

IN THE SUPREME COURT OF OHIO

State ex rel. Summit County Republican :  
Party Executive Committee, :  
 : Case No. 08-0478  
Relator, :  
 : Original Action in Mandamus  
vs. :  
Secretary of State Jennifer Brunner :  
 :  
Respondent. :

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ANSWER OF  
OHIO SECRETARY OF STATE JENNIFER BRUNNER

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Secretary of State Jennifer Brunner

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Now comes Respondent, Ohio Secretary of State Jennifer Brunner, and for her answer to the Relator's Complaint states the following:

1. Denies each and every allegation not specifically admitted to herein.
2. Admits the allegations contained in Paragraph 1 of the Complaint.
3. Admits the allegations contained in Paragraph 2 of the Complaint.
4. With respect to the allegations contained in Paragraph 3 of the Complaint, states that the Ohio Constitution and the Rules of Practice of this Court speak for themselves and that no response is necessary. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 3 of the Complaint.
5. With respect to the allegations contained in Paragraph 4 of the Complaint, states that RC 3501.07 speaks for itself and that no response is necessary. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 4 of the Complaint.

6. With respect to the allegations contained in Paragraph 5 of the Complaint, states that RC 2503.40 speaks for itself and that no response is necessary. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 5 of the Complaint.
7. Denies the allegations contained in Paragraph 6 of the Complaint.
8. With respect to the allegations contained in Paragraph 7 of the Complaint, admits that the Summit County Republican Party Executive Committee recommended that Alex R. Arshinkoff be appointed to the Summit County Board of Elections for a full term commencing on March 1, 2008. The Respondent denies for lack of knowledge the remaining allegations contained in Paragraph 7 of the Complaint.
9. With respect to the allegations contained in Paragraph 8 of the Complaint, admits that Secretary of State Brunner rejected the recommendation of Alex R. Arshinkoff to be a member of the Summit County Board of Elections. The Respondent denies the remaining allegations contained in Paragraph 8 of the Complaint.
10. Denies for lack of knowledge the allegations contained in Paragraph 9 of the Complaint.
11. With respect to the allegations contained in Paragraph 10 of the Complaint, admits that Alex R. Arshenkoff submitted a recommendation purportedly on behalf of the Summit County Republican Party Executive Committee recommending the appointment of Brian K. Daley to the Summit County Board of Elections for a full term commencing on March 1, 2008. The Respondent denies for lack of knowledge the remaining allegations contained in Paragraph 10 of the Complaint.

12. With respect to the allegations contained in Paragraph 11 of the Complaint, denies that Brian Daley is either competent or qualified to serve on the Summit County Board of Elections. The Respondent denies for lack of knowledge the remaining allegations contained in Paragraph 11 of the Complaint.
13. With respect to the allegations contained in Paragraph 12 of the Complaint, admits that Secretary of State Brunner rejected the nomination of Brian K. Daley for a position on the Summit County Board of Elections. The Respondent denies the remaining allegations contained in Paragraph 12 of the Complaint.
14. Denies for lack of knowledge the allegations contained in Paragraph 13 of the Complaint.
15. Denies the allegations contained in Paragraph 14 of the Complaint.
16. Denies the allegations contained in Paragraph 15 of the Complaint.
17. Denies the allegations contained in Paragraph 16 of the Complaint.
18. Denies the allegations contained in Paragraph 17 of the Complaint.
19. Denies the allegations contained in Paragraph 18 of the Complaint.
20. Denies for lack of knowledge that Brian K. Daley is an elector and member of the Republican Party of Summit County. The Respondent denies the remaining allegations contained in Paragraph 19 of the Complaint.
21. Restates all responses contained in Paragraphs 1-20 as if incorporated herein.
22. Denies the allegations contained in Paragraph 21 of the Complaint.
23. With respect to the allegations contained in Paragraph 22 of the Complaint, states that the Relator has quoted only partially from RC 3501.07 so as to misrepresent its meaning and that read in full RC 3501.07 speaks for itself and that no response is

necessary. To the extent a response is necessary, denies the allegations contained in Paragraph 22 of the Complaint.

24. Denies the allegations contained in Paragraph 23 of the Complaint.

25. Denies the allegations contained in Paragraph 24 of the Complaint.

26. Denies the allegations contained in Paragraph 25 of the Complaint.

27. Denies the allegations contained in Paragraph 26 of the Complaint.

28. With respect to the allegations contained in Paragraph 27 of the Complaint, states that RC 3501.07 speaks for itself and that no response is necessary. To the extent a response is necessary, denies the allegations contained in Paragraph 27 of the Complaint

29. Denies that Brian K. Daley is competent to serve on the Summit County Board of Elections and denies for lack of knowledge the remaining allegations contained in Paragraph 28 of the Complaint.

30. Denies the allegations contained in Paragraph 29 of the Complaint.

31. Denies the allegations contained in Paragraph 30 of the Complaint.

32. Denies the allegations contained in Paragraph 31 of the Complaint.

33. Denies the allegations contained in Paragraph 32 of the Complaint.

34. Restates all responses contained in Paragraphs 1-33 as if reincorporated herein.

35. With respect to the allegations contained in Paragraph 34 of the Complaint, states that RC 3501.07 speaks for itself and that no responsive pleading is necessary. To the extent a response is necessary, denies the allegations contained in Paragraph 34 of the Complaint.

36. Denies the allegations contained in Paragraph 35 of the Complaint.

37. Denies the allegations contained in Paragraph 36 of the Complaint.
38. Denies the allegations contained in Paragraph 37 of the Complaint.
39. Denies the allegations contained in Paragraph 38 of the Complaint.
40. Denies the allegations contained in Paragraph 39 of the Complaint.
41. Admits the allegations contained in Paragraph 40 of the Complaint.
42. Denies the allegations contained in Paragraph 41 of the Complaint.
43. Denies the allegations contained in Paragraph 42 of the Complaint.
44. Admits that the Respondent has a legal duty to comply with RC 3501.07 and denies the allegations contained in Paragraph 43 of the Complaint.
45. Denies the allegations contained in Paragraph 44 of the Complaint.
46. Restates all responses contained in Paragraphs 1-45 as if reincorporated herein.
47. Denies the allegations contained in Paragraph 46 of the Complaint.
48. Denies the allegations contained in Paragraph 47 of the Complaint.
49. Denies the allegations contained in Paragraph 48 of the Complaint.
50. Denies the allegations contained in Paragraph 49 of the Complaint.
51. Restates all responses contained in Paragraphs 1-50 as if reincorporated herein.
52. With respect to the allegations contained in Paragraph 51 of the Complaint, states that RC 2503.40 speaks for itself and that no response is required. To the extent a response is required, denies the allegations contained in Paragraph 51 of the Complaint.
53. Denies the allegations contained in Paragraph 52 of the Complaint.

54. Admits that the Writ requested for from this Court is not provided for by law and states that this Court lacks jurisdiction to provide injunctive relief and denies the remaining allegations contained in Paragraph 53 of the Complaint.
55. Denies the allegations contained in Paragraph 54 of the Complaint.
56. Restates all responses contained in Pargaraphs 1-55 as if reincorporated herein.
57. Denies the allegations contained in Paragraph 56 of the Complaint.
58. Denies the allegations contained in the WHEREFORE paragraph and all subparagraphs and further denies that the Relator is entitled to any relief whatsoever.

WHEREFORE, having answered the Relator's complaint, the Respondent raises the following defenses, including affirmative defenses.

**First Defense**

59. The Relator has failed to state a claim upon which relief can be granted.

**Second Defense**

60. This Court lacks subject matter jurisdiction to hear this case.

**Third Defense**

61. The Respondent does not have a clear legal duty to appoint Brian K. Daley to the Summit County Board of Elections.

**Fourth Defense**

62. The Relator does not have a clear legal right to have Brian K. Daley appointed to the Summit County Board of Elections.

**Fifth Defense**

63. The Relator has an adequate remedy at law barring mandamus.

**Sixth Defense**

64. The Respondent has not exercised or is not about to exercise judicial or quasi-judicial authority.

**Seventh Defense**

65. The Respondent has acted in conformity with Ohio law.

**Eighth Defense**

66. The Relator has an adequate remedy at law barring prohibition.

**Ninth Defense**

67. The Respondent had on February 29, 2008 and continues to have reason to believe that Brian K. Daley is not competent to serve as a member of the Summit County Board of Elections.

**Tenth Defense**

68. Brian K. Daley is not competent to serve as a member of the Summit County Board of Elections.

**Eleventh Defense**

69. The Relator has not properly recommended Brian K. Daley to serve as a member of the Summit County Board of Elections.

**Twelfth Defense**

70. The Respondent reserves the right to add additional defenses, including additional affirmative defenses, as discovery progresses.

WHEREFORE, having responded to the Relator's complaint, Respondent prays this Court issue an order dismissing this case.

Respectfully submitted,

Marc Dann  
Attorney General



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Attorneys for Secretary of State  
Jennifer Brunner

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing *Motion for Protective Order* was sent on March 10, 2008, via fax and via U.S. mail, postage prepaid, to the following:

Timothy J. Grendell  
Grendell & Simon Co., LPA  
Broadview Heights, Ohio 44147  
440-746-9604 (Fax)

*Attorney for Relator*



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Richard N. Coglianese