

**IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO**  
**CIVIL DIVISION**

<b>OHIO DEMOCRATIC PARTY, et al.,</b>	:	
	:	<b>Case No. CV 06 606270</b>
<b>Plaintiffs,</b>	:	
	:	<b>JUDGE TIMOTHY E. MCMONAGLE</b>
<b>v.</b>	:	
	:	
<b>J. KENNETH BLACKWELL, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**DEFENDANT J. KENNETH BLACKWELL**  
**SECRETARY OF THE STATE OF OHIO'S ANSWER TO**  
**PLAINTIFFS' VERIFIED COMPLAINT**

Now comes Defendant, J. Kenneth Blackwell, Secretary of the State of Ohio, by and through counsel, and for his Answer to Plaintiffs' Verified Complaint for Declaratory and Injunctive Relief states as follows:

As a preliminary matter, Defendant denies the allegations as characterized in the two (2) unnumbered paragraphs that precede the allegations in the Verified Complaint. Defendant admits that he issued Advisory 2006-08 on November 1, 2006, and further issued a clarification of that Advisory on November 3, 2006. Defendant specifically denies the remainder of the allegations as stated.

1. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 1 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

2. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 2 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

3. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 3 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

4. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 4 of Plaintiffs' Verified Complaint.

5. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 5 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

6. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 6 of Plaintiffs' Verified Complaint.

7. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 7 of Plaintiffs' Verified Complaint.

8. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 8 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

9. Defendant, J. Kenneth Blackwell does not answer Paragraph 9 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

10. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 10 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

11. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 11 of Plaintiffs' Verified Complaint.

12. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 12 of Plaintiffs' Verified Complaint.

13. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 13 of Plaintiffs' Verified Complaint.

14. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 14 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

15. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 15 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

16. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 16 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

17. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 17 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

18. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 18 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

19. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 19 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

20. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 20 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

21. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 21 of Plaintiffs' Verified Complaint.

22. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 22 of Plaintiffs' Verified Complaint.

23. Defendant, J. Kenneth Blackwell, admits the allegations contained in Paragraph 23 of Plaintiffs' Verified Complaint.

24. Defendant, J. Kenneth Blackwell denies the allegations contained in Paragraph 24 of Plaintiffs' Amended Complaint as untrue and contrary to both law and fact.

25. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 25 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

26. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 26 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

27. Defendant, J. Kenneth Blackwell, admits that Secretary Blackwell clarified Advisory No. 2006-08, but denies the remainder of the allegations in Paragraph 27 as stated.

28. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 28 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

29. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 29 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

30. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 30 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

31. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 31 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

32. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 32 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

33. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 33 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

34. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 34 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

35. Defendant, J. Kenneth Blackwell, neither admits nor denies the allegations contained in Paragraph 35 of Plaintiffs' Verified Complaint as he is without sufficient knowledge to formulate a response.

36. Defendant, J. Kenneth Blackwell does not answer Paragraph 36 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

37. Defendant, J. Kenneth Blackwell does not answer Paragraph 37 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

38. Defendant, J. Kenneth Blackwell does not answer Paragraph 38 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

39. Defendant, J. Kenneth Blackwell does not answer Paragraph 39 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

40. Defendant, J. Kenneth Blackwell does not answer Paragraph 40 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

41. Defendant, J. Kenneth Blackwell does not answer Paragraph 41 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

42. Defendant, J. Kenneth Blackwell does not answer Paragraph 42 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

43. Defendant, J. Kenneth Blackwell does not answer Paragraph 43 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

44. Defendant, J. Kenneth Blackwell, denies the allegations contained in Paragraph 44 of Plaintiffs' Verified Complaint as untrue and contrary to both law and fact.

45. Defendant, J. Kenneth Blackwell, denies the allegations contained in Paragraph 45 of Plaintiffs' Verified Complaint as untrue and contrary to both law and fact.

46. Defendant, J. Kenneth Blackwell does not answer Paragraph 46 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

47. Defendant, J. Kenneth Blackwell does not answer Paragraph 47 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

48. Defendant, J. Kenneth Blackwell does not answer Paragraph 48 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

#### **COUNT I - Declaratory Judgment**

49. Defendant, J. Kenneth Blackwell does not answer Paragraph 49 of Plaintiffs' Verified Complaint as it contains no factual allegations against him.

50. Defendant, J. Kenneth Blackwell does not answer Paragraph 50 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

51. Defendant, J. Kenneth Blackwell, denies the allegations contained in Paragraph 51 of Plaintiffs' Complaint as untrue and contrary to both law and fact.

### **COUNT II - Retroactivity**

52. Defendant, J. Kenneth Blackwell does not answer Paragraph 52 of Plaintiffs' Verified Complaint as it contains no factual allegations against him.

53. Defendant, J. Kenneth Blackwell does not answer Paragraph 53 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

54. Defendant, J. Kenneth Blackwell does not answer Paragraph 54 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

55. Defendant, J. Kenneth Blackwell does not answer Paragraph 55 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

56. Defendant, J. Kenneth Blackwell does not answer Paragraph 56 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

57. Defendant, J. Kenneth Blackwell does not answer Paragraph 57 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion



of law which does not require an answer.

58. Defendant, J. Kenneth Blackwell, denies the allegations contained in Paragraph 58 of Plaintiffs' Complaint as untrue and contrary to both law and fact.

**COUNT III - Due Process: Ohio Constitution**

59. Defendant, J. Kenneth Blackwell does not answer Paragraph 59 of Plaintiffs' Verified Complaint as it contains no factual allegations against him.

60. Defendant, J. Kenneth Blackwell does not answer Paragraph 60 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

61. Defendant, J. Kenneth Blackwell does not answer Paragraph 61 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

62. Defendant, J. Kenneth Blackwell does not answer Paragraph 62 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

63. Defendant, J. Kenneth Blackwell does not answer Paragraph 63 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

64. Defendant, J. Kenneth Blackwell does not answer Paragraph 64 of Plaintiffs' Verified Complaint as it contains no factual allegations against him, but only attempts to state a conclusion of law which does not require an answer.

65. Defendant, J. Kenneth Blackwell, denies the allegations contained in Paragraph 65 of Plaintiffs' Complaint as untrue and contrary to both law and fact.

**FIRST DEFENSE:**

66. Plaintiffs' Verified Complaint fails to state a claim upon which relief may be granted.

**SECOND DEFENSE:**

67. Plaintiffs have failed to name the real party in interest.

**THIRD DEFENSE:**

68. Some or all of the Plaintiffs lack standing to bring these claims.

**FOURTH DEFENSE:**

69. Some or all of Plaintiffs' claims are barred by estoppel and/or laches.

**FIFTH DEFENSE:**

70. Plaintiffs have failed to join all necessary and/or indispensable parties.

**SIXTH DEFENSE:**

71. Defendant, J. Kenneth Blackwell, is entitled to absolute immunity for some or all of Plaintiffs' claims.

**SEVENTH DEFENSE:**

72. Defendant, J. Kenneth Blackwell, is entitled to qualified immunity for some or all of Plaintiffs' claims.

**EIGHTH DEFENSE:**

73. This Court lacks jurisdiction to hear this case.

**NINTH DEFENSE:**

74. Defendant, J. Kenneth Blackwell, specifically reserves the right to add additional

affirmative defenses as may become necessary through the course of discovery.

**WHEREFORE**, Defendant, J. Kenneth Blackwell, Secretary of the State of Ohio, respectfully requests this Honorable Court to dismiss Plaintiffs' cause of action, with prejudice, and award costs and attorney's fees so wrongfully incurred.

Respectfully submitted,

**JIM PETRO (0022096)**  
**ATTORNEY GENERAL OF OHIO**

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**LARRY H. JAMES (0021773)**

**CHRISTINA L. CORL (0067869)**

CRABBE, BROWN & JAMES, LLP

500 South Front Street, Suite 1200

Columbus, OH 43215

Telephone: (614) 228-5511

Facsimile: (614) 229-4559

e-mail: [LJjames@CBJLawyers.com](mailto:LJjames@CBJLawyers.com)

[CCorl@CBJLawyers.com](mailto:CCorl@CBJLawyers.com)

*Counsel for Defendant J. Kenneth Blackwell  
Ohio Secretary of State.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was forwarded via regular US Mail this 17<sup>th</sup> day of November, 2006, to the following counsel of record:

**Counsel for Plaintiffs**

Christopher P. Thorman, Esq.  
Thorman & Hardin-Levine Co., LPA  
The Bradley Building  
1220 West 6<sup>th</sup> Street, Suite 307  
Cleveland, OH 44113

**Counsel for Cuyahoga County Board of Elections**

William D. Mason, Esq.  
Barbara R. Marburger, Esq.  
Cuyahoga County Prosecutor's Office  
The Justice Center, Courts Tower  
1200 Ontario Street  
Cleveland, OH 44113

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**LARRY H. JAMES**           **(0021773)**  
**CHRISTINA L. CORL**       **(0067869)**  
*Counsel for Defendant J. Kenneth Blackwell,  
Ohio Secretary of State.*