

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

OHIO STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,	:	
	:	
Plaintiffs,	:	Case No. 2:14-cv-00404
	:	
	:	Judge Peter C. Economus
	:	
v.	:	Magistrate Judge
	:	Norah McCann King
JON HUSTED, et al.,	:	
	:	
Defendants.	:	

**ANSWER AND AFFIRMATIVE DEFENSES
OF DEFENDANTS SECRETARY OF STATE JON HUSTED AND
ATTORNEY GENERAL MIKE DeWINE**

For their Answer and Affirmative Defenses to Plaintiffs' Complaint (Doc. No. 1), Defendants Ohio Secretary of State Jon Husted and Ohio Attorney General Mike DeWine state:

ANSWER

1. The cases referenced in Paragraph 1 of the Complaint, as well as S.B. 238 and Directive 2014-06, speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 1.
2. As to Paragraph 2 of the Complaint, S.B. 238 and Directive 2014-06 speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 2.

3. As to Paragraph 3 of the Complaint, Ohio law regarding voting and registration speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 3.
4. The voting totals alleged in Paragraph 4 of the Complaint are matters of public record. Defendants deny the remaining allegations in Paragraph 4.
5. Defendants deny the allegations in Paragraph 5 of the Complaint.
6. Defendants deny that Plaintiffs are entitled to the relief sought in Paragraph 6 of the Complaint.
7. Defendants admit that this Court has jurisdiction, subject to Defendants' standing defense set forth below.
8. Defendants admit that the Court has authority to issue declarative and injunctive relief where authorized by law. Defendants deny that Plaintiffs are entitled to any such relief.
9. Defendants admit that venue is proper.
10. Defendants do not dispute the organizational structure and history of the Ohio NAACP, or that groups testified regarding S.B. 238. Defendants deny the remaining allegations in Paragraph 10 of the Complaint.
11. Defendants do not dispute that the LWVO is a membership and advocacy organization as referenced in Paragraph 11 of the Complaint. Defendants deny the remaining allegations in Paragraph 11.
12. Defendants do not dispute that Plaintiff Bethel African Methodist Episcopal Church is a church in Columbus, Ohio, as described in Paragraph 12 of the Complaint. Defendants deny the remaining allegations in Paragraph 12.

13. Defendants do not dispute that Plaintiff Omega Baptist Church is a church in Dayton, Ohio, as described in Paragraph 13 of the Complaint. Defendants deny the remaining allegations in Paragraph 13.
14. Defendants do not dispute that Plaintiff College Hill Community Church Presbyterian, USA is a church in Dayton, Ohio, as described in Paragraph 14 of the Complaint. Defendants deny the remaining allegations in Paragraph 14.
15. Defendants do not dispute that Plaintiff APRI is an organization in Ohio as described in Paragraph 15 of the Complaint. Defendants deny the remaining allegations in Paragraph 15.
16. Defendants do not dispute the identity of Plaintiff Fairchild. Defendants deny the remaining allegations in Paragraph 16 of the Complaint.
17. As to Paragraph 17 of the Complaint, the dates referenced with respect to S.B. 238 and Directive 2014-06 are matters of public record. The allegation that Plaintiff's lawsuit is timely is a legal conclusion to which no response is required in this Answer. Further, S.B. 238 and Directive 2014-06 speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 17.
18. The statute referenced in Paragraph 18 of the Complaint speaks for itself. Defendants admit the remaining allegations in Paragraph 18.
19. The statute referenced in Paragraph 19 of the Complaint speaks for itself. Defendants admit the remaining allegations in Paragraph 19.

20. The case referenced in Paragraph 20 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 20.
21. The case and statute referenced in Paragraph 21 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer.
22. As to Paragraph 22 of the Complaint, Ohio law regarding voting speaks for itself, and no response to allegations regarding its content or effect is required in this Answer.
23. As to Paragraph 23 of the Complaint, Ohio law regarding voting speaks for itself, and no response to allegations regarding its content or effect is required in this Answer.
24. As to Paragraph 24 of the Complaint, Ohio law regarding voting speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Further, to the extent that Paragraph 24 states a legal conclusion, no response is required here.
25. As to Paragraph 25 of the Complaint, Ohio law regarding voting speaks for itself, and no response to allegations regarding its content is required in this Answer. Further, to the extent that Paragraph 25 states a legal conclusion, no response is required here.
26. The statute referenced in Paragraph 26 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer.
27. Defendants deny the allegations in Paragraph 27 of the Complaint.
28. Defendants deny the allegations in Paragraph 28 of the Complaint.
29. The statutes referenced in Paragraph 29 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 29.

30. The case referenced in Paragraph 30 speaks for itself, and no response regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 30.
31. The statute referenced in Paragraph 31 of the Complaint speaks for itself, and no response regarding its content or effect is required in this Answer. The voting totals alleged in Paragraph 31 are matters of public record. Defendants deny the remaining allegations in Paragraph 31.
32. Defendants are without information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Complaint, and therefore deny them.
33. The case that is indirectly referenced in Paragraph 33 of the Complaint speaks for itself, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the allegations in the second and third sentences of Paragraph 33 of the Complaint. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33, and therefore deny them.
34. The public-record legislative facts of passage and veto of legislation speak for themselves. Defendants deny the remaining allegations in Paragraph 34 of the Complaint.
35. Defendants are without information sufficient to form a belief about Plaintiffs' definition of "elected officials." Defendants deny the remaining allegations in Paragraph 35 of the Complaint.
36. The public-record legislative facts regarding H.B. 194 speak for themselves. Defendants deny the remaining allegations in Paragraph 36.

37. The public-record facts regarding the H.B. 194 referendum speak for themselves. Defendants deny the remaining allegations in Paragraph 37 of the Complaint.
38. The case in Paragraph 38 of the Complaint speaks for itself and no response regarding its content or effect is required in this Answer. The public-record legislative facts regarding the repeal of H.B. 194 speak for themselves. Defendants deny the remaining allegations in Paragraph 38.
39. The case referenced in Paragraph 39 of the Complaint speaks for itself, and no response regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 39.
40. Defendants state that Directive 2012-35 and the case cited in Paragraph 40 of the Complaint speak for themselves, and no response regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 40.
41. As to Paragraph 41 of the Complaint, the statutes and the directive referenced speak for themselves, and no response to allegations regarding their content or effect or to the legal conclusions asserted in the paragraph is required in this Answer. Defendants deny the remaining allegations in Paragraph 41.
42. Defendants are without information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of the Complaint, and therefore deny them.
43. The case referenced in Paragraph 43 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer.
44. The cases and directive referenced in Paragraph 44 speak for themselves, and no response to allegations regarding its content or effect is required in this Answer. The remainder of Paragraph 44 states legal conclusions to which no response is required in this Answer.

45. The cases referenced in Paragraph 45 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. The remainder of Paragraph 45 states legal conclusions to which no response is required here.
46. The voting totals alleged in Paragraph 46 of the Complaint are matters of public record. Defendants deny the remaining allegations in Paragraph 46.
47. The public-record legislative facts regarding S.B. 238 speak for themselves. S.B. 238 also speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 47 of the Complaint.
48. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants deny the remaining allegations in Paragraph 48 of the Complaint.
49. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants deny the remaining allegations in Paragraph 49 of the Complaint.
50. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants deny the remaining allegations in Paragraph 50 of the Complaint.
51. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 51 of the Complaint, and therefore deny them.
52. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 52 of the Complaint, and therefore deny them.

53. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 53 of the Complaint, and therefore deny them.
54. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 54 of the Complaint, and therefore deny them.
55. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants deny the remaining allegations in Paragraph 55 of the Complaint.
56. The public-record legislative facts regarding S.B. 238 speak for themselves. Defendants are without information sufficient to form a belief at to the truth of the remaining allegations in Paragraph 56 of the Complaint, and therefore deny them.
57. The cases referenced in Paragraph 57 of the Complaint speak for themselves, and no response to allegations regarding its content or effect is required in this Answer. Defendants admit that Secretary Husted was aware of the OFA case, but deny the remaining allegations in Paragraph 57.
58. The public-record legislative facts of S.B. 238, the statute, and the directives referenced in Paragraph 58 speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations.
59. The statutes and directive referenced in Paragraph 59 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 59.
60. Paragraph 60 of the Complaint makes legal arguments to which no response is required in this Answer.

61. Paragraph 61 of the Complaint makes legal arguments to which no response is required in this Answer.
62. The case referenced in Paragraph 62 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 62.
63. The case referenced in Paragraph 63 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Further, Paragraph 63 makes legal arguments to which no response is required in this Answer.
64. The cases referenced in Paragraph 64 of the Complaint speak for themselves, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 64.
65. The directives referenced in Paragraph 65 of the Complaint speak for themselves. Defendants deny the remaining allegations in Paragraph 65 of the Complaint.
66. Defendants deny the allegations in Paragraph 66 of the Complaint.
67. The statutes and directive referenced in Paragraph 67 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 67.
68. S.B. 238 and Directive 2014-06 speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 68 of the Complaint.
69. The case and directives referenced in Paragraph 69 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in

this Answer. The voting totals alleged in Paragraph 69 are matters of public record. Defendants deny the remaining allegations in Paragraph 69.

70. The case and directives referenced in Paragraph 70 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 70.

71. Defendants deny the allegations in Paragraph 71 of the Complaint.

72. Defendants deny that experience from Florida, a different state with different election laws, demonstrates Plaintiffs' point. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 72 of the Complaint, and therefore deny them.

73. The case referenced in Paragraph 73 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants are without information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 73, and therefore deny them.

74. The case referenced in Paragraph 74 of the Complaint speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 74.

75. Defendants deny the allegations in Paragraph 75 of the Complaint.

76. Defendants deny the allegations in Paragraph 76 of the Complaint.

77. Defendants deny the allegation in Paragraph 77 of the Complaint.

78. Defendants deny the allegations in Paragraph 78 of the Complaint.

79. Ohio law regarding voting locations speaks for itself, and no response to allegations regarding its content or effect is required in this Answer. Defendants deny any remaining

allegations in Paragraph 79 of the Complaint, that Ohio voting law illegally discriminates.

80. The U.S. Constitution speaks for itself. The case referenced in Paragraph 80 speaks for itself, and no response regarding its content or effect is required in this Answer. The remainder of Paragraph 80 makes legal arguments to which no response is required in this Answer.

81. Defendants deny the allegations in Paragraph 81 of the Complaint.

82. Defendants restate their responses to the preceding paragraphs of the Complaint.

83. The U.S. Constitution speaks for itself. The remainder of Paragraph 83 of the Complaint sets forth legal conclusions to which no response is required in this Answer.

84. Defendants deny the allegations in Paragraph 84 of the Complaint.

85. The public-record legislative facts of S.B. 238, the case, and the directive referenced in Paragraph 85 of the Complaint speak for themselves, and no response to allegations regarding their content or effect is required in this Answer. Defendants deny the remaining allegations in Paragraph 85.

86. Defendants restate their responses to the preceding paragraphs of the Complaint.

87. The statute referenced in Paragraph 87 of the Complaint speaks for itself.

88. Defendants deny that the laws of the state of Ohio illegally discriminate. Otherwise, Defendants are without information sufficient to form a belief as to the truth of the allegations in Paragraph 88 of the Complaint, and therefore deny them.

89. Defendants deny the allegations in Paragraph 89 of the Complaint.

90. Defendants deny the allegations in Paragraph 90 of the Complaint.

91. Defendants deny the allegations in Paragraph 91 of the Complaint.

92. Defendants deny the allegations in Paragraph 92 of the Complaint.
93. Defendants deny that Plaintiffs are entitled to any relief in this case.
94. Defendants deny each and every allegation not specifically admitted to be true or explicitly designated as not disputed in the paragraphs above.
95. Each response to a particular paragraph of the Complaint applies to that paragraph's footnotes as well.

AFFIRMATIVE DEFENSES

96. Plaintiffs fail to state a claim upon which relief may be granted.
97. Plaintiffs lack standing to bring this action.
98. This action was not brought in a timely fashion.
99. Plaintiffs fail to join one or more necessary parties.
100. S.B. 238 does not violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and is otherwise constitutional.
101. Directive 2014-06 does not violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and is otherwise constitutional.
102. Neither the statute nor the directive violates the Voting Rights Act.
103. Neither the statute nor the directive discriminates against or has a disparate impact upon African American voters.
104. The Secretary of State is mailing every registered voter in the state of Ohio an application for an absentee ballot, helping facilitate any voter who wishes to vote from his or her own home.
105. Defendants reserve the right to add affirmative defenses as they become apparent in discovery.

WHEREFORE, Defendants respectfully ask that Plaintiffs' claims be dismissed in their entirety, with prejudice, and that Plaintiffs be awarded no relief, no costs, and no fees.

Respectfully submitted,

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Counsel for Defendants
Secretary of State Jon Husted and Attorney General
Mike DeWine

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the U.S. District Court, Southern District of Ohio, on May 23, 2014, and served upon all parties of record via the court's electronic filing system.

/s/ Kristopher J. Armstrong
KRISTOPHER J. ARMSTRONG (0077799)
Assistant Attorney General