

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, et al.,

Relators,

v.

Governor Mike DeWine, et al.,

Respondents.

Case No. 2021-1449

Original Action Filed Pursuant to Ohio
Constitution, Article XIX

**ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENTS
HUFFMAN AND CUPP TO RELATORS' AMENDED COMPLAINT**

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**ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENTS
HUFFMAN AND CUPP TO RELATORS' AMENDED COMPLAINT**

Defendants Senate President Matt Huffman, in his official capacity as President of the Ohio Senate and House Speaker Robert R. Cupp, in his official capacity as Speaker of the Ohio House of Representatives (collectively, “Respondents Huffman and Cupp”), by and through counsel, and answer the First Amended Complaint of the League of Women Voters of Ohio, et al. (“Relators”).

INTRODUCTION

In their First Amended Complaint (“FAC”), the League of Women Voters of Ohio and 9 other organizational and individual Relators challenge the 2021 Congressional District Plan created by the passage of Sub. S.B. 258 by the Ohio General Assembly (the “Enacted Congressional Plan”), on various grounds under Article XIX of the Ohio Constitution. Respondents Huffman and Cupp deny that the Enacted Plans suffer from any constitutional infirmities.

FIRST DEFENSE

The FAC fails to state a claim upon which relief can be granted and should be dismissed pursuant to Ohio Rule of Civil Procedure 12(b)(6).

SECOND DEFENSE

The FAC should be dismissed pursuant to Rules 12(b)(7) and 19 of the Ohio Rules of Civil Procedure for failure to join a necessary party in this case.

THIRD DEFENSE

The Enacted Congressional Plan challenged by Relators complies with the applicable sections and subsections of Article XIX, of the Ohio Constitution, and any other requirements of the Ohio Constitution.

FOURTH DEFENSE

The General Assembly consideration of partisan factors did not prevail over the requirements of Article XIX.

FIFTH DEFENSE

This Court is obligated to defer to the General Assembly's reasonable interpretation of Article XIX.

SIXTH DEFENSE

Under applicable law, the Enacted Congressional Plan is presumed to be constitutional.

SEVENTH DEFENSE

Relators cannot prove that the Enacted Congressional Plan is unconstitutional beyond a reasonable doubt.

EIGHTH DEFENSE

The Enacted Congressional Plan does not unduly favor or disfavor a political party or its incumbents.

NINTH DEFENSE

The Enacted Congressional Plan does not unduly split governmental units and gave preference in keeping whole, in order, counties, then townships and municipal corporations.

TENTH DEFENSE

Respondents Huffman and Cupp answer the individual allegations of the FAC as follows:

1. With regard to the allegations in paragraph 1, Respondents Huffman and Cupp admit that on November 20, 2021, Governor DeWine signed SB 258 into law and admit the Ohio Constitution speaks for itself. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 1.

2. Respondents Huffman and Cupp deny the allegations of paragraph 2.

3. Respondents Huffman and Cupp deny the allegations of paragraph 3.

4. Respondents Huffman and Cupp deny the allegations of paragraph 4.

5. Respondents Huffman and Cupp deny the allegations of paragraph 5.

6. With regard to the allegations in paragraph 6, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 6.

7. With regard to the allegations in paragraph 7, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 7.

8. With regard to the allegations in paragraph 8, Respondents Huffman and Cupp admit that the cited case and the Ohio Constitution speak for themselves. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 8.

9. With regard to the allegations in paragraph 9, Respondents Huffman and Cupp admit that the cited case speaks for itself. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 9.

10. Respondents Huffman and Cupp deny the allegations of paragraph 10.

11. With regard to the allegations in paragraph 11, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. In all other respects, Respondents Huffman and Cupp deny the allegations of paragraph 11.

12. Respondents Huffman and Cupp deny the allegations of paragraph 12.

13. With regard to the allegations in paragraph 13, Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 13.

14. With regard to the allegations in paragraph 14, Respondents Huffman and Cupp deny that the Enacted Congressional Plan will dilute Relators' votes. Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 14.

15. With regard to the allegations in paragraph 15, Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15.

16. Respondents Huffman and Cupp deny the allegations of paragraph 16.

17. Respondents Huffman and Cupp deny the allegations of paragraph 17.

18. Respondents Huffman and Cupp deny the allegations of paragraph 18.

19. Respondents Huffman and Cupp deny the allegations of paragraph 19.

20. Respondents Huffman and Cupp deny the allegations of paragraph 20.

21. Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 21.

22. With regard to the allegations in paragraph 22, Respondents Huffman and Cupp deny that the Enacted Congressional Plan dilutes the votes of Relators. Except as specifically

admitted herein, Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 22.

23. Respondents Huffman and Cupp lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 23.

24. Respondents Huffman and Cupp deny the allegations of paragraph 24.

25. Respondents Huffman and Cupp deny the allegations of paragraph 25.

26. Respondents Huffman and Cupp deny the allegations of paragraph 26.

27. Respondents Huffman and Cupp deny the allegations of paragraph 27.

28. Respondents Huffman and Cupp deny the allegations of paragraph 27.

29. Respondents Huffman and Cupp deny the allegations of paragraph 29.

30. Respondents Huffman and Cupp deny the allegations of paragraph 30.

31. Respondents Huffman and Cupp deny the allegations of paragraph 31.

32. Respondents Huffman and Cupp deny the allegations of paragraph 32.

33. Respondents Huffman and Cupp deny the allegations of paragraph 33.

34. Respondents Huffman and Cupp deny the allegations of paragraph 34.

35. Respondents Huffman and Cupp deny the allegations of paragraph 35.

36. Respondents Huffman and Cupp deny the allegations of paragraph 36.

37. Respondents Huffman and Cupp admit the allegations of paragraph 37.

38. Respondents Huffman and Cupp admit the allegations of paragraph 38.

39. With regard to the allegations in paragraph 39, Respondents Huffman and Cupp admit that Huffman is the President of the Ohio State Senate and a member of the Commission, is sued in his official capacity, that the Ohio General Assembly has primary authority for drawing Ohio's congressional districts, and that the General Assembly passed the Enacted Congressional

Plan. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 39.

40. With regard to the allegations in paragraph 39, Respondents Huffman and Cupp admit that Cupp is the Speaker the Ohio State House of Representatives and a member of the Commission, is sued in his official capacity, that the Ohio General Assembly has primary authority for drawing Ohio's congressional districts, and that the General Assembly passed the Enacted Congressional Plan. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 40.

41. With regard to the allegations in paragraph 41, Respondents Huffman and Cupp admit that the members of the Commission are a matter of public record. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 41.

42. With regard to the allegations in paragraph 42, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 42.

43. With regard to the allegations in paragraph 43, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 43.

44. With regard to the allegations in paragraph 44, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 44.

45. With regard to the allegations in paragraph 45, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 45.

46. With regard to the allegations in paragraph 46, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 46.

47. With regard to the allegations in paragraph 47, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 47.

48. With regard to the allegations in paragraph 48, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 48.

49. With regard to the allegations in paragraph 49, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 49.

50. With regard to the allegations in paragraph 50, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 50.

51. With regard to the allegations in paragraph 51, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 50. 51.

52. With regard to the allegations in paragraph 52, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 52.

53. With regard to the allegations in paragraph 53, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 53.

54. With regard to the allegations in paragraph 54, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations of paragraph 54.

55. Respondents Huffman and Cupp deny the allegations in paragraph 55.

56. With regard to the allegations in paragraph 56, Respondents Huffman and Cupp admit that the cited case speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 56.

57. Respondents Huffman and Cupp deny the allegations in paragraph 57.

58. With regard to the allegations in paragraph 58, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 58.

59. With regard to the allegations in paragraph 59, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 59.

60. With regard to the allegations in paragraph 60, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 60.

61. With regard to the allegations in paragraph 61, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 61.

62. With regard to the allegations in paragraph 62, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 62.

63. With regard to the allegations in paragraph 63, Respondents Huffman and Cupp admit that Ohio's historical election results and the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 63.

64. With regard to the allegations in paragraph 64, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 64.

65. With regard to the allegations in paragraph 65, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 65.

66. With regard to the allegations in paragraph 66, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 66.

67. With regard to the allegations in paragraph 67, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 67.

68. With regard to the allegations in paragraph 68, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 68.

69. With regard to the allegations in paragraph 69, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 69.

70. With regard to the allegations in paragraph 70, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 70.

71. With regard to the allegations in paragraph 71, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 71.

72. With regard to the allegations in paragraph 72, Respondents Huffman and Cupp admit that the cited sources speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 72.

73. With regard to the allegations in paragraph 73, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 73.

74. With regard to the allegations in paragraph 74, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 74.

75. With regard to the allegations in paragraph 75, Respondents Huffman and Cupp admit that the Ohio Senate voted 24—7 to adopt the map. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 75.

76. With regard to the allegations in paragraph 76, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 76.

77. With regard to the allegations in paragraph 77, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 77.

78. With regard to the allegations in paragraph 78, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 78.

79. With regard to the allegations in paragraph 79, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 79.

80. With regard to the allegations in paragraph 80, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 80.

81. With regard to the allegations in paragraph 81, Respondents Huffman and Cupp admit that the cited source speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 81.

82. Respondents Huffman and Cupp admit the allegations in paragraph 82.

83. With regard to the allegations in paragraph 83, Respondents Huffman and Cupp admit that the public record, including the enrolled version of Sub. 258, speak for themselves. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 83.

84. With regard to the allegations in paragraph 84, Respondents Huffman and Cupp admit that Governor DeWine signed the bill. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 84.

85. Respondents Huffman and Cupp deny the allegations in paragraph 85.

86. Respondents Huffman and Cupp deny the allegations in paragraph 86.

87. Respondents Huffman and Cupp deny the allegations in paragraph 87.

88. Respondents Huffman and Cupp deny the allegations in paragraph 88.

89. Respondents Huffman and Cupp deny the allegations in paragraph 89.

90. Respondents Huffman and Cupp deny the allegations in paragraph 90.

91. Respondents Huffman and Cupp deny the allegations in paragraph 91.

92. Respondents Huffman and Cupp deny the allegations in paragraph 92.

93. Respondents Huffman and Cupp deny the allegations in paragraph 93.

94. Respondents Huffman and Cupp deny the allegations in paragraph 94.

95. With regard to the allegations in paragraph 95, Respondents Huffman and Cupp admit that the public record, including the enrolled version of Sub. 258 speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 95.

96. Respondents Huffman and Cupp deny the allegations in paragraph 96.

97. Respondents Huffman and Cupp deny the allegations in paragraph 97.

98. Respondents Huffman and Cupp deny the allegations in paragraph 98.

99. Respondents Huffman and Cupp deny the allegations in paragraph 99.

100. Respondents Huffman and Cupp deny the allegations in paragraph 100.

101. Respondents Huffman and Cupp deny the allegations in paragraph 101.

102. With regard to the allegations in paragraph 102, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 102.

103. With regard to the allegations in paragraph 103, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 103.

104. With regard to the allegations in paragraph 104, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 104.

105. With regard to the allegations in paragraph 105, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 105.

106. Respondents Huffman and Cupp deny the allegations in paragraph 106.

107. Respondents Huffman and Cupp deny the allegations in paragraph 107.

108. With regard to the allegations in paragraph 108, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 105.108.

109. With regard to the allegations in paragraph 109, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 109.

110. With regard to the allegations in paragraph 110, Respondents Huffman and Cupp admit that the Enacted Congressional Map speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 110.

111. Respondents Huffman and Cupp deny the allegations in paragraph 111.

112. Respondents Huffman and Cupp deny the allegations in paragraph 112.

FIRST CAUSE OF ACTION

113. Respondents Huffman and Cupp incorporate their responses to paragraphs 1—112 as if fully set out herein.

114. With regard to the allegations in paragraph 114, Respondents Huffman and Cupp admit that Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 114.

115. With regard to the allegations in paragraph 115, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 115.

116. Respondents Huffman and Cupp deny the allegations in paragraph 116.

117. Respondents Huffman and Cupp deny the allegations in paragraph 117.

118. Respondents Huffman and Cupp deny the allegations in paragraph 118.

119. Respondents Huffman and Cupp deny the allegations in paragraph 119.

SECOND CAUSE OF ACTION

120. Respondents Huffman and Cupp incorporate their responses to paragraphs 1—119 as if fully set out herein.

121. Respondents Huffman and Cupp deny the allegations in paragraph 121.

122. With regard to the allegations in paragraph 122, Respondents Huffman and Cupp admit that the Ohio Constitution speaks for itself. Except as specifically admitted herein, Respondents Huffman and Cupp deny the allegations in paragraph 122.

123. Respondents Huffman and Cupp deny the allegations in paragraph 123.

124. Respondents Huffman and Cupp deny the allegations in paragraph 124.

125. Respondents Huffman and Cupp deny the allegations in paragraph 125.

ELEVENTH DEFENSE

To the extent that any of the unnumbered, boldfaced fact headings or argument statements in the Verified Complaint can be construed as allegations to which a response is required, Respondents Huffman and Cupp deny all such fact headings or argument statements.

PRAYER FOR RELIEF

Respondents move the Court for an order dismissing the FAC and awarding Respondents such other relief as may be just and equitable.

Respectfully submitted this the 23rd day of December, 2021.

/s/ Phillip J. Strach

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**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of December, 2021, I have served the foregoing document by email:

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Donald Brown (PHV 25480-2021)*
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/s/Phillip J. Strach
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