

**In The United States District Court  
For The Southern District of Ohio  
Eastern Division**

**Brian Moore, *et al.*,**

**Plaintiffs,**

**vs.**

**Case No. 2:08-cv-224**

**Jennifer Brunner,**

**Judge Frost**

**Defendant.**

**Answer To Plaintiffs' Amended Complaint**

Now comes Ohio Secretary of State Jennifer Brunner and for her answer to the Plaintiffs' complaint, states the following:

1. Denies each and every allegation not specifically admitted to herein.
2. With respect to the first ten introductory paragraphs, states that those are not a portion of the Plaintiffs' complaint and no response is necessary.
3. Denies for lack of knowledge the allegations contained in Paragraph 1 of the Complaint.
4. Denies for lack of knowledge the allegations contained in Paragraph 2 of the Complaint.
5. Denies for lack of knowledge the allegations contained in Paragraph 3 of the Complaint.
6. Denies for lack of knowledge the allegations contained in Paragraph 4 of the Complaint.
7. Denies for lack of knowledge the allegations contained in Paragraph 5 of the Complaint.

8. Denies for lack of knowledge the allegations contained in Paragraph 6 of the Complaint.
9. With respect to the allegations contained in Paragraph 7 of the Complaint, admits that Jennifer Brunner is the Secretary of State of Ohio.
10. With respect to the allegations contained in Paragraph 8 of the Complaint, denies for lack of knowledge the reasons why the Plaintiffs have filed this litigation and further states that the Plaintiffs have not stated a cause of action under the statutes cited or any other statutes or constitutional provisions.
11. With respect to the allegations contained in Paragraph 9, admits that the Plaintiffs have attempted to invoke the Court's jurisdiction under the statutes cited but denies that the Plaintiffs have successfully stated a cause of action over which this Court would have jurisdiction.
12. Admits the allegations contained in Paragraph 10 of the Complaint.
13. With respect to the allegations contained in Paragraph 11 of the Complaint, admits that Ohio law requires an independent joint Presidential and Vice Presidential candidates to collect 5,000 valid signatures from registered Ohio voters in order to appear on the ballot. The Secretary denies the remaining allegations contained in Paragraph 11 of the Complaint.
14. With respect to the allegations contained in Paragraph 12 of the Complaint, admits that Ohio law requires an independent joint presidential and vice presidential candidates to file their declaration of candidacy which includes part-petitions with the valid signatures of at least 5,000 registered Ohio voters no later than 75 days

before the general election. For the 2008 general election, the due date for the declaration of candidacy is August 21, 2008.

15. Denies the allegations contained in Paragraph 13 of the Complaint.
16. With respect to the allegations contained in Paragraph 14 of the Complaint, admits that the Plaintiffs have properly quoted RC 3503.06(A) and further states that the Revised Code speaks for itself.
17. Admits the allegations contained in Paragraph 15 of the Complaint.
18. Denies for lack of knowledge the allegations contained in Paragraph 16 of the Complaint.
19. Denies for lack of knowledge the allegations contained in Paragraph 17 of the Complaint.
20. Denies for lack of knowledge the allegations contained in Paragraph 18 of the Complaint.
21. Denies for lack of knowledge the allegations contained in Paragraph 19 of the Complaint.
22. Denies for lack of knowledge the allegations contained in Paragraph 20 of the Complaint.
23. Denies for lack of knowledge the allegations contained in Paragraph 21 of the Complaint.
24. Denies for lack of knowledge the allegations contained in Paragraph 22 of the Complaint.

25. With respect to the allegations contained in Paragraph 23 of the Complaint, states that the Plaintiffs have alleged a legal conclusion and no responsive pleading is required.
26. With respect to the allegations contained in Paragraph 24 of the Complaint, states that the Plaintiffs have alleged a legal conclusion and no responsive pleading is required.
27. With respect to the allegations contained in Paragraph 25 of the Complaint, states that the Plaintiffs have alleged a legal conclusion and no responsive pleading is required.
28. With respect to the allegations contained in Paragraph 26 of the Complaint, states that the Plaintiffs have alleged a legal conclusion and no responsive pleading is required.
29. With respect to the allegations contained in Paragraph 27 of the Complaint, states that the Plaintiffs have alleged a legal conclusion and no responsive pleading is required.
30. With respect to the allegations in Paragraph 28 of the Complaint, states that the boards of elections are charged with determining the validity of signatures and the eligibility of circulators and denies the remaining allegations contained in Paragraph 28 of the Complaint.
31. Admits the allegations contained in Paragraph 29 of the Complaint.
32. Admits the allegations contained in Paragraph 30 of the Complaint.
33. With respect to the allegations contained in Paragraph 31 of the Complaint, admits that the Defendant issues directives to the boards of elections that are consistent with

the requirements of RC 3503.06(A) but states that the individual local county boards of elections are statutorily charged with the obligation to verify signatures on individual part-petitions and to further determine whether circulators of those part-petitions complied with the requirements of RC 3503.06(A). The Secretary does retain the ultimate authority to determine the validity of individual filings and petitions.

34. Denies the allegations contained in Paragraph 32 of the Complaint.
35. Denies the allegations contained in Paragraph 33 of the Complaint.
36. Admits the allegations contained in Paragraph 34 of the Complaint.
37. Admits the allegations contained in Paragraph 35 of the Complaint.
38. Admits the allegations contained in Paragraph 36 of the Complaint.
39. With respect to the allegations contained in Paragraph 37 of the Complaint, states that the Plaintiffs have pled a legal conclusion and that the effect of the Sixth Circuit ruling speaks for itself and that no responsive pleading is required. To the extent a response is required, it is denied.
40. Admits the allegations contained in Paragraph 38 of the Complaint.
41. Admits the allegations contained in Paragraph 39 of the Complaint.
42. Admits the allegations contained in Paragraph 40 of the Complaint.
43. Admits the allegations contained in Paragraph 41 of the Complaint.
44. Admits the allegations contained in Paragraph 42 of the Complaint.
45. Admits the allegations contained in Paragraph 43 of the Complaint.
46. Admits the allegations contained in Paragraph 44 of the Complaint.
47. Denies the allegations contained in Paragraph 45 of the Complaint.

48. With respect to the allegations contained in Paragraph 46 of the Complaint, reincorporates by reference all responses given to Paragraphs 1 through 45 as though reincorporated herein.
49. Denies the allegations contained in Paragraph 47 of the Complaint.
50. Denies the allegations contained in Paragraph 48 of the Complaint.
51. With respect to the allegations contained in Paragraph 49 of the Complaint, reincorporates by reference all responses given to Paragraphs 1 through 48 of the Complaint as though reincorporated herein.
52. Denies the allegations contained in Paragraph 50 of the Complaint.
53. Denies the allegations contained in Paragraph 51 of the Complaint.
54. With respect to the allegations contained in Paragraph 52 of the Complaint, reincorporates by reference all responses given to Paragraphs 1 through 51 of the Complaint.
55. Denies the allegations contained in Paragraph 53 of the Complaint.
56. Denies the allegations contained in Paragraph 54 of the Complaint.
57. With respect to the allegations contained in Paragraph 55 of the Complaint, reincorporates by reference all responses given to Paragraph 1 through 54 of the Complaint.
58. Denies the allegations contained in Paragraph 56 of the Complaint.
59. Denies the allegations contained in Paragraph 57 of the Complaint.
60. With respect to the allegations contained in Paragraph 58 of the Complaint, reincorporates by reference all responses given to Paragraph 1 through 57 of the Complaint.

61. Denies the allegations contained in Paragraph 59 of the Complaint.
62. Denies the allegations contained in Paragraph 60 of the Complaint.
63. With respect to the allegations contained in Paragraph 61 of the Complaint, reincorporates by reference all responses given to Paragraphs 1 through 60 of the Complaint.
64. Denies the allegations contained in Paragraph 62 of the Complaint.
65. Denies the allegations contained in Paragraph 63 of the Complaint.
66. Denies the allegations contained in Paragraph 64 of the Complaint.
67. Denies the allegations contained in Paragraph 65 of the Complaint.
68. With respect to the allegations contained in the WHEREFORE clause and Paragraphs 66 through 74 of the Complaint, denies that the Plaintiffs is entitled to any relief prayed for in the Complaint or to any relief whatsoever.
69. Having answered the Plaintiffs' complaint, the Defendant raises the following defenses, including affirmative defenses.
70. The Plaintiffs have failed to state a claim upon which relief can be granted.
71. RC 3503.06(A)'s requirement that candidate petition circulators be residents of the State of Ohio is constitutional.
72. RC 3503.06(A)'s requirements that candidate petition circulators be registered voters in the State of Ohio is constitutional.
73. The Plaintiffs lack standing.
74. The Plaintiffs have completely failed to demonstrate that they have established any modicum of support in the State of Ohio which would entitle them to ballot access.

75. The Defendants reserve the right to add additional defenses, including affirmative defenses, as this litigation proceeds.

WHEREFORE, having answered the Plaintiffs' complaint, Defendant Ohio Secretary of State Jennifer Brunner prays that this complaint be dismissed and she be awarded her costs for defending this action.

Respectfully submitted,

Nancy H. Rogers  
Attorney General

/s Richard N. Coglianesse  
Richard N. Coglianesse (0066830)  
Damian W. Sikora (0075224)  
Assistant Attorneys General  
Constitutional Offices Section  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215  
614-466-2872

**Certificate of Service**

This is to certify a copy of this answer has been served upon all counsel of record by means of the Court's electronic filing system on this 8<sup>th</sup> day of August, 2008.

*/s Richard N. Coglianese*