

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

OHIO A. PHILIP RANDOLPH INSTITUTE, <i>et al.</i>	:	
	:	
Plaintiffs,	:	Case No. 2:16-cv-00303
	:	
v.	:	JUDGE GEORGE C. SMITH
	:	
SECRETARY OF STATE, JON HUSTED	:	Magistrate Judge Deavers
	:	
Defendant.	:	

**DEFENDANT SECRETARY OF STATE JON HUSTED’S ANSWER
TO PLAINTIFFS’ AMENDED COMPLAINT (DOC. 37)**

Now come Defendant Secretary of State Jon Husted, and, for his answer to Plaintiffs’ Complaint, state as follows:

1. Paragraph 1 of the Complaint consists of legal conclusions and no response is required. To the extent further response is required, any allegations in Paragraph 1 are denied.

2. The portion of the statute cited in Paragraph 2 speaks for itself and no response to allegations regarding its content or effect is required in this Answer. To the extent further response is required, denied.

3. The portion of the statute cited in Paragraph 3 speaks for itself and no response to allegations regarding its content or effect is required in this Answer. No response is required to the legal conclusions in this Paragraph related to the intent and requirements of the NVRA. To the extent further response is required, denied.

4. The portion of the statute cited in Paragraph 4 speaks for itself and no response to allegations regarding its content or effect is required in this Answer. No response is required to

the legal conclusions in this Paragraph related to the intent and requirements of the NVRA. To the extent further response is required, denied.

5. The Supplemental Process in Ohio is a process that speaks for itself and no response is required. Plaintiffs' fact allegations in this Paragraph are denied. No response is required to the legal allegations in this Paragraph and they are deemed denied.

6. The Supplemental Process in Ohio has been in place for over 20 years. The allegations and characterizations in this Paragraph are denied. To the extent there are legal conclusions in this Paragraph, no response is required.

7. Paragraph 7 consists of legal conclusions and no response is required. To the extent a response is required, denied.

8. Paragraph 8 consists of legal conclusions and no response is required. To the extent a response is required, denied.

9. Paragraph 9 consists of legal conclusions and no response is required. To the extent a response is required, denied.

10. Paragraph 10 consists of legal conclusions and no response is required. To the extent a response is required, denied.

11. Paragraph 11 consists of legal conclusions and no response is required. To the extent a response is required, denied.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12; and therefore, those allegations are denied.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13; and therefore, those allegations are denied.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 related to APRI's actions; and therefore, those allegations are denied. To the extent further response is required, denied.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15; and therefore, those allegations are denied.

16. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 related to NEOCH's actions; and therefore, those allegations are denied. To the extent further response is required, denied.

17. Defendant denies the allegations in Paragraph 17. To the extent the allegations consist of legal conclusions, no response is required, and the allegations are deemed denied.

18. Paragraph 18 consists of legal conclusions and no response is required. To the extent a response is required, denied.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19; and therefore, those allegations are denied.

20. Jon Husted is the Secretary of State of Ohio. The remaining allegations in Paragraph 20 are legal conclusions, and therefore no response is required. To the extent further response is required, denied.

21. Paragraph 21 consists of legal conclusions and no response is required. To the extent a response is required, denied.

22. Paragraph 22 consists of legal conclusions and no response is required. To the extent a response is required, denied.

23. The NCOA Process and the Supplemental Process are voter list maintenance procedures that speak for themselves, and no response to Plaintiffs' characterizations is required. To the extent further response is required, denied.

24. SOS Form 10-S speaks for itself, and no response is required. To the extent further response is required, denied.

25. The NCOA Process and the Supplemental Process are voter list maintenance procedures that speak for themselves, and no response to Plaintiffs' characterizations is required. To the extent further response is required, denied.

26. The NCOA Process and the Supplemental Process are voter list maintenance procedures that speak for themselves, and no response to Plaintiffs' characterizations is required. To the extent further response is required, denied.

27. Paragraph 27 consists of legal conclusions and no response is required. To the extent a response is required, denied.

28. Because the number of confirmation notices that Ohio sends pursuant to the Supplemental Process differs each year, Defendant denies the allegation in Paragraph 28 about the number of confirmation notices that are sent by Ohio. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations related to Cuyahoga and Franklin County, and those allegations are denied. To the extent further response is required, denied.

29. Defendant denies the allegations in Paragraph 29. To the extent the allegations consist of legal conclusions, no response is required, and the allegations are deemed denied.

30. The NCOA Process and the Supplemental Process are voter list maintenance procedures that speak for themselves, and no response to Plaintiffs' characterizations is required. To the extent further response is required, denied.

31. Paragraph 31 consists of legal conclusions and no response is required. To the extent a response is required, denied.

32. Paragraph 32 consists of legal conclusions and no response is required. To the extent a response is required, denied.

33. The confirmation notice that Ohio uses in its voter list maintenance process speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, denied.

34. Paragraph 34 consists of legal conclusions and no response is required. To the extent a response is required, denied.

35. The confirmation notice that Ohio uses in its voter list maintenance process speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, denied.

36. The confirmation notice that Ohio uses in its voter list maintenance process speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, denied.

37. The confirmation notice that Ohio uses in its voter list maintenance process speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, denied.

38. It is admitted only that the Secretary issued Directive 2011-15 in the year 2011. The Directive speaks for itself, and Plaintiffs' allegations about it are denied. To the extent further response is required, denied.

39. Directive 2011-15 speaks for itself, and Plaintiffs' allegations about it are denied. To the extent further response is required, denied.

40. The allegations in Paragraph 40 are denied. To the extent there are legal conclusions in Paragraph 40, no response is required and the allegations are deemed denied.

41. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41; and therefore, those allegations are denied.

42. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42; and therefore, those allegations are denied.

43. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43; and therefore, those allegations are denied.

44. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44; and therefore, those allegations are denied.

45. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45; and therefore, those allegations are denied.

46. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46; and therefore, those allegations are denied.

47. The NCOA Process and the Supplemental Process are voter list maintenance procedures that speak for themselves, and no response to Plaintiffs' characterizations is required. To the extent further response is required, denied.

48. The allegations in Paragraph 48 are denied. To the extent there are legal conclusions in Paragraph 48, no response is required and the allegations are deemed denied.

49. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49; and therefore, those allegations are denied. To the extent further response is required, denied.

50. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50; and therefore, those allegations are denied. To the extent further response is required, denied.

51. The allegations in Paragraph 51 are denied.

52. It is admitted only that APRI sent a letter to Defendant on or about December 17, 2015 and NEOCH sent a letter to Defendant on or about February 23, 2016. The content of those letters speak for themselves and no response is required. To extent further response is required to the allegations in this Paragraph, denied.

53. It is admitted only that APRI sent a letter to Defendant on or about December 17, 2015 and NEOCH sent a letter to Defendant on or about February 23, 2016. The content of those letters speak for themselves and no response is required. To extent further response is required to the allegations in this Paragraph, denied.

54. Ohio uses a Supplemental Process to maintain its voter rolls. The remainder of the allegations in this Paragraph are denied.

55. Defendant restates the responses set forth in this Answer.

56. Paragraph 56 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

57. Paragraph 57 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

58. Paragraph 58 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

59. Paragraph 59 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

60. Defendant restates the responses set forth in this Answer.

61. Paragraph 61 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

62. Paragraph 62 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

63. Paragraph 63 consists of legal conclusions to which no response is required. To the extent a response is required, denied.

64. Defendant denies all allegations that appear in footnotes and headers in the Complaint.

65. Defendant denies that Plaintiffs are entitled to any relief in this matter.

66. Defendant denies each and every allegation not specifically admitted to be true or explicitly designated as not disputed in the paragraphs above.

67. Defendant denies all allegations in Plaintiffs' "Request for Relief".

WHEREFORE, having answered Plaintiffs' Complaint, Defendant Secretary of State Jon Husted raises the following defenses, including affirmative defenses.

FIRST DEFENSE

1. Plaintiffs fail to state a claim upon which relief may be granted.

SECOND DEFENSE

2. Plaintiffs lack standing to bring this action.

THIRD DEFENSE

3. Laches and the statute of limitations bar Plaintiffs' claims.

FOURTH DEFENSE

4. Ohio's laws do not violate the National Voter Registration Act of 1993.

FIFTH DEFENSE

5. Ohio's laws do not violate The Help America Vote Act of 2002.

SIXTH DEFENSE

6. Ohio's laws do not violate any federal law.

SEVENTH DEFENSE

7. The principle of federalism bars Plaintiffs' claims.

EIGHTH DEFENSE

8. Plaintiffs cannot establish any injury-in-fact; their claims are based on speculation.

NINTH DEFENSE

9. The doctrine of *Purcell v. Gonzalez*, 549 U.S. 1 (2006) bars Plaintiffs' claims.

TENTH DEFENSE

10. Plaintiffs are not entitled to facial relief because Plaintiffs cannot prove the required showing for this relief.

ELEVENTH DEFENSE

11. The doctrine of judicial restraint precludes Plaintiffs' claims.

TWELFTH DEFENSE

12. The principle of constitutional avoidance bars Plaintiffs' claims.

THIRTEENTH DEFENSE

13. The principle of anti-commandeering bars Plaintiffs' claims.

FOURTEENTH DEFENSE

14. Impossibility bars Plaintiffs' requested relief.

FIFTEENTH DEFENSE

15. The clear statement rule of construction requires judgment for Ohio.

SIXTEENTH DEFENSE

16. Plaintiffs are not entitled to attorneys' fees, litigation expenses, and costs.

Wherefore, for the foregoing reasons, the Secretary of State requests that Plaintiffs' claims be dismissed in their entirety with prejudice, and that Plaintiffs be awarded no relief, no costs, and no fees.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

s/ Steven T. Voigt

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*Counsel for Defendant,
Secretary of State Jon Husted*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Answer* was filed electronically with the U.S. District Court, Southern District of Ohio, on June 10, 2016, and served upon all parties of record via this Court's electronic filing system.

/s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)

Principal Assistant Attorney General