. Further answering, *Giroux v. Committee Representing Petitioners*, Slip Opinion No. 2023-Ohio-2786, 2023 WL 5163291 (Aug. 11, 2023) (per curiam), speaks for itself.
42. In response to Paragraph 42, Respondents deny for lack of knowledge whether some ballot measures are long and complicated or that their full text cannot reasonably be printed on the ballot. Respondents further deny for lack of knowledge whether “Condensed ballot language is therefore required.” Further answering, Respondents admit that, as a legal matter, the Ballot Board is not required to use the full text of a proposed constitutional amendment as ballot language pursuant to the Ohio Constitution and applicable state laws. Any remaining allegations contained in Paragraph 42 are denied.
43. In response to Paragraph 43, Respondents admit that Relator Ohioans for Reproductive Rights proposed that the Ohio Ballot Board use the full text of the proposed amendment as the ballot language. Respondents deny the remaining allegations contained therein. Further answering, Exhibit 11 speaks for itself.
44. In response to Paragraph 44, see response to Paragraph 43. Further answering, Exhibit 11 speaks for itself.
45. Respondents admit the allegations contained in Paragraph 45.
46. In response to Paragraph 46, Exhibit 12 speaks for itself.
47. In response to Paragraph 47, Exhibit 13 speaks for itself.

48. Respondents deny the allegations contained in Paragraph 48.
49. In response to Paragraph 49, any comments by Ballot Board members speak for themselves. Respondents deny the remaining allegations contained therein.
50. In response to Paragraph 50, Secretary LaRose's statements speak for themselves. Respondents deny any remaining allegations contained therein.
51. In response to Paragraph 51, Member and State Senator Paula Hicks-Hudson's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
52. In response to Paragraph 52, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
53. In response to Paragraph 53, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
54. In response to Paragraph 54, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
55. In response to Paragraph 55, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
56. In response to Paragraph 56, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
57. In response to Paragraph 57, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
58. In response to Paragraph 58, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
59. In response to Paragraph 59, Member and State Representative Forhan's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.

60. Respondents admit the allegations contained in Paragraph 60. Further answering, the Ballot Board's decision to adopt the ballot language was lawful and this Court should deny all requested relief.
61. In response to Paragraph 61, Board Member and State Senator Theresa Gavarone's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
62. In response to Paragraph 62, Board Member and State Senator Theresa Gavarone's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
63. In response to Paragraph 63, Respondents admit that Respondent Hicks-Hudson made a motion to make revisions to the ballot language being considered by the Ballot Board, which was rejected by the Ballot Board by a 3-2 vote. Respondents deny the remaining allegations contained therein. Further answering, Exhibit 12 speaks for itself.
64. In response to Paragraph 64, Secretary LaRose's statements speak for themselves. Further answering, Exhibit 12 speaks for itself.
65. In response to Paragraph 65, Exhibit 12 speaks for itself.
66. Respondents admit the allegations contained in Paragraph 66. Further answering, Exhibit 12 speaks for itself.
67. In response to Paragraph 67, Secretary LaRose's statements speak for themselves. Respondents deny the remaining allegations contained therein. Further answering, Exhibits 6 and 14 speak for themselves.
68. To the extent Paragraph 68 reincorporates other paragraphs of the Complaint, all defenses and averments of lack of knowledge or information are specifically incorporated by reference.
69. Respondents deny the allegations contained in Paragraph 69.

70. Paragraph 70 contains legal conclusions to which no response is required. Further answering, Article II, Section 1g, and Article XVI, Section 1 of the Ohio Constitution and R.C. 3505.062(B) speak for themselves.
71. Paragraph 71 contains legal conclusions to which no response is required. Further answering, *State ex rel. One Pers. One Vote v. Ohio Ballot Bd.*, No. 2023-0672, 2023-Ohio-1928, 2023 WL 3939006 (June 13, 2023), speaks for itself.
72. Paragraph 72 contains legal conclusions to which no response is required. Further answering, *Markus v. Trumbull Cnty. Bd. of Elections*, 22 Ohio St.2d 197, 259 N.E.2d 501 (1970), speaks for itself.
73. Paragraph 73 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
74. Respondents deny the allegations contained in Paragraph 74.
75. Paragraph 75 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Further answering, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.
76. Paragraph 76 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
77. Paragraph 77 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
78. Paragraph 78 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Further answering, *State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St.3d 257, 2012-Ohio-419, 978 N.E.2d 119, speaks for itself.

79. Paragraph 79 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Further answering, *State ex rel. DeBlase v. Ohio Ballot Bd.*, Slip Opinion No. 2023-Ohio-1823, 2023 WL 3749300 (June 1, 2023), speaks for itself.
80. Paragraph 80 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
81. Paragraph 81 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
82. Paragraph 82 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Further answering, *State ex rel. One Pers. One Vote v. Ohio Ballot Bd.*, No. 2023-0672, 2023-Ohio-1928, 2023 WL 3939006 (June 13, 2023), speaks for itself.
83. Paragraph 83 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
84. Paragraph 84 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
85. Paragraph 85 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
86. Paragraph 86 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
87. Paragraph 87 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.

88. Paragraph 88 contains legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied.
89. In response to Paragraph 89, Respondents deny that Relators are entitled to any relief. Any remaining allegations are legal conclusions to which no response is required. To the extent an answer is necessary, the same is denied. Further answering, this Court lacks jurisdiction to award the requested relief.
90. In response to Paragraph 90, Respondents deny that Relators are entitled to any relief.
91. Paragraph 91 contains legal conclusions to which no response is required.
92. As to Paragraph 92, Respondents deny that the Relators are entitled to any relief. Further answering, this Paragraph contains legal conclusions to which no response is required. To the extent a response is necessary, the same is denied.
93. As to Paragraph 93, Respondents deny that they owe Relators a duty to perform the requested relief. Further answering, this Paragraph contains legal conclusions to which no response is required. To the extent a response is necessary, the same is denied. Finally, Article XVI of the Ohio Constitution and R.C. 3505.062(B) speak for themselves.
94. Paragraph 94 contains legal conclusions to which no response is required.

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. In response to the prayer for relief, Respondents ask for judgment in their favor and deny that Relators are entitled to any relief.
3. Any allegations contained in any titles, section headers, or the narrative occurring before the Complaint's numbered paragraphs are denied.

4. 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.

RESERVATION OF ADDITIONAL DEFENSES

Respondents reserves 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 costs, and no fees.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2023, the foregoing was filed electronically using the Court's e-filing system. I further certify that the foregoing was served upon counsel for Relators via electronic mail at the email address indicated below.

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