

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

OHIO ORGANIZING COLLABORATIVE;
JORDAN ISERN; CAROL BIEHLE; and
BRUCE BUTCHER

Plaintiffs,

v.

JON HUSTED, in his official capacity as
Secretary of State of the State of Ohio; and
MIKE DEWINE, in his official capacity as
Attorney General of the State of Ohio,

Defendants.

Case No. 2:15 CV 1802

JUDGE WATSON

MAGISTRATE JUDGE KING

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO SUBSTITUTE PARTIES AND
AMEND THE COMPLAINT**

INTRODUCTION

Plaintiffs The Ohio Organizing Collaborative, Jordan Isern, Carol Biehle, and Bruce Butcher ("Plaintiffs") submit the following reply in support of their Motion to Substitute Parties and Amend the Complaint. Plaintiffs seek to drop their claims overlapping with those in the supplemental complaint in *The Northeast Ohio Coalition for the Homeless, et al., v. Husted, et al.*, No. 2:06-CV-00896 (S.D. Ohio) ("NEOCH Suit"), to avoid wasting the resources of this Court as well as the parties that would result from the litigation of these claims in two different courts. Judge Marbley ruled that he would hear and decide the NEOCH plaintiffs' supplemental claims - which are identical to the claims Plaintiffs seek to drop here -- because he found that the "focal points" of those claims and the original NEOCH suit are the same. *See* Order at 16, No. 2:06-CV-00896 (Aug. 7, 2015) (Dkt. 452) ("Judge Marbley Order"). With that decision, there is simply no need to pursue the same claims in this litigation.

In opposing this motion, Defendants attempt to portray Plaintiffs' request to streamline and

simplify the claims in this litigation as an effort at forum shopping that would prejudice the State and its voters. At its most basic level, this contention is incorrect because Plaintiffs, not Defendants, are the masters of their complaint. Furthermore, Defendants' argument is a mischaracterization of the reasons and circumstances that have led to Plaintiffs' request to drop the overlapping claims. The instant Plaintiffs have no control over the plaintiffs in the NEOCH Suit, and of the new parties Plaintiffs seek to add, only the Ohio Democratic Party ("ODP") has a role in that litigation. The Northeast Ohio Coalition for the Homeless ("NEOCH") and the Columbus Coalition for the Homeless have no relationship to this suit, are represented by different counsel, and have every right to litigate the claims they sought leave to file in October 2014. Nor is the State's claim credible that it would be prejudiced by the *reduction* in the number of claims it must respond to in this suit and the *elimination* of the need to defend against the same claims in two courts. Finally, there is no basis for Defendants' purported concern that the voters' interests in the litigation of the overlapping claims will not be vigorously pursued and adequately protected by the NEOCH plaintiffs and Judge Marbley.

ARGUMENT

I. The Interests of Judicial Economy Would Best Be Served By Permitting Plaintiffs to Drop the Overlapping Claims.

As set forth in Plaintiffs' Motion to Amend, Plaintiffs' have asserted three categories of claims that are virtually identical to those currently pending in the NEOCH Suit: 1) S.B. 205's and S.B. 216's new informational requirements for casting and having counted absentee and provisional ballots; 2) the state's failure to provide adequate opportunities to cure mistakes on the provisional ballot affirmation form; and 3) the arbitrary system resulting from S.B. 216's grant to each county of the discretion whether to consolidate poll books at multi-precinct voting locations. Those claims have been before Judge Marbley since October 30, 2014, when the plaintiffs in the

NEOCH Suit moved to supplement their complaint.

On August 7, 2015, Judge Marbley granted their motion to supplement the complaint, and the NEOCH plaintiffs filed their Supplemental Complaint on August 10. As he explained, the claims in the supplemental complaint related to those in the original complaint, which was filed in 2006 and challenged Ohio's then-new voter identification laws for voters casting same-day, absentee, and provisional ballots. Judge Marbley Order at 16 ("In essence, the 'focal points' of both complaints are the same: ensuring all ballots, but particularly provisional and absentee ballots, which are more likely to be utilized by indigent voters, are not unfairly excluded and left uncounted due to illegal voter identification rules."). Furthermore, he permitted the NEOCH plaintiffs to supplement their complaint because the challenged laws had a direct impact on the consent decree he initially entered in that case in 2006 and over which he retains jurisdiction until at least December 2016. *Id.* at 17 (the "broad purposes . . . present in the Consent Decree . . . directly relate to the supplemental claims"). Because of the relatedness of the claims, and his extensive experience with the laws and issues regarding absentee and provisional ballots, Judge Marbley granted the motion. *Id.* at 26 (ruling that "the argument that adding any new claim . . . warrants assignment of a new judge, would . . . undermine the well-established process of weighing a number of competing factors, such as judicial economy").

This Court and Judge Marbley have already found that the overlapping claims relate to the suit that has been before Judge Marbley for almost 10 years. *See* Related Case Memorandum, (Dkt. No. 16 June 1, 2015). Being aware of this fact, Judge Marbley decided to hear the overlapping claims, claims that the NEOCH plaintiffs brought approximately 10 months ago and seven months before Plaintiffs filed the instant suit. Despite this fact, Defendants argue that the interests of judicial economy would be better served by forcing Plaintiffs to litigate the overlapping

claims here. In so doing, Defendants mischaracterize the extent to which the background laws and facts that pertain to the overlapping claims have already been developed in the NEOCH Suit. Similarly, Defendants omit the fact that the request to add those claims to the NEOCH Suit had been pending for almost a year. For the reasons below, the interests of judicial economy, as well as the rights of the plaintiffs in the NEOCH Suit, would best be served by allowing Plaintiffs to drop their overlapping claims.

Indeed, the main case on which Defendants rely on this point demonstrates that the best course of action would be to allow the overlapping claims to proceed in the NEOCH Suit and to drop those claims from this litigation. In *Ohio Valley Environmental Coalition v. U.S. Army Corps of Engineers*, the court allowed the plaintiffs to supplement their complaint because “[g]ranting leave is in the interest of judicial economy and a speedy resolution of this matter, as the Court has already spent months poring over the applicable environmental laws and regulations whereas a different Court would have to start anew.” 243 F.R.D. 253, 256 (S.D. W. Va. 2007). Like the court in *Ohio Valley*, Judge Marbley has spent not only months, but years overseeing the procedures relating to absentee and provisional ballots in Ohio, and he retains jurisdiction over the consent decree in the NEOCH Suit until December 2016.

Similarly, Judge Marbley also has deep familiarity with other aspects of the overlapping claims Plaintiffs seek to drop resulting from the challenge to the laws governing “right church, wrong pew” ballots at multi-precinct voting locations in *Service Employees’ International Union, Local 1, et. al. v. Husted, et. al.*, Case No. 2:12-cv-562 (“SEIU Suit”). See, e.g., Order Modifying Consent Decree at 2, *SEIU Suit*, (S.D. Ohio) (Dkt. 92 Oct. 26, 2012) (“In light of the August 27, 2012 and October 26, 2012 injunctions issued by this Court, all otherwise valid provisional ballots in Ohio will be counted, irrespective whether they are cast in the ‘right location, wrong precinct’

or ‘wrong location, wrong precinct’”). The provision of S.B. 216 permitting counties to consolidate poll books at multi-precinct voting locations was a direct response to Judge Marbley’s rulings in the SEIU Suit. As a consequence, Judge Marbley is deeply familiar with the circumstances surrounding that claim and it would therefore be wasteful to force Plaintiffs to reconstruct the arguments and facts here with which he is already familiar.

Defendants also urge this Court to force Plaintiffs to try the overlapping claims here to ensure the speedy resolution of this suit, an argument that assumes without expressly saying so that Judge Marbley will not promptly decide these claims in a manner that protects the rights and interests of everyone involved. This argument is particularly surprising given that Defendants asked for an April 2016 trial date in their Rule 26(f) report, but now are suggesting that Judge Marbley will not be able to reach a decision in time for the March 2016 primaries. However, Judge Marbley has decided that it is proper for him to try these claims because of their substantial similarity with those that have been before him for almost 10 years and their impact on the consent decree that he will continue to monitor and enforce through the 2016 elections. Defendants’ argument on this point is, at bottom, a collateral attack on Judge Marbley’s decision to allow the NEOCH plaintiffs to supplement their complaint, not Plaintiffs’ Motion to Amend. Defendants’ attempt to undermine Judge Marbley’s Order should be rejected.

II. Dropping the Overlapping Claims Would Not Prejudice Defendants.

Rule 15 provides that “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). Before denying a motion to amend, a court must find “at least some significant showing of prejudice to the opponent.” *Moore v. City of Paducah*, 790 F. 2d 557, 562 (6th Cir. 1986). The requisite showing of prejudice is absent here, and, under the liberal standard for permitting amendments of the Complaint, Plaintiffs should be allowed to drop their

overlapping claims.

Defendants contend that permitting Plaintiffs to drop the claims overlapping with the NEOCH Suit would prejudice: 1) their decision making regarding experts; 2) their document production efforts; 3) third-party discovery efforts; and 4) their theory of defending the case. Defs.' Opp. at 7-10. Each of these unsupported claims is based on the faulty premise that Defendants, not Plaintiffs, are entitled to shape the theories and claims of this suit, as well as Defendants' unfounded assumption that the claims in the NEOCH Suit will not proceed if the Court denies Plaintiffs' motion. However, Plaintiffs are "the master[s] of the complaint," not Defendants, and Judge Marbley has decided to hear the overlapping claims notwithstanding this suit. As a consequence, Defendants' arguments must fail. *Gentek Bldg. Products, Inc. v. Sherwin-Williams Co.*, 491 F.3d 320, 325 (6th Cir. 2007).

Defendants have adopted a puzzling position—that reducing the claims and issues here and eliminating the need for them to defend against the same claims in two different suits is somehow prejudicial to their interests. Indeed, Defendants cite no case supporting their contention that Plaintiffs' request to drop their claims would prejudice the State's litigation of this case. To the contrary, all of the cases cited by Defendants involved motions to add new claims or defenses, not drop them. *See* Defs.' Opp. at 7-10; *Ziegler v. Aukerman*, 512 F.3d 777, 786 (6th Cir. 2008) (affirming denial of motion to amend to add new claim even though district court likely erred in denying motion because new claim "would nonetheless fail"); *Phelps v. McClellan*, 30 F.3d 658, 662 (6th Cir. 1994) (holding that district court did not abuse "its discretion in allowing the defendant to amend his answer to add the statute of limitations defense"); *Davis v. Therm-O-Disc, Inc.*, 791 F. Supp. 693, 695 (N.D. Ohio 1992) (denying motion to amend to add new claim after summary judgment and on the eve of trial). In fact, one case cited by Defendants not only did not

involve an attempt to drop claims, but instead held that a plaintiff could add a new claim after the defendants had moved for summary judgment. *Gregg v. Ohio Dep't of Youth Servs.*, 661 F. Supp. 2d 842, 850 (S.D. Ohio 2009) (ruling that “amending the complaint to assert a different theory of liability . . . will not require the defendants to expend significant additional resources and will not result in any serious disruption of this case”).

The lack of case law supporting Defendants’ position is not surprising. Defendants’ argument is that they will be inconvenienced by reducing the number of claims in this suit and avoiding the duplicative effort of litigating the same issues simultaneously in two separate proceedings. This cannot be true.

First, Defendants complain that their experts have already spent time working on the claims Plaintiffs propose to drop. In support of this, they offer no detailed explanation or supporting declarations, but instead assert that “Defendant’s prerogative is to decide for themselves how to allocate and use their resources. Plaintiffs’ motion would usurp this authority and effectively take basic strategic decision-making away from Defendants[.]” Defs.’ Opp. at 8. But, it is Plaintiffs’ right to try their case the way they see fit, not Defendants’ right to determine the case against which they want to defend.

Similarly, Defendants contend that “it is not yet known whether [one defense expert] would be able to set aside additional teaching obligations to participate in a second trial during this school year.” *Id.* But, this contention rests on the unspoken premise that Defendants will not have to defend against the claims in the NEOCH Suit if this Court were to deny Plaintiffs’ motion to amend. That premise is contradicted by the fact that, as it currently stands, Defendants will have to defend against these claims in two lawsuits, not one. As a consequence, the resources the State must allocate to defending against these claims would be doubled, not reduced, by forcing

Plaintiffs here to litigate the same claims as those in the NEOCH Suit.

Second, Defendants contend that they will be prejudiced in their document-production efforts because “[i]f some of the claims disappear from this case, Defendants will be working from an overly broad set of documents and the time required to review documents will increase.” Defs.’ Opp. at 9. Again, the implicit premise here is that Defendants will not have to produce discovery in the NEOCH Suit if this Court denies Plaintiffs’ Motion to Amend here. But, this is not the case. Regardless of whether the overlapping claims proceed here, the State still faces discovery obligations in that suit. Furthermore, those documents are still *relevant* and appropriate discovery here because evidence about the overlapping provisions remains relevant to the question of intent with which the other provisions were passed and the burdens they will impose. In any event, Defendants’ claim that they will be significantly burdened appears to be overstated given that, by complex civil discovery standards, the volume of documents that has been produced is quite light and, since they were produced electronically, they do not need to be recopied or scanned.

Third, Defendants contend that the discovery Plaintiffs have sought from 19 county Boards of Election will become “irrelevant” if Plaintiffs are allowed to drop their claims. Defs.’ Opp. at 9-10. However, like the discovery obtained from the State, these materials are still relevant to the questions of intent and burden. Furthermore, this discovery will be relevant to the claims in the NEOCH Suit, and the vague “admissibility” issues cited by Defendants can be cured by an agreement among the parties and the county Boards of Election that those documents may be used in the NEOCH Suit. In any event, Defendants’ theory on this point is that the nature of this litigation must be determined by what would make the discovery most relevant, which would turn on its head the fact that Plaintiffs, not Defendants, control the theories which they asserting.

Finally, Defendants contend that they will be prejudiced by Plaintiffs' alleged change in "Case Theory." Defs.' Opp. at 10. This contention flies in the face of the fact that it is Plaintiffs' right to develop their case, not Defendants' right to determine the nature of Plaintiffs' claims. Moreover, this case has only been pending for three months, and the notion that Plaintiffs are not entitled to change their claims at this stage is without foundation or support. Indeed, Defendants cite nothing in support of the notion that a defendant has the right to control the nature of the claims alleged by a plaintiff, particularly when, as here, the plaintiff is attempting to reduce the number of issues to be tried, not increase them.

In any event, Plaintiffs are not changing their theory of the case. They still maintain that the challenged laws, both alone and in combination, create disproportionate burdens on certain categories of voters in violation of Section 2 of the Voting Rights Act and the U.S. Constitution. They are simply requesting that the claims related to the increased identification requirements for casting absentee and provisional ballots, the failure to provide an opportunity to cure deficiencies with respect to provisional ballots, and the discretion awarded to each county to consolidate poll books at multi-precinct polling locations be dropped so that they do not have to be tried twice, here and in the NEOCH Suit.

III. Plaintiffs' Motion to Amend Is An Attempt Conserve Judicial Resources and Simplify the Issues to be Tried.

Defendants unjustly characterize Plaintiffs' attempt to drop the overlapping claims as an attempt at forum shopping. This is simply not true. When Plaintiffs filed the instant suit, it was unclear whether Judge Marbley would grant the motion to supplement the complaint in the NEOCH Suit, which at that point had been pending for approximately seven months. Defendants repeatedly state that the supplemental complaint in the NEOCH Suit was filed after the complaint here, but that is misleading, ignoring the both fact that the NEOCH plaintiffs

sought leave to assert those claims in October of last year and that the NEOCH Suit has been pending since 2006. As a result, forcing Plaintiffs here to litigate the overlapping claims would prejudice the NEOCH plaintiffs' right to pursue their claims despite the fact that they challenged these laws before Plaintiffs. Moreover, Defendants accuse Plaintiffs of attempting to avoid the November 16th trial date this Court has set, but this argument obscures the actual basis for Plaintiffs' request to drop these claims—the intervening circumstance of Judge Marbley's decision to allow the overlapping claims to proceed in the NEOCH Suit.¹

Defendants attempt to downplay the unfairness that would be imposed on the NEOCH plaintiffs by suggesting that Plaintiffs here should consolidate the NEOCH Suit with this litigation. Defs.' Opp at 2 (“[T]he plaintiffs in *NEOCH* (which included one of the proposed new parties, the Ohio Democratic Party, represented by the McTigue law firm) [sh]ould drop the claim in *that* incipient case in favor of the more advanced posture *here*.”). However, NEOCH and the Columbus Coalition for the Homeless are not parties to this litigation and they are represented by different counsel. Plaintiffs here have no control over how those parties want to litigate their case, and Plaintiffs' request to drop their overlapping claims simply reflects the fact that the opposite approach would require the same claims to be tried twice or to shift the case away from a judge who has had it for almost a decade and thereby prejudice the rights of the NEOCH plaintiffs.

IV. Defendants' Request for A 14-Day Discovery Period for the New Plaintiffs Is Unreasonable.

Finally, Plaintiffs oppose Defendants' effort to impose an unworkable and unreasonably short 14-day discovery period on the new Plaintiffs that are substituting for OOC. The State, not

¹ Plaintiffs continue to believe, as they have requested, that the trial date should be moved by one or two months to permit the parties adequate time to prepare, but Plaintiffs respect that the Court has ruled on their motion to continue the trial date, and do not seek to use the instant motion as grounds to change the Court's ruling on the trial date.

the Plaintiffs, have the key evidence that will support or contradict Plaintiffs' claims. Indeed, Defendants do not identify what types of evidence they will need from the new Plaintiffs to assist in the preparation of their expert reports. Furthermore, it will be all but impossible for the new parties to respond within 14-days if Defendants' discovery requests are as burdensome and overbroad as their requests to OOC were. *See Exhibit A* (Defendants' discovery requests on OOC).

Imposing a 14-day discovery deadline on the new Plaintiffs would impose an extreme hardship and unjustly depart from the standard 30-day period imposed under the Federal Rules.² Furthermore, to ameliorate any conceivable prejudice Defendants might face, Plaintiffs agree to allow Defendants to take depositions of the new Plaintiffs after the close of discovery if the need arises.

CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court grant their Motion to Substitute the Parties and Amend the Complaint in its entirety.

² As directed by Magistrate Judge King at the August 17, 2015 status conference, Plaintiffs' counsel have shared the discovery requests Defendants served on OOC with the new Plaintiffs and instructed them to begin the process of identifying and locating the types of documents Defendants will likely seek from the new Plaintiffs. Thus, the new Plaintiffs have already started preparing for discovery and will do everything they can to respond to Defendants' discovery requests as soon as possible.

Dated: August 24, 2015

Respectfully submitted,

/s/ Donald J. McTigue

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CERTIFICATE OF SERVICE

I hereby certify that on this date I served a copy of the foregoing by transmitting a copy to all counsel with an e- mail address of record, who have appeared and consent to electronic service in this action and any consolidated actions.

This the 24th day of August, 2015.

By: /s/ Donald J. McTigue

Ex. A

to

Plaintiffs' Reply in Support of Motion to Substitute Parties and Amend the Complaint

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

**THE OHIO ORGANIZING
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JON HUSTED, *et al.*,

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**DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO PLAINTIFFS**

In accordance with Rule 34 of the Federal Rules of Civil Procedure, Defendants (collectively, "Ohio") request copies of the documents described herein which are in the possession, custody, or control of Plaintiffs. Within thirty (30) days of service of this request, please produce the documents at the Office of Attorney General, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215. In the alternative, copies of the documents may be delivered to this address or to counsel through electronic means.

INSTRUCTIONS AND DEFINITIONS

1. These Requests are directed to each and every one of the Plaintiffs. All responsive documents in the possession, custody, or control of any Plaintiff must be produced.

2. “You,” “Your,” “Plaintiff,” and “Plaintiffs” refer to the Plaintiffs in this proceeding, as well as all agents, employees, officers, directors, subsidiaries, parent companies, attorneys, experts, and consultants for the foregoing, and any other person or entity acting for or on behalf of any Plaintiff.

3. The documents produced in response to these Requests must be designated so that it is apparent which Plaintiff is producing each document. All documents responsive to these Requests must be produced even if the same document is in the possession, custody, or control of more than one Plaintiff. In other words, each Plaintiff having a responsive document is required to produce every responsive document, regardless whether other Plaintiffs are also producing the same document.

4. The documents produced in response to these Requests must be produced as they are kept in the ordinary course of business. All metadata, hidden data, and attachments to documents must be produced along with responsive documents.

5. If production of any document called for by these Requests is refused because of a claim of privilege or on any other basis, state the privilege claimed and the basis for the assertion of privilege. If privilege is claimed as to a document, identify the document with sufficient particularity that it may be the subject of a motion to compel.

6. These Requests for Production of Documents are continuing in nature and require Plaintiffs to reasonably notify Ohio and to supplement responses hereto in the event that any additional responsive information is discovered during the pendency of these proceedings.

Supplementation of responses is to be undertaken in accordance with Fed.R.Civ.P. 26(e). Plaintiffs have a duty to supplement responses to discovery requests if Plaintiffs later learn that in some material respect the disclosure or response previously provided was incorrect or incomplete.

7. If Plaintiffs cannot respond to any of the following Requests in full, respond to the extent possible, specifying the reasons why any Plaintiff is unable to respond in full, and provide whatever information Plaintiff has concerning the Request, including the source or sources from which things, documents, or portions of the documents or other information may be obtained.

8. If any document or thing which is responsive to a Request is no longer complete or has been altered, set forth a description of and the reasons for the incompleteness or alteration. If any such document or thing is no longer in existence or no longer in Plaintiffs' possession, custody, or control, state the disposition which was made of the document or thing, the reasons for such disposition, the date of disposition, the identity of the person(s) ordering, authorizing and supervising such disposition, the substance or contents of the document or the nature of the thing disposed of, and the identity of all persons having knowledge of such document or thing.

9. More than one of these Requests may call for the same document. The presence of such duplication is not to be interpreted, in any manner, to narrow or limit each individual Request.

10. As used herein, "and" or "or" shall be construed to mean "and/or" when the effect of such construction is to broaden the request.

11. "Document" has the full scope and meaning in the federal rules and any applicable local rules and also means the original, each non-identical copy (whether different from the original by means of notes made on such copy or otherwise) and (if the original is not in

existence or subject to your control) each copy, regardless of origin or location, of any handwritten, typewritten, printed, recorded, transcribed, punched, taped, tape recorded, photocopied, photostatic, telex, filmed, microfilmed or otherwise prepared matter, however produced or reproduced, which is in Your possession, custody or control, including, but not limited to, all papers, letters, correspondence, electronic mail, catalogs, advertisements, telegrams, telexes, cables, memoranda, or minutes of meetings of conversations (personal or telephonic), desk pads, calendars, diaries, telephone pads, travel and expense records, reports, summaries, surveys, analyses, ledgers, journals and other formal or informal books of record or account, bulletins, instructions, agreements, legal documents, billing records, telephone toll records, drafts, notebooks, worksheets, attorneys' and accountants' invoices, audits and audit records, purchase orders, accounting worksheets, time records, canceled checks, vouchers, check stubs and writing of every description, including drawings, graphs, charges, photographs, films, recordings, transcriptions of recordings, computer tapes and printouts, and other data or compilations from which information can be obtained and translated, if necessary, by Plaintiffs through detection devices into a reasonably usable form.

12. "Communication" means any meeting, conference, conversation, memorandum, email, note, telephone call, facsimile, text, contact, act or instance of transmitting or receiving information or intelligence by any means, directly or through another person, and shall include without limitation all forms of communication by the oral or written word and the preparation, furnishing, receipt, examination or copying of documents or permitting others to do so.

13. "Complaint" refers to the Complaint filed by Plaintiffs in this lawsuit.

14. “Person” means and includes, without limiting the generality of its meaning, any natural person, corporate or business entity, firm partnership, association, group, governmental body, agency, or subdivision, committee, commission, or other organization or entity.

15. The terms “concern,” “relate to,” “show,” “regarding,” and “relating to” include referring to, alluding to, responding to, relating to, connected with, commenting on, in respect of, about, regarding, discussing, summarizing, showing, describing, reflecting, analyzing, constituting, or in any which way relevant to the specified subject within the meaning of Fed.R.Civ.P. 26.

16. As used here, the singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The male gender form of a pronoun shall also include the female gender form of the pronoun, and vice versa. The use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb also used. “Each,” “any,” and “all” are both singular and plural.

17. “Challenged Laws” means any, some, or all of the laws, statutes, directives, or provisions identified in Paragraph 17 of the Complaint or otherwise that Plaintiffs are challenging in this litigation.

18. “OOC” or “Plaintiff OOC” shall refer to Plaintiff Ohio Organizing Collaborative, as well as all agents, employees, officers, directors, member organizations or entities, subsidiaries, predecessors, parent companies or entities, attorneys, experts, and consultants for the foregoing, and any other person or entity acting for or on behalf of any of the foregoing.

19. “Plaintiff Isern” shall refer to Plaintiff Jordan Isern, as well as all agents, attorneys, experts, and consultants for the foregoing, and any other person or entity acting for or on behalf of any of the foregoing.

20. “Plaintiff Biehle” shall refer to Plaintiff Carol Biehle, as well as all agents, attorneys, experts, and consultants for the foregoing, and any other person or entity acting for or on behalf of any of the foregoing.

21. “Plaintiff Butcher” shall refer to Plaintiff Bruce Butcher, as well as all agents, attorneys, experts, and consultants for the foregoing.

22. “Identify” or “identity” shall have the following meanings:

a. When used in reference to an individual, it means to state the person’s full name; present business address and telephone number, or, if unavailable, last known business address and telephone number; present home address, or, if unavailable, last known home address; the county of residence in which the individual is registered to vote; and the race of the individual.

b. When used in reference to corporate entities, it means to state the corporate name, and date and place of incorporation, and all of its present business addresses.

c. When used in reference to communications, it means to describe the statements and communications by stating the date and place where they were made; identifying each of the makers and recipients thereof in addition to all the persons present; and indicating the medium of communication. Please note that when identifying the date of an oral statement of communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.

d. When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegram, chart), its author and originator, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production, and any identifying marks, numerals, code words or letters distinguishing it from other like

documents. If any such document was, but is no longer is in Your possession or subject to Your custody or control, state what disposition was made of it—for example, destruction or transfer to a different named individual or entity. Documents to be identified shall include all those documents in Your possession, custody, or control and all of the documents of which you have knowledge.

23. Unless specified otherwise, the timeframe for all Requests is January 1, 2007 through the present.

24. All of the definitions and instructions set forth in the Interrogatories served on Plaintiffs are incorporated herein as if set forth in full.

REQUEST FOR PRODUCTION OF DOCUMENTS

DIRECTED TO ALL PLAINTIFFS

Pursuant to and consistent with the foregoing instructions and definitions, produce the following documents:

1. All documents identified by any Plaintiff in Plaintiffs' answers and responses to Ohio's Interrogatories.
2. All documents identified by any Plaintiff in Plaintiffs' answers and responses to Ohio's Requests for Admission.
3. All documents Plaintiffs relied on, cited to, obtained statistics from, quoted, or consulted in answering Ohio's Interrogatories.
4. All documents Plaintiffs relied on, cited to, obtained statistics from, quoted, or consulted in answering Ohio's Requests for Admission.
5. All documents Plaintiffs relied on, cited to, obtained statistics from, quoted, or consulted to support, develop, formulate, or draft the allegations and factual statements made in the Complaint.
6. All documents that support, contradict, or relate to any of the allegations and statements in the Complaint.

7. All studies, periodicals, articles, reports, papers, newspaper articles and any other document referred to, cited to, or quoted in the Complaint, excluding publicly available court opinions, statutes, and bills.
8. All documents reflecting or related to the money and resources expended by OOC regarding the Challenged Laws.
9. All documents related to or showing how the Challenged Laws purportedly affect “OOC’s efforts to register voters and to get them to the polls,” OOC’s “GOTV drives,” OOC’s “efforts to persuade poor and minority voters to vote early,” and the resources OOC has spent or spends “educating voters about these types of voting.”
10. Documents related to, referring to, or reflecting the number of individuals in each Ohio county (if OOC has individual members) who are members of the OOC.
11. All OOC corporate filings and organizational documents, including but not limited to all articles of incorporation, registration documents, and meeting minutes.
12. Documents sufficient to identify the officers, directors, employees, and agents of OOC.

13. All documents related to, referring to, or reflecting OOC's accounting books, financial statements, annual statements, budgets, earnings, expenses, line items, income, donations, debt, loans, forecasts, and projections.
14. Documents sufficient to identify the entities which are members of the OOC.
15. All documents related to or reflecting the process and procedure whereby an entity becomes a member of the OOC.
16. All documents reflecting, referring to, or related to the OOC's purposes, strategic direction, plans, strategic plans, goals, programs, and planned events.
17. All documents related to, referring to, or regarding all political-related work of the OOC.
18. For each of Plaintiffs, all documents related to, referring to, regarding, or reflecting communications, emails, texts, correspondence, telephone calls, meetings, conferences, or exchanges to, from, or with any of the individuals and entities listed below that discuss, concern, or are related in any way to Ohio's election laws, the allegations in this lawsuit, purported disenfranchisement, purported discrimination, Ohio's early voting schedule and opportunities, "Golden Week", Ohio's absentee ballot laws and directives, Ohio's provisional ballot laws and directives, consolidation of poll books at voting precincts, the number of early voting centers in Ohio, this

lawsuit, the possibility of suing Ohio or its officials, or election processes and procedures in Ohio:

Any of the other Plaintiffs in this litigation, the Democratic National Committee; the Ohio State Conference of the National Association for the Advancement of Colored People; the National Association for the Advancement of Colored People; the League of Women Voters of Ohio; Bethel African Methodist Episcopal Church; Omega Baptist Church; College Hill Community Church Presbyterian, U.S.A.; A. Philip Randolph Institute; Darryl Fairchild, the American Civil Liberties Union, Hillary Rodham Clinton, George Soros, The Clinton Foundation, The Open Society Foundations, or any individual or entity acting for or on behalf of any of the foregoing.

19. All correspondence, emails, and documents drafted, sent, or received by any Plaintiff that is related to (a) Ohio's voting laws or directives, (b) campaign or GOTV strategy in Ohio, or (c) purported suppression or disenfranchisement in the election context.
20. All documents related to, referring to, or concerning the lawsuit captioned *Ohio State N.A.A.C.P., et al. v. Husted, et. al.*, case No. 2:14-CV-404 (S.D. Ohio 2014).
21. All documents related to, referring to, or concerning the role of member organizations within the OOC.

22. All documents related to, referring to, or concerning the OOC member organizations' agreement with, disagreement with, viewpoints about, positions with respect to, or communications related to the Challenged Laws and this litigation.
23. All communications between or among the OOC and any of its member organizations related to the Challenged Laws or this litigation.
24. Documents reflecting the GOTV efforts and voter education efforts of Plaintiffs.
25. With respect to Plaintiff Biehle, all documents reflecting, referring to, or related to communications, steps, inquiries, petitions, or requests (if any) to the Board of Elections of the County where she is registered to vote to request that the poll books be consolidated.
26. All documents reflecting or related to funding, grants, monetary gifts, or donations to the OOC from entities or organizations.
27. All documents related to, referring to, or reflecting the meetings and communications that any Plaintiff had with any person or entity preceding the filing of this lawsuit related to the Challenged Laws.
28. All statements, testimony, declarations, or affidavits from any person or entity related to this lawsuit or to any of the facts, claims, allegations, or defenses in this matter.

29. Documents related to, reflecting, or showing that Plaintiff Isern “moves frequently” as alleged in Paragraph 24 of the Complaint.
30. Document reflecting the “midterm(s)” that Plaintiff Isern had on election day in 2012 including the times of day when those midterm(s) occurred.
31. All documents supporting, contradicting, or related to the allegation in Paragraph 25 of the Complaint that the wait-time to vote “was approximately two hours.”
32. All non-privileged statements made by any of Plaintiffs or their agents or lawyers in the press, in blogs, in Twitter, on Facebook or in any other forum related to this lawsuit or to the issues and fact related to this lawsuit.
33. All documents that support, contradict, or relate to Plaintiffs’ allegations in Paragraphs 2, 16, 88, and elsewhere in the Complaint that the Challenged Laws were “designed,” “intended,” or enacted “with the knowledge” to “burden” or “suppress” “specific populations, in particular African-Americans, Latinos, and young people[.]”
34. All documents that support, contradict, or concern Plaintiffs’ allegations in Paragraphs 3, 85, and elsewhere in the Complaint that “[p]rior to S.B. 238, tens of thousands of Ohioans, including a disproportionate number of African Americans, had registered and/or voted during ‘Golden Week.’”

35. All documents that support, contradict, or concern Plaintiffs' allegation in Paragraph 9 and elsewhere in the Complaint that "The effect of S.B. 200 and Directive 2014-26 will be a reduction in the number of voting machines and a resulting increase in the length of lines at the polls."
36. All documents that support, contradict, or concern Plaintiffs' allegation in Paragraphs 30, 68, 73, and elsewhere in the Complaint that voter turnout has increased since 2004 "particularly among African American, Latino, and younger voters."
37. All documents supporting, contradicting, or concerning Plaintiffs' allegation in Paragraph 75 and elsewhere in the Complaint that "tens of thousands of Ohioans utilize[ed] [Golden Week] to register and vote on the same day, including a disproportionate number of African Americans."
38. All documents supporting, contradicting, or concerning Plaintiffs' allegation in Paragraphs 107, 113, and elsewhere in the Complaint that use of DRE voting equipment "can exacerbate the problems that lead to long lines" because it "can take significantly longer to cast a ballot using DREs than to cast paper ballots that are subsequently scanned."
39. All documents supporting, contradicting, or concerning Plaintiffs' allegation in Paragraph 108 and elsewhere in the Complaint that "Recent reports that Ohio's voting equipment is old suggest that malfunctioning machines could exacerbate these

problems, yet again resulting in long lines and disenfranchised voters in the 2016 presidential elections.”

40. All documents supporting, contradicting, or concerning Plaintiffs’ allegation in Paragraphs 119, 132, and elsewhere in the Complaint that “African Americans utilize absentee voting, particularly early in-person voting, at higher rates than other voters.”
41. All documents reflecting, regarding, or concerning any event, change, circumstance, event, analysis, decision, reason, or occurrence that caused or encouraged Plaintiffs to wait until April 2015 to file a lawsuit regarding the Challenged Laws.
42. All documents showing, concerning, or relating to the voting participation of whites, African Americans, Latinos, and young people in Ohio during so-called “Golden Week.”
43. All documents showing, concerning, or relating to the use of mail-in voting in Ohio by whites, African Americans, Latinos, and young people.
44. All reports, statistics, communications, methodology, and any other documents that support, contradict, or relate to the factual basis for Plaintiffs’ claim that the Challenged Laws burden the right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution, as alleged in the First, Third, and Eighth Claims to Relief of the Complaint.

45. All reports, statistics, communications, methodology, and any other documents that support, contradict, or relate to the factual basis for Plaintiffs' claim that the Challenged Laws deny African-American and Latino voters the right to vote in violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution, as alleged in the Second Claim to Relief of the Complaint.
46. All reports, statistics, communications, methodology, and any other documents that support, contradict, or relate to the factual basis for Plaintiffs' claim that the Challenged Laws will result in the denial or abridgment of the right to vote to individuals on account of race in violation of Section 2 of the Voting Rights Act, as alleged in the Fourth Claim to Relief of the Complaint.
47. All reports, statistics, communications, methodology, and any other documents that support, contradict, or relate to the factual basis for Plaintiffs' claim that the Challenged Laws will result in the deprivation of the right to vote under Section 1971 of the Civil Rights Act of 1964, as alleged in the Fifth Claim to Relief of the Complaint.
48. All reports, statistics, communications, methodology, and any other documents that support, contradict, or relate to the factual basis for Plaintiffs' claim that the Challenged Laws will result in the deprivation of procedural due process under the Fourteenth Amendment, as alleged in the Sixth Claim to Relief of the Complaint.

49. All documents, items, objects, materials, charts, graphs, displays, and exhibits that Plaintiffs expect to, intend to, or may use or offer as exhibits or as evidence at any hearing or trial of this matter.

50. As to any expert:
 - a. a copy of the expert's Curriculum Vitae;
 - b. a copy of any report prepared or created by the expert during the expert's engagement;
 - c. communications between Plaintiffs' attorneys and any expert that (i) relate to compensation for the expert's study or testimony; (ii) identify facts or data that the Plaintiffs' attorney provided and that the expert considered in forming the opinions to be expressed; or (iii) identify assumptions that the Plaintiffs' attorney provided and that the expert relied on in forming the opinions to be expressed.
 - d. a copy of any document or item reviewed by or relied on by the expert during the expert's engagement for purposes of any report or preparation of testimony or opinions; and
 - e. a copy of all documents concerning the expert's fees, charges, billings, or invoices concerning this matter.

51. For each of Plaintiffs' experts, a copy of all reports, articles, papers, periodicals, and any other documents cited in any expert report produced in this litigation.

52. If not otherwise encompassed by another Request for Production, all documents in Plaintiffs' possession, custody, or control that relate in any way to any claim, statement, argument, or defense in this lawsuit.
53. All documents reflecting Plaintiffs' efforts to preserve documents relevant or potentially relevant to this litigation.

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General
SARAH E. PIERCE (0087799)
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*Counsel for Defendants Secretary of State and
Ohio Attorney General*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on all Counsel of record via electronic mail this 20th day of July, 2015.

/s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General

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

**THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,**

Plaintiffs,

v.

JON HUSTED, *et al.*,

Defendants.

:
:
:
: Case No. 2:15-CV-1802
:
: JUDGE WATSON
:
: MAGISTRATE JUDGE KING
:
:

**THE SECRETARY OF STATE’S INTERROGATORIES DIRECTED TO
THE OHIO ORGANIZING COLLABORATIVE**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant Secretary of State Jon Husted requests that Plaintiff The Ohio Organizing Collaborative answer the following interrogatories separately and in writing, under oath, and in the space provided. If additional space is needed, attach additional sheets. Please respond within thirty (30) days after service, and please serve a copy of your responses hereto upon Defendants’ counsel at 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, or by email.

INSTRUCTIONS AND DEFINITIONS

1. If the answer to any question called for by these requests is refused because of a claim of privilege or upon any other basis, please state in a written response the privilege claimed and the basis for the assertion of privilege. If privilege is claimed as to a document, identify the document with sufficient particularity that it may be the subject of a motion to compel.

2. These Interrogatories shall be deemed to be continuing in nature, so as to require You to reasonably notify the Defendants and to supplement responses hereto in the event that any additional responsive information is discovered during the pendency of these proceedings. Supplementation of responses is to be undertaken in accordance with Fed.R.Civ.P. 26(e). You have a duty to supplement responses to discovery requests if You later learn that in some material respect the disclosure or response previously provided was incorrect or incomplete.

3. “OOC,” “You,” “Your,” and “Plaintiff” refer to The Ohio Organizing Collaborative, as well as all agents, employees, officers, directors, predecessors, member organizations or entities, subsidiaries, parent companies or entities, attorneys, experts, and consultants for the foregoing, and any other person or entity acting for or on behalf of any of the foregoing.

4. If Plaintiff cannot respond to any of the following Interrogatories in full, respond to the extent possible, specifying the reasons why Plaintiff is unable to respond in full, and provide whatever information Plaintiff has concerning the Interrogatory, including the source or sources from which things, documents, or portions of the documents or other information may be obtained.

5. As used herein, “and” or “or” shall be construed to mean “and/or” when the effect of such construction is to broaden the Interrogatory.

6. “Document” has the full scope and meaning in the federal rules and any applicable local rules and also means the original, each non-identical copy (whether different from the original by means of notes made on such copy or otherwise) and (if the original is not in existence or subject to your control) each copy, regardless of origin or location, of any handwritten, typewritten, printed, recorded, transcribed, punched, taped, tape recorded,

photocopied, photostatic, telex, filmed, microfilmed or otherwise prepared matter, however produced or reproduced, which is in Your possession, custody or control, including, but not limited to, all papers, letters, correspondence, electronic mail, catalogs, advertisements, telegrams, telexes, cables, memoranda, or minutes of meetings of conversations (personal or telephonic), desk pads, calendars, diaries, telephone pads, travel and expense records, reports, summaries, surveys, analyses, ledgers, journals and other formal or informal books of record or account, bulletins, instructions, agreements, legal documents, billing records, telephone toll records, drafts, notebooks, worksheets, attorneys' and accountants' invoices, audits and audit records, purchase orders, accounting worksheets, time records, canceled checks, vouchers, check stubs and writing of every description, including drawings, graphs, charges, photographs, films, recordings, transcriptions of recordings, computer tapes and printouts, and other data or compilations from which information can be obtained and translated, if necessary, by Plaintiff through detection devices into a reasonably usable form.

7. "Complaint" refers to the Complaint filed by Plaintiffs.

8. "Person" means and includes, without limiting the generality of its meaning, any natural person, corporate or business entity, firm partnership, association, group, governmental body, agency, or subdivision, committee, commission, or other organization or entity.

9. "Suspect class" means individuals who trigger heightened scrutiny under an Equal Protection or other constitutional analysis.

10. The terms "concern," "relate to," "show," "regarding," and "relating to" include referring to, alluding to, responding to, relating to, connected with, commenting on, in respect of, about, regarding, discussing, summarizing, showing, describing, reflecting, analyzing,

constituting, or in any which way relevant to the specified subject within the meaning of Fed.R.Civ.P. 26.

11. As used herein, the singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun so used, and vice versa. The male gender form of a pronoun shall also include the female gender form of the pronoun, and vice versa. The use of any tense of any verb shall be considered to include also within its meaning all other tenses of the verb also used. “Each,” “any,” and “all” are both singular and plural.

12. All definitions and instructions set forth in the Secretary of State’s Requests for Production of Documents are incorporated herein as if set forth in full.

13. Unless specified otherwise, the timeframe for all Interrogatories is January 1, 2007 through the present.

14. “Communication” means any meeting, conference, conversation, memorandum, email, note, telephone call, facsimile, text, contact, act or instance of transmitting or receiving information or intelligence by any means, directly or through another person, and shall include without limitation all forms of communication by the oral or written word and the preparation, furnishing, receipt, examination or copying of documents or permitting others to do so.

15. “Challenged Laws” means any, some, or all of the laws, statutes, directives, or provisions identified in Paragraph 17 of the Complaint or otherwise that Plaintiffs are challenging in this litigation.

16. “Identify” or “identity” shall have the following meanings:

a. When used in reference to an individual, it means to state the person’s full name; present business address and telephone number, or, if unavailable, last known business address

and telephone number; present home address, or, if unavailable, last known home address; the county of residence in which the individual is registered to vote; and the race of the individual.

b. When used in reference to corporate entities, it means to state the corporate name, and date and place of incorporation, and all of its present business addresses.

c. When used in reference to communications, it means to describe the statements and communications by stating the date and place where they were made; identifying each of the makers and recipients thereof in addition to all the persons present; and indicating the medium of communication. Please note that when identifying the date of an oral statement of communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.

d. When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegram, chart), its author and originator, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production, and any identifying marks, numerals, code words or letters distinguishing it from other like documents. If any such document was, but is no longer in Your possession or subject to Your custody or control, state what disposition was made of it—for example, destruction or transfer to a different named individual or entity. Documents to be identified shall include all those documents in Your possession, custody, or control and all of the documents of which you have knowledge.

INTERROGATORIES

1. Identify all individuals and entities that have or may have evidence, information, knowledge, or documents related to or potentially related to any of the claims, counts, allegations, arguments, defenses, facts, or purported facts in this litigation. For each individual or entity in Your answer, identify generally the evidence, information, knowledge, or documents that each individual or entity has or may have related to or potentially related to any of the claims, counts, allegations, arguments, defenses, facts, or purported facts in this litigation.

ANSWER:

2. For each of the Challenged Laws, explain in detail how the Challenged Law has affected Your “GOTV efforts” or other actions, efforts, and purported rights described in Paragraphs 22 and 23 of the Complaint. In so responding, identify specifically the date of each instance where OOC’s action, effort, or purported right was affected, abridged, or burdened; the action, effort, or purported right that was affected, abridged, or burdened; and how in each instance OOC’s action, effort, or purported right was affected, abridged, or burdened.

ANSWER:

3. Identify by name and address every person who You claim was eligible to vote who was unable to vote as a result of any of the Challenged Laws. For each person so identified, specify the election at which the person was precluded from voting, which Challenged Law precluded the person from voting, and how the Challenged Law precluded the person from voting.

ANSWER:

4. On the OOC's web site, the OOC states that it "consists of 18 member organizations." Identify the member organizations that are part of the OOC and when they joined the OOC.

ANSWER:

5. If individuals are members of the OOC, identify the number of individuals from each of Ohio's counties who are members of OOC. (In other words, this interrogatory is requesting the number of individuals in Franklin County, the number of individuals in Fairfield County, and the number of individuals in each of the other Ohio counties who are members of the OOC). If the OOC has only organizations as its members and it does not have individuals as members, then so specify this in lieu of identifying the number of individuals from each Ohio county who are members.

ANSWER:

6. Identify specifically how each of the Challenged Laws has affected the OOC's operational costs. In answering this Interrogatory, identify the operational costs before the Challenged Law was enacted, what the operational costs became after the enactment of the Challenged Law, which Challenged Law affected the operational costs, and how the Challenged Law affected the operational costs.

ANSWER:

7. Identify specifically all bases, evidence, information, sources, witnesses, and any other support for the OOC's claim, if the OOC is making this claim, that African American, Latinos, and students faced longer lines to vote in Ohio in 2010, 2012, and 2014 than other demographics or groups.

ANSWER:

8. Identify and list each and every person whose testimony, declaration, statement, and/or affidavit may be used in this litigation or called as a witness. For each such individual, provide the individual's contact information and a comprehensive summary of the information and knowledge held or potentially held by the individual.

ANSWER:

9. Identify all documents that will or may be used as an exhibit in any hearing or trial in this matter.

ANSWER:

10. Identify the source and citation for every statistic and for all data set forth in the OOC's Complaint.

ANSWER:

11. Identify with specificity all facts and bases supporting, contradicting, or related to Your allegation in that "a motivating purpose behind" the Challenged Laws was to "to suppress the turnout and electoral participation" of African-American, Latino, student, and Democratic voters.

ANSWER:

12. Identify and describe the meetings, circumstances, decision-making, process, strategy, events, and the communications with individuals and entities that led to and comprised the OOC's decision to commence this litigation. Exclude from Your answer to this Interrogatory all information protected by the attorney-client privilege.

ANSWER:

13. If the OOC denies any Request for Admission, explain in detail the basis for each of the OOC's denials.

ANSWER:

14. Identify and describe in detail the OOC's position (if it is the OOC's position) that any or all of the Challenged Laws on their face and by their plain words specify different rules for particular individuals or groups. In Your answer, identify the language in the Challenged Laws that calls for different rules for particular individuals and groups and which individuals and groups are subject to the different rules. If it is the OOC's position that the Challenged Rules specify the same rules for individuals and groups, then so specify this.

ANSWER:

15. With respect to the OOC's claims under the Voting Rights Act, identify the objective benchmark by which the Court should compare each of the Challenged Laws.

ANSWER:

16. Identify and explain in detail why the OOC waited until 2015 to challenge the number of early in-person voting locations in each of Ohio's counties considering that there has been one early in-person voting location in each county since 2005, when early in-person voting was first instituted.

ANSWER:

17. Identify and explain in detail how the OOC's claims related to S.B. 238 differ from the claims related to S.B. 238 that were alleged and settled in the litigation captioned *Ohio State N.A.A.C.P., et al. v. Husted, et. al.*, case No. 2:14CV-404 (S.D. Oho 2014).

ANSWER:

18. Identify all individuals and entities who are paying or who have promised to pay any of the costs and fees of OOC's lawyers in this litigation.

ANSWER:

19. For each of the Challenged Laws that the OOC claims is unconstitutional or violates the law, identify the changes to each of the Challenged Laws that OOC claims would render the Challenged Law in conformity with the Constitution and the law.

ANSWER:

20. For each of the Challenged Laws that the OOC claims is unconstitutional or violates the law, explain whether the OOC is seeking to re-instate or revert Ohio law to the way it was before the passage, enactment, or issuance of each Challenged Law or whether the OOC is seeking some other result.

ANSWER:

21. Identify the calculation, formula, or standard that You would use to decide how many early in-person voting locations must exist in each county and where they would need be located.

ANSWER:

22. Explain in detail all bases and support for Your claim that You have standing to bring this lawsuit. In so answering this, specify whether You claim standing on Your own behalf or as a representative of one or more of Your members. Also in answering this, include in Your answer, among other things, the injury-in-fact that You claim You or Your member(s) sustained as a result of the Challenged Laws.

ANSWER:

23. Identify all cases, arbitrations, litigation, or legal disputes (other than minor traffic violations) where You were a Plaintiff, a Defendant, a party, a witness, provided a declaration or an affidavit, or were interviewed. In answering this, provide the case caption and a brief description of Your role or involvement. This Interrogatory does not have a time limitation.

ANSWER:

24. For each of the OOC member organizations, identify the OOC member organization's positions, views, support, or disagreement with each of the Challenged Laws and with Your arguments in this litigation. In so doing, identify the names, titles, and contact information for the individuals at the member organizations who are knowledgeable about foregoing.

ANSWER:

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General
SARAH E. PIERCE (0087799)
TIFFANY L. CARWILE (0082522)
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*Counsel for Defendants Secretary of State and
Ohio Attorney General*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on all Counsel of record via electronic mail this 20th day of July, 2015.

/s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General

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

**THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,**

Plaintiffs,

v.

JON HUSTED, *et al.*,

Defendants.

:
:
:
: Case No. 2:15-CV-1802
:
: JUDGE WATSON
:
: MAGISTRATE JUDGE KING
:
:

**DEFENDANT SECRETARY OF STATE’S REQUESTS FOR ADMISSION DIRECTED
TO PLAINTIFF THE OHIO ORGANIZING COLLABORATIVE**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendant Secretary of State Jon Husted requests that Plaintiff Ohio Organizing Collaborative (“OOC”) answer the following Requests for Admission separately and in writing, under oath, and in the space provided. Please respond within thirty (30) days after service, and please serve a copy of your responses hereto upon Defendants’ counsel at 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, or by email.

The definitions and instructions found in the Interrogatories and Requests for Production of Documents served on OOC also apply to these Requests for Admission and are incorporated herein by reference as though set forth herein in their entirety.

REQUESTS FOR ADMISSION

No. 1: In this lawsuit OOC is not challenging the days and hours of early in-person voting in Ohio, with the exception of the days and hours of early in-person voting that were eliminated by the statute that enacted S.B. 238.

Admit:_____ **Deny:**_____

No. 2: Rational basis is the applicable standard for Count I of the Complaint.

Admit:_____ **Deny:**_____

No. 3: Rational basis is the applicable standard for Count III of the Complaint.

Admit:_____ **Deny:**_____

No. 4: Rational basis is the applicable standard for Count VIII of the Complaint.

Admit:_____ **Deny:**_____

No. 5: Regarding Count IV of the Complaint, Plaintiffs have not identified the legal benchmark against which each of the Challenged Laws should be analyzed.

Admit:_____ **Deny:**_____

No. 6: A State is justified in requiring an absentee voter to provide information on the voter's absentee ballot envelope that allows the State to ascertain the identity of the absentee voter.

Admit:_____ **Deny:**_____

No. 7: A State is justified in requiring a provisional voter to provide information on the voter's provisional ballot envelope that allows the State to ascertain the identity of the provisional voter.

Admit:_____ **Deny:**_____

No. 8: A State is permitted to have reasonable rules that govern its elections.

Admit:_____ **Deny:**_____

No. 9: A State is permitted to change its election laws from time to time.

Admit:_____ **Deny:**_____

No. 10: In this lawsuit, the OOC is not seeking to invalidate the Settlement Agreement in the litigation captioned Ohio State N.A.A.C.P., et al. v. Husted, et. al., case No. 2:14CV-404 (S.D. Ohio 2014).

Admit:_____ **Deny:**_____

No. 11: In this lawsuit, the OOC is not seeking an Order allowing each county's board of elections the authority to establish its own days and hours of early in-person voting.

Admit:_____ **Deny:**_____

No. 12: OOC does not purport to act exclusively on behalf of individuals who are considered part of a suspect class.

Admit:_____ **Deny:**_____

No. 13: OOC's legal costs and fees in this litigation are being paid by a person or entity who is not a Plaintiff in this lawsuit.

Admit:_____ **Deny:**_____

No. 14: The OOC did not discuss this litigation with all of the OOC's member organizations before the OOC commenced this litigation.

Admit:_____ **Deny:**_____

No. 15: OOC, at least in part, acts on behalf of individuals who are not part of a suspect class.

Admit:_____ **Deny:**_____

No. 16: At the present time, the OOC has no knowledge of any facts that support the OOC's allegations in Paragraph 181 of the Complaint.

Admit:_____ **Deny:**_____

No. 17: At the present time, the OOC has no evidence in its possession, custody, or control that supports the OOC's allegations in Paragraph 181 of the Complaint.

Admit:_____ **Deny:**_____

No. 18: At the present time, the OOC has no knowledge of any facts that support the OOC's allegations in Paragraph 186 of the Complaint.

Admit:_____ **Deny:**_____

No. 19: At the present time, the OOC has no evidence in its possession, custody, or control that supports the OOC's allegations in Paragraph 186 of the Complaint.

Admit:_____ **Deny:**_____

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General
SARAH E. PIERCE (0087799)
TIFFANY L. CARWILE (0082522)
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*Counsel for Defendants Secretary of State and
Ohio Attorney General*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on all Counsel of record via electronic mail this 20th day of July, 2015.

/s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Senior Assistant Attorney General

General Information

Court	United States District Court for the Southern District of Ohio; United States District Court for the Southern District of Ohio
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	2:15-cv-01802