

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

THE NORTHEAST OHIO COALITION	:	
FOR THE HOMELESS and SERVICE	:	
EMPLOYEES INTERNATIONAL UNION,	:	
LOCAL 1199,	:	
	:	
Plaintiffs,	:	CASE NO. 06-0896
v.	:	
	:	JUDGE ALGENON MARBLEY
JENNIFER BRUNNER, <i>et al.</i> ,	:	
	:	MAGISTRATE TERENCE KEMP
Defendants.	:	

ANSWER OF INTERVENOR STATE OF OHIO

The State of Ohio hereby answers Plaintiffs' Complaint as follows:

First Defense

1. The State of Ohio denies all averments not expressly admitted to in this answer.
2. As to the allegations contained in Paragraphs 1 through 4 of the Complaint, the State of Ohio denies the allegations as to why Plaintiffs have filed this case or how the laws are being or will be applied by Ohio's Boards of Elections for lack of knowledge sufficient to form a belief as to their truth or falsity; and denies all other allegations.
3. In response to Paragraph 5 of the Complaint, the State of Ohio admits that the allegations in the Complaint fall within the subject matter jurisdiction of the federal courts, but denies that the Court has jurisdiction over this case or that the factual allegations set forth in the Complaint state a claim.
4. The State of Ohio admits the allegations set forth in Paragraph 6 of the Complaint.

5. As to the allegations contained in Paragraph 7 of the Complaint, the State of Ohio denies that Plaintiff NEOCH has standing to assert the rights asserted in the Complaint on behalf of itself or its members and denies all other allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

6. As to the allegations contained in Paragraph 8 of the Complaint, the State of Ohio denies that Plaintiff SEIU has standing to assert the rights asserted in the Complaint on behalf of itself or its members and denies all other allegations for want of knowledge sufficient to form a belief as to their truth or falsity.

7. As to Paragraph 9 of the Complaint, the State of Ohio denies that J. Kenneth Blackwell is the Secretary of State of Ohio and states that his successor is Jennifer Brunner. The State of Ohio admits that the Secretary of State of Ohio has those duties placed upon her by Ohio Rev. Code §§ 3501.01, *et seq.* To the extent that the allegations in Paragraph 9 comport with the language of the statutes, they are admitted. To the extent that the allegations in Paragraph 9 do not comport with the language of the statutes, they are denied. The State of Ohio admits that the Secretary of State of Ohio is sued in her official capacity.

8. In response to Paragraph 10 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-9 of the Complaint.

9. The State of Ohio admits the allegations contained in Paragraph 11 of the Complaint.

10. As to Paragraphs 12-15 of the Complaint, House Bill 3 and Ohio's voter identification statutes speak for themselves and to the extent that the allegations in Paragraphs 12-15 of the Complaint comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied.

11. In response to Paragraph 16 of the Complaint, the State of Ohio states that House Bill 3 and Ohio's voter identification statutes speak for themselves and to the extent that the allegations in Paragraph 16 of the Complaint comport with the language of the statutes, they are admitted. To the extent that the allegations do not comport with the language of the statutes, they are denied. The State of Ohio specifically denies that voters who do not have the required identification, but do have a social security number, are not permitted to cast a regular or provisional ballot on Election Day.

12. By way of answer to Paragraph 17 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-16 of the Complaint.

13. The State of Ohio denies the allegations contained in Paragraph 18 of the Complaint.

14. As to Paragraph 19 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

15. As to Paragraphs 20-22 of the Complaint, Ohio's elections statutes speak for themselves and to the extent that the averments in Paragraphs 20-22 of Complaint comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. The State of Ohio further states that the term current has been defined in Directives issued by the Secretary of State.

16. As to Paragraphs 23-25 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

17. The State of Ohio denies the allegations set forth in paragraph 26 of the Complaint.

18. The State of Ohio admits the allegations set forth in Paragraphs 27-30 of the Complaint. The State of Ohio further states that the term other government document has been defined in Directives issued by the Secretary of State.

19. As to Paragraphs 31-33 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

20. The State of Ohio denies the allegations set forth in paragraph 34 of the Complaint.

21. The State of Ohio admits the allegations set forth in paragraph 35 of the Complaint.

22. In response to Paragraphs 36 and 37 of the Complaint, the State of Ohio admits that more than one set of numbers appears on an Ohio Driver's License. However, only one number is designated "LICENSE NO." Furthermore, the State of Ohio states that Directives issued by the Secretary of State further instruct Boards of Elections to contact voters who use the wrong number and to permit them to correct their error. The State of Ohio denies all other allegations set forth in Paragraphs 36 and 37 of the Complaint.

23. As to Paragraphs 38-40 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

24. The State of Ohio denied the allegations set forth in Paragraph 41 of the Complaint.

25. The State of Ohio admits the allegations set forth in Paragraph 42 of the Complaint.

26. The State of Ohio denies the allegations set forth in Paragraph 43 for lack of knowledge sufficient to form a belief as to their truth or falsity.

27. The State of Ohio denies the allegations set forth in Paragraph 44.
28. The State of Ohio denies the allegations set forth in Paragraphs 45-47 for lack of knowledge sufficient to form a belief as to their truth or falsity. The State of Ohio further states that Directives issued by the Secretary of State have informed the Boards of Elections regarding the use of military-identification cards.
29. The State of Ohio denies the allegations set forth in Paragraph 48 of the Complaint.
30. In response to Paragraphs 49-52, the State of Ohio admits that a current and valid photo identification is acceptable identification and that photo identification is defined in R.C. 3501.01(AA), which speaks for itself. Any other allegations contained in these Paragraphs are denied.
31. As to Paragraphs 53-55 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.
32. The State of Ohio denies the allegations set forth in Paragraph 56 of the Complaint.
33. The State of Ohio admits the allegations set forth in Paragraphs 57-58 of the Complaint.
34. As to Paragraphs 59-61 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity. The State of Ohio further states that Directives issued by the Secretary of State have instructed the Boards of Elections regarding the identification required in order to complete an absentee ballot.
35. The State of Ohio denies the allegations set forth in Paragraph 62 of the Complaint.

36. By way of answer to Paragraph 63 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-62 of the Complaint.

37. As to Paragraphs 64-65 to the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

38. As to Paragraphs 66-73 of the Complaint, the State of Ohio admits that the previous Secretary of State issued Advisory 2006-05 and the August 2, 2006 memorandum. These documents and R.C. 3501.18 and 3501.19 speak for themselves, and to the extent that the allegations in Paragraphs 66-73 comport with their language, they are admitted. To the extent that the allegations do not comport with their language, they are denied. The State of Ohio states that other Directives have since been issued regarding the voter identification statutes.

39. The State of Ohio denies the allegations set forth in Paragraphs 74-78 of the Complaint.

40. By way of answer to Paragraph 79 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-78 of the Complaint.

41. As to Paragraphs 79-83 of the Complaint, the State of Ohio denies the allegations contained therein.

42. By way of answer to Paragraph 84 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-83 of the Complaint.

43. As to Paragraphs 85 to 88, the State of Ohio asserts that the Ohio Revised Code statutes Plaintiffs cite speak for themselves and to the extent that the averments in Paragraphs 85-88 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

44. The State of Ohio denies the allegations set forth in Paragraphs 89-91 of the Complaint.

45. By way of answer to Paragraph 92 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-91 of the Complaint.

46. The State of Ohio admits the allegations set forth in Paragraphs 93 to 95 of the Complaint.

47. As to Paragraphs 96-98, the State of Ohio denies that absentee voters are not required to provide a form of identification, as a driver's license number or the last four digits of a social security number are a form of identification. The State of Ohio admits that all voters must provide the forms of identification now required by Ohio law, which includes, but is not limited to R.C. 3505.18. The State of Ohio denies all other allegations set forth in these Paragraphs.

48. By way of answer to Paragraph 99 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-98 of the Complaint.

49. As to Paragraphs 100-109, the State of Ohio states that the Ohio Revised Code statutes Plaintiffs cite speak for themselves and to the extent that the averments in Paragraphs 100-109 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

50. The State of Ohio denies the allegations set forth in Paragraphs 110-114.

51. As to Paragraphs 115-117 of the Complaint, the State of Ohio denies the allegations for lack of knowledge sufficient to form a belief as to their truth or falsity.

52. By way of answer to Paragraph 118 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-117 of the Complaint.

53. As to Paragraphs 119-122, the State of Ohio states that the Ohio Revised Code statutes Plaintiffs cite speak for themselves and to the extent that the averments in Paragraphs 119-122 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

54. The State of Ohio denies the allegations set forth in Paragraph 123 for lack of knowledge sufficient to form a belief as to its truth or falsity.

55. The State of Ohio denies the allegations contained in Paragraphs 124-125 of the Complaint.

56. By way of answer to Paragraph 126 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-125 of the Complaint.

57. In response to Paragraphs 127-128, the contents of House Bill 3 and the statutes cited speak for themselves. To the extent that the allegations in these complaints merely restate the contents of House Bill 3, they are admitted. Otherwise they are denied.

58. The State of Ohio denies the allegations contained in Paragraphs 129-130 of the Complaint.

59. By way of answer to Paragraph 131 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-130 of the Complaint.

60. As to Paragraphs 132-133, the cited Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 132-133 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

61. The State of Ohio denies the allegations contained in Paragraph 134 of the Complaint.

62. As to Paragraphs 135-136, the Ohio Revised Code provisions cited speak for themselves and to the extent that the averments in Paragraphs 135-136 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

63. The State of Ohio denies the allegations contained in Paragraphs 137-138 for lack of knowledge sufficient to form a belief as to their truth or falsity.

64. By way of answer to Paragraph 139 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-138 of the Complaint.

65. As to Paragraphs 140-145, the Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 140-145 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

66. The State of Ohio denies the allegations contained in Paragraph 146-147 for lack of knowledge sufficient to form a belief as to their truth or falsity.

67. By way of answer to Paragraph 148 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-147 of the Complaint.

68. As to Paragraphs 149-154, the Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 149-154 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

69. The State of Ohio denies the allegations contained in Paragraph 155-156 of the Complaint for lack of knowledge sufficient to form a belief as to their truth or falsity.

70. By way of answer to Paragraph 157 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-156 of the Complaint.

71. As to Paragraphs 158-163, the Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 158-163 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

72. The State of Ohio denies the allegations contained in Paragraph 164 of the Complaint for lack of knowledge sufficient to form a belief as to their truth or falsity.

73. As to Paragraphs 165-166, the Ohio Revised Code statutes Plaintiffs cite speak for themselves and to the extent that the averments in Paragraphs 165-166 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

74. By way of answer to Paragraph 167 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-166 of the Complaint.

75. As to Paragraphs 168-170, the Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 168-170 comport with the language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

76. The State of Ohio denies the allegations contained in Paragraph 171 of the Complaint for lack of knowledge sufficient to form a belief as to their truth or falsity.

77. As to Paragraphs 172-173, the Ohio Revised Code provisions speak for themselves and to the extent that the averments in Paragraphs 172-173 comport with the

language of the statutes, they are admitted. To the extent that they do not comport with the language of the statutes, they are denied. All other allegations are denied.

78. By way of answer to Paragraph 174 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-173 of the Complaint.

79. The State of Ohio denies the allegations contained in Paragraphs 175-178 of the Complaint.

80. By way of answer to Paragraph 179 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-178 of the Complaint.

81. The State of Ohio denies the allegations set forth in Paragraphs 180-181 of the Complaint.

82. By way of answer to Paragraph 182 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-181 of the Complaint.

83. The State of Ohio denies the allegations set forth in Paragraph 183 of the Complaint.

84. By way of answer to Paragraph 184 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-183 of the Complaint.

85. The State of Ohio denies the allegations in Paragraphs 185-186 of the Complaint.

86. By way of answer to Paragraph 187 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-186 of the Complaint.

87. The State of Ohio denies the allegations set forth in Paragraphs 188-190 of the Complaint.

88. By way of answer to Paragraph 191 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-190 of the Complaint.

89. As to Paragraph 192, House Bill 3 speaks for itself and to the extent that the averments comport with the language of the bill, they are admitted. To the extent that they do not comport with the language of the bill, they are denied. All other allegations are denied.

90. The State of Ohio denies the allegations set forth in Paragraphs 193-195 of the Complaint.

91. By way of answer to Paragraph 196 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-195 of the Complaint.

92. As to Paragraph 197, House Bill 3 speaks for itself and to the extent that the averments comport with the language of the bill, they are admitted. To the extent that they do not comport with the language of the bill, they are denied. All other allegations are denied.

93. The State of Ohio denies the allegations set forth in Paragraphs 198-200 of the Complaint.

94. By way of answer to Paragraph 201 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-200 of the Complaint.

95. The State of Ohio denies the allegations set forth in Paragraphs 202-205 of the Complaint.

96. By way of answer to Paragraph 206 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-205 of the Complaint.

97. As to Paragraphs 207-208, House Bill 3 speaks for itself and to the extent that the averments comport with the language of the bill, they are admitted. To the extent that they do not comport with the language of the bill, they are denied. All other allegations are denied.

98. The State of Ohio denies the allegations contained in Paragraph 209 of the Complaint.

99. By way of answer to Paragraph 210 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-209 of the Complaint.

100. The State of Ohio denies the allegations contained in Paragraph 211-212 of the Complaint.

101. By way of answer to Paragraph 213 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-212 of the Complaint.

102. The State of Ohio denies the allegations set forth in Paragraphs 214-216 of the Complaint.

103. By way of answer to Paragraph 217 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-216 of the Complaint.

104. The State of Ohio admits the allegations contained in Paragraph 218.

105. The State of Ohio denies the allegations contained in Paragraph 219.

106. By way of answer to Paragraph 220 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-219 of the Complaint.

107. The State of Ohio denies the allegations contained in Paragraphs 221-224.

108. By way of answer to Paragraph 225 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-224 of the Complaint.

109. The State of Ohio denies the allegations contained in Paragraphs 226-229 of the Complaint.

110. By way of answer to Paragraph 230 of the Complaint, the State of Ohio re-alleges and incorporates herein its previous answers to Paragraphs 1-229 of the Complaint.

111. The State of Ohio admits the allegations contained in Paragraphs 231-232.

112. The State of Ohio denies the allegations contained in Paragraphs 233-235.

Second Defense

113. Plaintiffs' claims are barred laches.

Third Defense

114. Plaintiffs have failed to join indispensable parties to this litigation.

Fourth Defense

115. Plaintiffs have failed to present a claim for which relief can be granted.

Fifth Defense

116. Plaintiffs' claims are barred by the Eleventh Amendment.

Sixth Defense

117. Plaintiffs lack standing.

Seventh Defense

118. Plaintiffs' claims are barred by the doctrine of abstention.

Eighth Defense

119. Plaintiffs' claims are moot.

Ninth Defense

120. Defendant State of Ohio reserves the right to bring additional defenses, including affirmative defenses, as the case proceeds.

WHEREFORE, having full answered the Complaint, Defendant State of Ohio respectfully requests that judgment be entered in its favor on all claims.

Respectfully submitted,

NANCY H. ROGERS
OHIO ATTORNEY GENERAL

/s/ Sharon A. Jennings

SHARON A. JENNINGS (0055501)

Principal Assistant Attorney General

Constitutional Offices Section

30 East Broad Street, 16th Floor

Columbus, Ohio 43215-3428

(614) 466-2872

(614) 728-7592 (fax)

Counsel for Intervenor

State of Ohio

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of October, 2008, the foregoing Answer was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Sharon A. Jennings

Sharon A. Jennings