

**IN THE FRANKLIN COUNTY
COURT OF COMMON PLEAS**

OHIO DEMOCRATIC PARTY and JAY
MICHAEL HOULAHAN,

Plaintiff,

v.

FRANK LAROSE, in his official capacity as
Secretary of State of Ohio,

Defendant,

DONALD J. TRUMP FOR PRESIDENT,
INC., THE OHIO REPUBLICAN PARTY,
THE REPUBLICAN NATIONAL
COMMITTEE, and THE NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE,

Intervenor-Defendants.

Case No. 20-CV-4997

Judge Stephen L. McIntosh

**ANSWER OF INTERVENOR-DEFENDANTS DONALD J. TRUMP FOR
PRESIDENT, INC., THE OHIO REPUBLICAN PARTY, THE
REPUBLICAN NATIONAL COMMITTEE, AND THE
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE**

Intervenor-Defendants Donald J. Trump for President, Inc., the Ohio Republican Party, the Republican National Committee, and the National Republican Congressional Committee (the “Republican Committees”) respectfully answer Plaintiffs’ First Amended Complaint. Any allegation in the First Amended Complaint not explicitly responded to in this Answer is hereby denied.

1. The Republican Committees support free and fair elections for all Ohioans and for all voters across the country. The Republican Committees admit that Plaintiffs’ First Amended Complaint purports to challenge Ohio’s election procedures on absentee ballot applications and seeks to force Ohio’s county boards of elections to accept electronic absentee ballot applications.

To the extent any answer is required, the Republican Committees deny the remaining allegations in Paragraph 1.

2. Paragraph 2 states a legal conclusion that does not require an answer. To the extent one is required, R.C. 3509.03 speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 2.

3. R.C. 3501.05(B)–(C) speaks for itself and the Republican Committees deny any allegations in Paragraph 3 inconsistent with it.

4. The Republican Committees admit that Defendant LaRose issued Directive 2020-13, which speaks for itself. Paragraph 4 otherwise states legal conclusions that do not require an answer. To the extent one is required, the Republican Committees deny the remaining allegations in Paragraph 4.

5. The Republican Committees admit that Plaintiffs seek the relief described in Paragraph 5. The Republican Committees deny that Plaintiffs are entitled to relief. Paragraph 5 otherwise states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 5.

6. The Republican Committees admit that Plaintiff Ohio Democratic Party is one of Ohio's two major political parties and that its candidates for local, state, and federal offices will stand for election at the November 3, 2020 general election. As to the remaining allegations in Paragraph 6, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

7. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 7 and so deny them.

8. The Republican Committees admit that Defendant LaRose is Ohio's Secretary of State and that Plaintiffs purport to sue him in his official capacity. Paragraph 8 otherwise states legal conclusions that do not require an answer. To the extent one is required, Ohio law addressing the Secretary of State's duties, including R.C. 3501.04-.05, speaks for itself, and the Republican Committees deny any allegation in Paragraph 8 inconsistent with its provisions.

9. Paragraph 9 states a legal conclusion that does not require an answer. To the extent one is required, the Republican Committees do not contest venue; and except as expressly admitted, the Republican Committees deny any remaining allegations in Paragraph 9.

10. Paragraph 10 states legal conclusions that do not require an answer. To the extent one is required, the Republican Committees do not contest the Court's exercise of jurisdiction; and except as expressly admitted, the Republican Committees deny any remaining allegations in Paragraph 10.

11. Paragraph 11 states legal conclusions that do not require an answer. To the extent one is required, R.C. 2721.01-.15 and R.C. 2727.03 speak for themselves, and the Republican Committees deny any allegation in Paragraph 11 inconsistent with them.

12. The Republican Committees admit that Plaintiffs seek the relief described in Paragraph 12. The Republican Committees deny that Plaintiffs are entitled to relief. Paragraph 12 otherwise states a legal conclusion that does not require an answer. To the extent an answer is required, R.C. 2335.39 speaks for itself, and the Republican Committees otherwise deny the remaining allegations in Paragraph 12.

13. The Republican Committees admit that Ohio's 2020 general election is scheduled for November 3, 2020. Paragraph 13 otherwise states legal conclusions that do not require an

answer. To the extent one is required, R.C. 3511.04 and R.C. 3509.01 speak for themselves, and the Republican Committees deny any allegation in Paragraph 13 inconsistent with them.

14. Paragraph 14 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3509.02(A) and Directive 2019-28 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 14.

15. Paragraph 15 states a legal conclusion that does not require an answer. To the extent one is required, R.C. 3509.03(A) speaks for itself, and the Republican Committees deny any allegations in Paragraph 15 inconsistent with it.

16. Paragraph 16 states legal conclusions that do not require an answer. To the extent an answer is required, R.C. 3509.03(B) speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 16.

17. Paragraph 17 states a legal conclusion that does not require an answer. To the extent one is required, the Republican Committees admit that the Ohio Secretary of State offers Form-11A as an application for absentee ballots. Ohio law otherwise speaks for itself on absentee ballot applications, and the Republican Committees deny any remaining allegations in Paragraph 17.

18. Paragraph 18 states legal conclusions that do not require an answer. To the extent an answer is required, R.C. 3501.011 and Directive 2019-28 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 18.

19. Paragraph 19 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3509.03(D) and Directive 2019-28 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 19.

20. Paragraph 20 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3509.03 and R.C. 3509.04(B) speak for themselves, and the Republican Committees deny any allegations in Paragraph 20 inconsistent with them.

21. Paragraph 21 states a legal conclusion that does not require an answer. To the extent one is required, the Ohio Election Code, including R.C. 3509.03, speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 21.

22. Paragraph 22 states a legal conclusion that does not require an answer. To the extent one is required, Ohio law speaks for itself, and the Republican Committees deny any allegations in Paragraph 22 inconsistent with it.

23. Paragraph 23 states legal conclusions that do not require an answer. To the extent an answer is required, R.C. 3509.05(A) speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 23.

24. Paragraph 24 states a legal conclusion that does not require an answer. To the extent one is required, R.C. 3509.06 speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 24.

25. Paragraph 25 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3503.19(A) and R.C. 3503.20 speak for themselves, and the Republican Committees deny any allegations in Paragraph 25 inconsistent with them. The Republican Committees deny any remaining allegations in Paragraph 25.

26. Paragraph 26 states a legal conclusion that does not require an answer. To the extent one is required, Ohio law, including R.C. 3509.03, speaks for itself, and the Republican Committees deny any allegations in Paragraph 26 inconsistent with it.

27. Paragraph 27 states legal conclusions that do not require an answer. To the extent an answer is required, Ohio law, including R.C. 3519.051, speaks for itself, and the Republican Committees deny any allegations inconsistent with it. The Republican Committees deny any remaining allegations in Paragraph 27.

28. Paragraph 28 states legal conclusions that do not require an answer. To the extent an answer is required, R.C. 3509.03 speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 28.

29. Paragraph 29 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 29 and so deny them.

30. The Republican Committees admit that, on July 17, 2020, Defendant LaRose issued Directive 2020-13, which speaks for itself. The Republican Committees deny any remaining allegations in Paragraph 30.

31. The Republican Committees admit that Paragraph 31 purports to quote from Directive 2020-13, Directive 2019-28, and the Ohio Secretary of State's website, which speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 31.

32. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 32 and so deny them.

33. Directive 2020-13 speaks for itself. As to the remaining allegations in Paragraph 33, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

34. Paragraph 34 states a legal conclusion that does not require an answer. To the extent one is required, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 34 and so deny them.

35. Paragraph 35 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3509.03 and the caselaw cited in Paragraph 35 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 35.

36. Paragraph 36 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3509.03 and the caselaw cited in Paragraph 36 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 36.

37. Paragraph 37 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 37.

38. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 38 and so deny them.

39. The Republican Committees admit that Paragraph 39 purports to quote from a letter from Defendant LaRose, as well as Columbus Dispatch and Cincinnati Enquirer articles, which speak for themselves. As to the remaining allegations in Paragraph 39, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

40. The Republican Committees admit that Paragraph 40 cites a Washington Post article, which speaks for itself. As to the remaining allegations in Paragraph 40, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

41. Paragraph 41 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 41.

42. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 42 and so deny them.

43. Paragraph 43 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 43 and so deny them.

44. Paragraph 44 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 44 and so deny them.

45. Paragraph 45 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 45.

46. Paragraph 46 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 46.

47. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 47 and so deny them.

48. The Republican Committees are without knowledge or information sufficient to form a belief about the truth of the allegations regarding Plaintiff Houlahan and so deny them.

Paragraph 48's remaining allegations state legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny any remaining allegations in Paragraph 48.

49. The Republican Committees admit that Plaintiffs seek the relief described in Paragraph 49. The Republican Committees deny that Plaintiffs are entitled to relief. Paragraph

49 otherwise states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 49.

50. Paragraph 50 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 50.

51. Paragraph 51 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 51.

52. Paragraph 52 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 52.

53. Paragraph 53 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 53.

54. Paragraph 54 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 54.

COUNT ONE

55. The Republican Committees incorporate their responses to the preceding paragraphs.

56. Paragraph 56 states legal conclusions that do not require an answer. To the extent one is required, the Republican Committees deny the allegations in Paragraph 56.

COUNT TWO

57. The Republican Committees incorporate their responses to the preceding paragraphs.

58. The Republican Committees admit that Paragraph 58 cites the Secretary of State's online "County Boards of Elections Directory," which speaks for itself. As to the remaining

allegations in Paragraph 58, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

59. The Republican Committees admit that Paragraph 59 cites the Secretary of State's online "County Boards of Elections Directory" and the Hardin County Board of Elections' website, which speak for themselves. As to the remaining allegations in Paragraph 59, the Republican Committees are without knowledge or information sufficient to form a belief about the truth of such allegations and so deny them.

60. Paragraph 60 states legal conclusions that do not require an answer. To the extent one is required, the Republican Committees deny the allegations in Paragraph 60.

COUNT THREE

61. The Republican Committees incorporate their responses to the preceding paragraphs.

62. Paragraph 62 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 62.

63. Paragraph 63 states legal conclusions that do not require an answer. To the extent one is required, R.C. 3511.02(A)(1) and 52 U.S.C. § 20302(a)(6)(A) speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 63.

64. Paragraph 64 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 64.

65. Paragraph 65 states legal conclusions that do not require an answer. To the extent an answer is required, R.C. 3509.04 and R.C. 3511.04 speak for themselves. The Republican Committees deny any remaining allegations in Paragraph 65.

66. The Republican Committees admit that Plaintiffs seek the relief described in Paragraph 66. Paragraph 66 otherwise states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny that Plaintiffs are entitled to relief and deny any remaining allegations in Paragraph 66.

COUNT FOUR

67. The Republican Committees incorporate their responses to the preceding paragraphs.

68. Paragraph 68 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 68.

69. Paragraph 69 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 69.

70. Paragraph 70 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 70.

71. Paragraph 71 states a legal conclusion that does not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 71.

72. Paragraph 72 states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny the allegations in Paragraph 72.

73. The Republican Committees admit that Plaintiffs seek the relief described in Paragraph 73. Paragraph 73 otherwise states legal conclusions that do not require an answer. To the extent an answer is required, the Republican Committees deny that Plaintiffs are entitled to relief and deny any remaining allegations in Paragraph 73.

PRAYER FOR RELIEF

(1) The Republican Committees deny the allegations of Paragraph (1) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(2) The Republican Committees deny the allegations of Paragraph (2) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(3) The Republican Committees deny the allegations of Paragraph (3) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(4) The Republican Committees deny the allegations of Paragraph (4) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(5) The Republican Committees deny the allegations of Paragraph (5) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(6) The Republican Committees deny the allegations of Paragraph (6) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(7) The Republican Committees deny the allegations of Paragraph (7) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(8) The Republican Committees deny the allegations of Paragraph (8) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(9) The Republican Committees deny the allegations of Paragraph (9) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

(10) The Republican Committees deny the allegations of Paragraph (10) of Plaintiffs' prayer for relief and deny that Plaintiffs are entitled to relief.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming the burden of proof or persuasion, and while reserving the right to assert all applicable affirmative defenses supported in law and fact, the Republican Committees assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

The First Amended Complaint fails to allege sufficient facts upon which a claim for relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert their claims in the First Amended Complaint.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the equitable doctrines of laches, estoppel, unclean hands, and/or waiver.

CONCLUSION

The Republican Committees respectfully request that the Court (1) dismiss Plaintiffs' claims with prejudice and enter judgment for Defendants; (2) deny Plaintiffs' prayer for relief; and (3) grant other such relief as the Court may deem proper.

September 11, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 11, 2020, the foregoing was electronically filed via the Court's e-Filing System, which will send notice of such filing to the following counsel of record:

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