

**IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO**

Gerald W. Phillips)	Case No.
461 Windward Way)	
Avon Lake, Ohio 44012)	
)	
Contestor)	Judge:
)	
vs.)	
)	
Michelle Hung)	
37037 Chaddwyck)	Election Contest Complaint
North Ridgeville, Ohio 44039)	
)	
Contestee)	
)	

Now comes Gerald W. Phillips, the Contestor (“Phillips”) individually and by himself as Counsel who do hereby pursuant to Ohio Revised Code Section 3515.09 files his Election Contest Complaint as follows:

Parties

- 1) Gerald W. Phillips (“Phillips”) lives and resides at 461 Windward Way, Avon Lake, Ohio 44012;
- 2) Michelle Hung resides at 37037 Chaddwyck, North Ridgeville, Ohio 44039 (“Hung”);

Jurisdiction

- 3) This Court has jurisdiction of this Election Contest Complaint pursuant to Ohio Revised Code Section 3515.08;

Venue

- 4) Venue is proper in this Court for and over this Election Contest Complaint pursuant to Ohio Revised Code Section 3515.08;

Factual Background Candidates

- 5) Phillips filed his nominating petition for the March 17, 2020 Presidential Primary Election as a Republican Candidate for Lorain County Commissioner for the office commencing on 1-2-21, on 12-18-19 (“Presidential Primary Election”);
- 6) Phillips establish his campaign committee on 11-13-19 when he filed a Designation of Treasurer form with the Lorain County Board of Elections, an exploratory committee for his candidacy for Lorain County Commissioner;
- 7) Hung was Phillips opponent in the President Primary Election;
- 8) On April 28, 2020, the Lorain County Board of Election (“Lorain Board” or “Board Offices”) announced its unofficial results for the Presidential Primary Election, and Hung garnered more votes than Phillips, and was the apparent winner of the Hung-Phillips primary race;
- 9) On May 14, 2020, the Lorain Board certified the election results of the Hung-Phillips primary race, and Hung was the winner, a true and accurate copy of the official election results are attached hereto and made a part hereof as if incorporated herein, Exhibit A;
- 10) On May 19, 2020, Phillips timely pursuant to ORC Section 3515.01 through 3515.07 requested a Recount, a true and accurate copy of such Recount is attached hereto and made a part hereof, Exhibit B;
- 11) On May 28, 2020 the Recount was conducted and the Lorain Board certified the Election Results of the Presidential Primary Race reflecting the Recount Results, a true and accurate copy of the Lorain Board actions in certifying the Recount Results is attached hereto and made a part hereof, Exhibit C, official meeting minutes and the official certification of the Recount Results of the Lorain Board for such meeting have not been

- prepared yet, although Phillips has a made an official Public Records Request;
- 12) The Recount Results show Hung the winner in the Hung-Phillips primary race;
 - 13) In the Republican Primary for the Hung-Phillips as reflected by the 5-28-20 Recount, 14,912 votes were cast, but 18,054 Republicans requested ballots to vote in the Republican Primary including the Hung-Phillips leaving at least 3,142 Republican registered electors who were disenfranchised and illegally unlawfully and unconstitutionally excluded from exercising their constitutional right to vote;
 - 14) There are more than 3,142 registered Republican registered electors who were disenfranchised and illegally unlawfully and unconstitutionally excluded from exercising their constitutional right to vote as clearly evidenced by the Specific Violations Section;
 - 15) Phillips detrimentally relied upon and campaigned upon the premise of a typical election process, absentee ballots, and in person voting on March 17, 2020 to his detriment and costs and expenses, incurring substantially more campaign costs and expenses and totally disrupting his total campaign strategy;

Constitutional Right to Vote

- 16) The Constitutional Right to Vote is the most sacred fundamental right. *Harper vs. Virginia State Bd. of Education* (1966) 383 US 663, 670, 86 S Ct 1079, 16 LE 2nd 169; *Burdick vs. Takushi* (1992) 504 US 428, 433, 112 S Ct 2059, 119 LE 2nd 245
- 17) The right to vote is a “precious” and “fundamental” right, *Harper vs. Virginia State Bd. of Education* (1966) 383 US 663, 670, 86 S Ct 1079, 16 LE 2nd 169; *Burdick vs. Takushi* (1992) 504 US 428, 433, 112 S Ct 2059, 119 LE 2nd 245 (“It is beyond cavil that “voting is of the most fundamental significance under our constitutional structure”), *Illinois Bd. of Education vs. Socialist Workers Party* (1979) 440 US 173, 184, 99 S Ct 983, 59 LE 2nd 230, *Wesberry vs. Sanders* (1964) 376 US 1, 17, 84 S Ct 526, 11 LE 2nd 481 (“Other

rights, even the most basic, are illusory if the right to vote is undermined”), *Yick Wo vs. Hopkins* (1886) 118 US 356, 370, 6 S Ct 1064, 30 LE 220 (finding that the right to vote is “preservative of all rights”). The right to vote is protected in its initial allocation of the franchise as well as its manner of its exercise, *League of Women Voters vs. Brunner* (2000) (6th Cir.) 548 F. 3rd 463, 477. Equal protection applies as well to the manner of exercise, *Bush vs. Gore* (2000) 531 US 98, 104, 121 S Ct 525, 148 LE 2nd 388. A citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction, *Dunn vs. Blumstein* (1972) 405 US 330, 336, 92 S Ct 995, 31 LE 2nd 274.

18) The Constitutional Rights of access to the ballot, the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters regardless of their political persuasion to cast their votes effectively, both of which rank among our most precious freedoms, *Anderson vs. Celebrezze* (1982) 460 US 780, 787, 103 S Ct 1564, 75 LE 2nd 547, *Williams vs. Rhodes* (1968) 393 US 23, 30-31, 89 S Ct 5, 21 LE 2nd 24.

19) Ballot access cases involved two different and overlapping constitutional issues and rights. These two different and overlapping constitutional issues and rights are the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively. Both of these rights, of course, rank among our most precious freedoms, *Anderson vs. Celebrezze* (1982) 460 US 780, 787, 103 S Ct 1564, 75 LE 2nd 547, *Williams vs. Rhodes* (1968) 393 US 23, 30-31, 89 S Ct 5, 21 LE 2nd 24. This freedom of association is clearly protected by the First Amendment of the United State Constitution, *Anderson vs. Celebrezze* (1982) 460 US 780, 787, 103 S Ct 1564, 75 LE 2nd 547, *Williams vs. Rhodes* (1968) 393 US 23, 30-

- 31, 89 S Ct 5, 21 LE 2nd 24, *Carrington vs. Rash* (1967) 380 US 217, *Skinner vs. Oklahoma* (1942) 316 US 535, 539-541. This First Amendment right of freedom of association under the US Constitution is also protected against state action through the Fourteenth Amendment of the US Constitution, *Anderson vs. Celebrezze* (1982) 460 US 780, 787, 103 S Ct 1564, 75 LE 2nd 547, *Williams vs. Rhodes* (1968) 393 US 23, 30-31, 89 S Ct 5, 21 LE 2nd 24, *New York Times vs Sullivan* (1964) 376 US 254, 276-277.
- 20) Since there is a “severe burden” upon the constitutional right to vote and the constitutional rights of access to the ballot, the “strict scrutiny” doctrine applies, *Anderson vs. Celebrezze* (1982) 460 US 780, 793
- 21) The right to vote is a “precious” and “fundamental” right, *Harper vs. Virginia State Bd. of Education* (1966) 383 US 663, 670, 86 S Ct 1079, 16 LE 2nd 169; *Burdick vs. Takushi* (1992) 504 US 428, 433, 112 S Ct 2059, 119 LE 2nd 245 (“It is beyond cavil that “voting is of the most fundamental significance under our constitutional structure”).
- 22) In the present case the State of Ohio is requiring the registered electors to give up their constitutional right to vote, in person voting in exchange of an exclusive mail in, absentee ballot means for all registered electors with a few exceptions, the limitations, restrictions, scope and practical burdens of such an exclusive mail in, absentee ballot means is a “severe burden” on the constitutional right to vote which has not been tailor and narrowly drawn and limited in scope to address the “state compelling interest”;
- 23) Poll taxes even if nominal are a “severe burden”, which mandates the “strict scrutiny” test, *Harper vs. Virginia State Bd. of Education* (1966) 383 US 663, 670, 86 S Ct 1079, 16 LE 2nd 169 (“We have long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clauses, classifications which might invade or restrain

them must be closely scrutinized and carefully confined”). *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2nd 245, *Reynolds vs. Sims* (1964) 377 US 533, 561-562 (the Supreme Court stated that “Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, **any alleged infringement of the right of the citizens to vote must be carefully and meticulously scrutinized**”). This “strict scrutiny” test was applied to a nominal poll tax of \$1.50 per person, *Harper vs. Virginia State Bd. of Education* (1966) 383 US 663, 667, 86 S Ct 1079, 16 LE 2nd 169 (“Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, **any alleged infringement of the right of the citizens to vote must be carefully and meticulously scrutinized**”).

- 24) There is a lack of any “state compelling interest” to justify the “severe burden” imposed on the constitutional right to vote and the constitutionally protected rights under the access to the ballot, under the “strict scrutiny” test, *Anderson vs. Celebrezze* (1982) 460 US 780, 789, 103 S Ct 1564, 75 LE 2nd 547, *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2nd 245.
- 25) Finally, the State of Ohio is in effect trying to affect national elections which are beyond its own borders, and national interests. Such effect cannot be a state compelling interests, *Anderson vs. Celebrezze* (1983) 460 US 780, 790-795, 103 S. Ct. 1564, 75 LE 2nd 547, (“For the President and the Vice President of the United States are the only elected officials who represent all the voters in the Nation. Moreover, the impact of the votes cast

in each State is affected by the votes cast for the various candidates in other States. Thus, in a Presidential election, a State's enforcement of more stringent ballot access requirements, including filing deadlines, has an impact beyond its own borders. Similarly, the State has a less important interest in regulating Presidential elections than state wide or local elections, because the outcome of the former will be largely determined by voters beyond the State's boundaries"), *Libertarian Party of Ohio vs. Blackwell* (2005) (6th Cir.) 462 F. 3rd 579, 594 ("Finally, it is important to note that the state's interests in regulating an election **cannot** trump the national interest in having presidential candidates appear on the ballot in each state. In the context of the presidential election, "state-imposed restrictions implicate a uniquely important national interest" Andersen, 460 US at 794-795, 103 S. Ct. 1564 (footnote omitted). Strict ballot access requirements imposed by states have an impact beyond their own borders, placing some limits on a state's prerogative to regulate its elections. Moreover, as opposed to state or local elections, the outcome of a presidential election largely will be determined by voters outside a state's borders, reducing the importance of the state administrative concerns. The combination of restriction in this case "does more than burden associational rights of.... voters and candidates. It places a significant state-imposed restriction on a national electoral process" *Anderson*, 460 US at 795, 103 S. Ct. 1564).

- 26) The State must put forth **precise interests** as justification for the burdens imposed and show to the extent why those burdens are **necessary to protect those interests** put forth. This is clearly illustrated by the "strict scrutiny" test, *Anderson vs. Celebrezze* (1982) 460 US 780, 789, 103 S Ct 1564, 75 LE 2nd 547, *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2nd 245. This is also clearly illustrated by the flexible standard

Andersen-Burdick standard is as follows: “A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against “**the precise interests put forward by the State as justifications for the burdens imposed by its rule**”, taking into consideration “**the extent to which those interests make it necessary to burden the plaintiffs’ rights**” *Anderson vs. Celebrezze* (1982) 460 US 780, 789, 103 S Ct 1564, 75 LE 2nd 547, *Burdick vs. Takushi* (1992) 504 US 428, 434, 112 S Ct 2059, 119 LE 2nd 245. There must be a direct causal link between the restrictions and limitation and the state compelling interests, and they must advance and achieve the results justifications for these state compelling interests, speculation that the results may be achieved is legally insufficient.

Irregularities and Errors

Chapter 3503- Voters- Qualification- Registration

- 27) Irregularities and errors occurred in violation of the Ohio Constitution Article V, Section 1 and Voters Qualification and Registration provisions as are provided for in ORC Section 3503, these irregularities and errors which prohibited individuals who were registered electors to cast ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 28) Individuals who were electors as is provided for in Article V, Section 1 of the Ohio Constitution were erroneously not allowed to cast votes in the Presidential Primary Election;
- 29) Individuals who are electors as is provided for in ORC Section 3503.01 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 30) Individuals who were eligible to vote as is provided for in ORC Section 3503.011 were erroneously not allowed to cast votes in the Presidential Primary Election;

- 31) Individuals who were residents of Lorain County as is provided for in ORC Section 3503.02 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 32) Individuals who were residents of Lorain County as is provided for in ORC Section 3503.06 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 33) Individuals who comply with the qualifications for registration as are provided for in ORC Section 3503.07 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 34) Individuals who complied with the changes in registration requirements as are provided for in ORC Section 3503.16 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 35) Individuals who registration should have not been cancelled as is provided for in ORC Section 3503.18 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 36) Individuals who complied with the methods of registration and change of registration requirements as are provided for in ORC Section 3503.19 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 37) Individuals who registration should have not been cancelled as is provided for in ORC Section 3503.21 were erroneously not allowed to cast votes in the Presidential Primary Election;
- 38) Individuals who registration should have not been cancelled as is provided for in and which is consistent with the Voting Rights Act of 1965 and the NVRA were erroneously not allowed to cast votes in the Presidential Primary Election;
- 39) The official registration lists and precincts lists for Lorain County as is provided for in ORC Section 3503.23 were accurate, correct and not erroneous which allow individuals who were qualify to cast ballots at the Presidential Primary Election, but the irregularities and errors prevented these individuals to cast valid, legal and correct ballots;

Chapter 3509 Absent Voter's Ballots

- 40) Irregularities and errors occurred in violation of the Absent Voter's Ballots provision as are provided for in ORC Section 3509 which prohibited individuals to cast absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 41) Irregularities and errors occurred in the voting procedures as is provided for in ORC Section 3509.05 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 42) Irregularities and errors occurred in the counting of the absentee ballots as is provided for in ORC Section 3509.06 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 43) Irregularities and errors occurred in the acceptance and/or rejection of the absentee ballots as is provided for in ORC Section 3509.07 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 44) Irregularities and errors occurred in the identification for the absentee ballots as is provided for in Directive 2014-18¹ which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 45) Irregularities and errors occurred with respect to the stubs for the absentee ballots as is provided for in Directive 2014-18 and ORC Section 3509.07 (E) which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

¹ Rescinded and Replaced by Directive No. 2015-23 which incorporated these provisions of the old directive into an Election Manual

- 46) Irregularities and errors occurred with respect to the completion of the identification envelopes with correct information for the absentee ballots as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 47) Irregularities and errors occurred with respect to the address on the identification envelope as compared to the address in voter's record for the absentee ballots as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 48) Irregularities and errors occurred with respect to the return of the identification envelope as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 49) Irregularities and errors occurred with respect to the timeliness of the return of the absentee ballots as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 50) Irregularities and errors occurred with respect to the signatures on the absentee ballots as is provided for in Directive 2014- which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;
- 51) Irregularities and errors occurred with respect to the comparison of the signatures on the absentee ballots as is provided for in Directive 2014-18 and ORC 3505.07 (B) which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

52) Irregularities and errors occurred with respect to the eligibility of the voter to cast the absentee ballots as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

53) Irregularities and errors occurred with respect to the number of absentee ballots as is provided for in Directive 2014-18 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

Chapter 3511 Armed Service Absent Voter's Ballots

54) Irregularities and errors occurred in violation of the Armed Service Absent Voter's ballots provisions as are provided for in ORC Section 3511 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

55) Irregularities and errors occurred in the counting of absentee ballots provided for in ORC Section 3511.12 which prohibited individuals from casting absentee ballots at the Primary Presidential Election who were entitled to cast absentee ballots at the Presidential Primary Election;

56) Irregularities and errors occurred in the identification and return of envelopes as is provided for in ORC Section 3511.05 which prohibited individuals from casting absentee ballots at the Presidential Election who were entitled to cast absentee ballots at the Presidential Primary Election;

57) Irregularities and errors occurred in the voting procedures and oath for the absentee ballots as is provided for in ORC Section 3511.05 which prohibited individuals from casting absentee ballots at the Presidential Primary Election who were entitled to cast absentee ballots at the Presidential Primary Election;

Chapter 3513 Primaries- Nominations

- 58) Irregularities and errors occurred in violation of the Primaries and Nominations provisions as are provided for in ORC Section 3513 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 59) Irregularities and errors occurred in the conduct of the primary election for March 17, 2020 as is provided for in ORC Section 3513.18 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 60) Irregularities and errors occurred in the challenges procedures as is provided for in ORC Section 3513.19 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 61) Irregularities and errors occurred in the counting of ballots and disputed ballots as is provided for in ORC Section 3513.21 prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Election Ballot;
- 62) Irregularities and errors occurred in the canvass and the certification of votes cast as is provided for in ORC Section 3513.22 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;

Provisional Voter's Ballots

- 63) Irregularities and errors occurred in violation of the Provisional Ballots provisions as are provided for in ORC Section 3505.181 which prohibited individuals to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 64) Irregularities and errors occurred in the Provisional Ballots provisions as are provided for

in ORC Section 3505.182 which prohibited individuals to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

65) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in

ORC Section 3505.183 which prohibited individuals to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

66) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for

in ORC Section 3505.181 thru 3505.183, ORC Section 3503.01 (A), and Directive 2014-20² which prohibited individuals who were registered voters in the State of Ohio to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

67) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in

in ORC Section 3505.181 thru 3505.183 and Directive 2014-20 which prohibited individuals to cast provisional ballots in wrong precincts and the correct polling place at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

68) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for

in ORC Section 3505.183 (4) (a) and Directive 2014-20 which prohibited individuals who voted in the wrong precinct and wrong polling location to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

69) Irregularities and errors occurred in the Provisional Ballot provision as is provided for in

ORC Section 3505.183 (4) (a) and Directive 2014-20 which prohibited individuals who failed to provide identification to cast provisional ballots at the Presidential Primary

² See Footnote No. 1; Ibid

- Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 70) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in ORC Section 3505.183 (4) (a) and Directive 2014-20 which prohibited individuals who already cast a ballot to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 71) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in ORC Section 3505.183 (B) (1) (a) and Directive 2014-20 which prohibited individuals who failed to print full name on envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 72) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in ORC Section 3505.183 (B) (1) (a) and Directive 2014-20 which prohibited individuals who failed to sign the envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 73) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in Directive 2014-20 which prohibited individuals with non-matching signatures on envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 74) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in Directive 2014-20 which prohibited individuals with no date of birth on envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 75) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in Directive 2014-20 which prohibited individuals with incorrect date of birth on envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

- 76) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in Directive 2014-20 and Advisory 2008-33³ which prohibited individuals with no current or incomplete address on the envelope to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 77) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in ORC Section 3505.183 (4) (a) and Directive 2014-20 which prohibited individuals whose eligibility was challenged to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;
- 78) Irregularities and errors occurred in the Provisional Ballots provisions as is provided for in ORC Section 3503.01 and Article V, Section 1 of the Ohio Constitution which prohibited individuals who were entitled to vote to cast provisional ballots at the Presidential Primary Election who were entitled to cast provisional ballots at the Presidential Primary Election;

Chapter 3505 General and Special Election Ballots

- 79) Irregularities and errors occurred in violation of the General and Special Election Ballots provision as are provided for in ORC Section 3505 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 80) Irregularities and errors occurred in the procedure when an elector entered the polling place as is provided for in ORC Section 3505.18 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 81) Irregularities and errors occurred in the challenge of electors at polling place as is provided for in ORC Section 3505.20 which prohibited individuals from casting ballots at

³ See Footnote No. 1; Ibid

- the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 82) Irregularities and errors occurred in the impersonating of an elector as is provided for in ORC Section 3505.22 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 83) Irregularities and errors occurred in the closing poll procedures as is provided for in ORC Section 3505.26 which prohibited individual from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 84) Irregularities and errors occurred in the counting and tallying of ballots as is provided for in ORC Section 3505.27 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 85) Irregularities and errors occurred in the rejection of ballots as is provided for in ORC Section 3505.28 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 86) Irregularities and errors occurred in the summary statement of results as is provided for in ORC Section 3505.30 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 87) Irregularities and errors occurred in the disposition of ballots, poll book, poll lists or signature poll books, and tally sheets as is provided for in ORC Section 3505.31 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;
- 88) Irregularities and errors occurred in the canvass of election results as is provided for in ORC Section 3505.32 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;

89) Irregularities and errors occurred in the certificates of election as is provided for in ORC Section 3505.38 which prohibited individuals from casting ballots at the Presidential Primary Election who were entitled to cast ballots at the Presidential Primary Election;

Chapter 3599 Election Violations

90) A violation of ORC Section 3599.16, Misconduct of Members or Employees of Board of Elections, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

91) A violation of ORC Section 3599.19, Misconduct of Judges and Clerks of Elections in Polling Places, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

92) A violation of ORC Section 3599.25, Inducing Illegal Voting, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

93) A violation of ORC Section 3599.32, Failure of Election Official to Enforce Law, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

94) A violation of ORC Section 3599.34, Destruction of Election Records Before Expiration of Time for Contest, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

95) A violation of ORC Section 3599.36, Perjury in Matter Relating to Elections, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

96) A violation of ORC Section 3599.39, Second Offense Under Election Laws, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

- 97) A violation of ORC Section 3599.40, General Penalty, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;
- 98) A violation of ORC Section 3599.42, Prima Facie Case of Fraud, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;
- 99) A violation of ORC Section 3599.42, Prima Facie Case of Fraud, which states that “A violation of any provision of Title XXXV (35) of the Revised Code constitutes a prima facie case of fraud within the purview of such title”, occurred with respect to the Presidential Primary Election, which affected enough votes to change or make uncertain the results of the Presidential Primary Election;

Ohio Revised Code Sections Violations

- 100) A violation of Ohio Revised Code Section 3501.01 (E)(2) occurred with respect to the Presidential Primary Election;
- 101) A violation of Ohio Revised Code Section 161 including and expressly Ohio Revised Code Section 161.09 occurred with respect to the Presidential Primary Election;
- 102) A violation of the Emergency Management provisions ORC Section 5502.21 through 5502.38, including ORC Section 5502.25 the rules making provisions for the Emergency Management provisions including those mandatory requirements for rule making under ORC Section 119 occurred with respect to the Presidential Primary Election;

Ohio Constitution Violations

- 103) A violation of the Ohio Constitution, Article 1, Section 3, one’s constitutional right to petition one’s government for redress of grievances occurred with respect to the Presidential Primary Election;
- 104) A violation of the Ohio Constitution, Article 1, Section 18, the prohibition of the suspension of laws occurred with respect to the Presidential Primary Election;

- 105) A violation of the Ohio Constitution, Article 1, Section 20, the reservation of constitutional rights and inalienable rights of the people occurred with respect to the Presidential Primary Election;
- 106) A violation of the Ohio Constitution, Article 2, Section 42, limitation of powers during a disaster occurred with respect to the Presidential Primary Election;
- 107) A violation of the Ohio Constitution, Article 3, Section 8, non-feasance of the Governor DeWine occurred with respect to the Presidential Primary Election;
- 108) A violation of the Ohio Constitution, Article 5, Section 1, registered electors constitutional right to vote occurred with respect to the Presidential Primary Election;
- 109) A violation of the Ohio Constitution, Article 5, Section 2, constitutional right of registered electors to vote by ballot occurred with respect to the Presidential Primary Election;
- 110) A violation of the Ohio Constitution, Article 5, Section 7, illegal unlawful change of primary election occurred with respect to the Presidential Primary Election;
- 111) A violation of the Ohio Constitution, Article 3, Section 6, non-feasance and misfeasance of Governor DeWine, failure to assure that laws are faithfully executed occurred with respect to the Presidential Primary Election;
- 112) A violation of the Ohio Constitution, Article 3, Section 7, non-feasance and misfeasance of Governor DeWine, failure to communicate the state of affairs of the state to the General Assembly occurred with respect to the Presidential Primary Election;

Specific Violations

- 113)Phillips along with some other individuals were present during and from the period of approximately 9:00 AM through 7:30 PM on Tuesday April 28, 2020 (“Election Day”) at the main offices at the Lorain County Board of Elections Office located at 1985 North Ridge Road East, Lorain, Ohio 44055 (“Board Offices”);
- 114)Phillips along with some other individuals personally observed, heard, participated in

Election Day activities outside of the Board Offices as registered electors came to drop off their absentee ballots or to come to vote at the Board Offices;

115) No one from the Board Offices was present outside the Board Offices to consult, answer questions, to direct them, assist them and or offer any kind of help, there was a complete failure and non-feasance on behalf of the Board Offices on Election Day;

116) Phillips is an expert election law attorney having tried litigated and advocated numerous cases in the local courts, appellate courts, and especially in the Ohio Supreme Court;

117) Phillips due to the failure and non-feasance of the Board Offices on Election Day, Phillips was forced to and volunteered to assist registered electors who were attempting to exercise their constitutional right to vote on Election Day;

118) Phillips personal observed, personally participated in, personal heard, or has personal first-hand knowledge of the following irregularities and errors which occurred on Election Day or prior to Election Day:

A) Several disabled registered electors were denied their constitutional right to vote;

B) Several registered electors were previously told by the Board Office that they could make absentee ballot requests on Election Day and vote;

C) That there was a totally lack of reasonable notice or constitutional sufficient notice given to all those who requested absentee ballots, that if they did not receive their absentee ballots prior to Election Day they could vote in person on Election Day;

D) That there was unreasonable delays in the mailing of the absentee ballots requests, the return of absentee ballots, the processing of the absentee ballots, the printing of the absentee ballots, and the administration of an exclusive mail in or absentee ballot election due to the shortness of the time periods and extreme burden on the United State Postal Service, which deprived registered voters who requested absentee ballots of the constitutional right to vote in the Presidential Primary Election;

E) The Board Offices actions and conduct with respect to the Election Day including

prior to the Election Day with respect to the Presidential Primary Election was negligent, gross neglect and duty, misconduct in office, and wanton disregard;

F) Numerous individuals dropped off absentee ballots requests forms in the mailbox outside the Board Offices for the absentee ballots or mail in ballots, for which there was a constant steady flow of registered electors who dropped off their absentee ballots or mail in ballots from late morning to the close of the polls at the Board Offices at 7:30 PM on Election Day;

G) One individual inquired about voting in person, and ask about a person named Tim about such voting, he was directed inside, and upon his exiting he was ask and he confirmed that everything went OK and he voted, such voting was illegal;

H) Captain Watkins Lorain police officer was unlawfully illegally and unconstitutionally deprived of his constitutional right to vote;

I) Secretary of State Frank LaRose and other organizations such as the League of Women's Voters, the Libertarian Party objected to and opposed the setting of the date of April 28, 2020 for the exclusive mail in or absentee ballots deadline and suggested 6-2-20 as a more appropriate constitutional assured date;

H) Phillips in his expert opinion has opined the following: there was complete chaos, confusion, and gross misunderstanding concerning the exclusive mail in or absentee ballot election process for the Presidential Primary Election, that the constitutional rights of all those who requested absentee ballots or mail in ballots and who were not allow to vote were denied their constitutional rights to vote, that the Election Day activities and those incurring prior to Election Day unconstitutionally denied registered electors their constitutional right to vote, that the postponement of the Presidential Primary Election was illegal, unlawful, and unconstitutional, and that the exclusive mail in or absentee ballot alternative for the Presidential Primary Election was unconstitutional;

Laches

119) It is the well-established and well settled law in this State as announced repeatedly by the Ohio Supreme Court that **extreme due diligence and extreme promptness are required in election matters**. The courts have recognized the need to resolve election issues promptly so the public can have adequate time to evaluate the issues and to permit the board of elections with sufficient time to perform their statutory duties under Title 35 ORC. Thus, courts have consistently required persons with elections issues to present **all their issues promptly and with due diligence** so that the public and boards of elections are not harmed or prejudiced.

120) That Acton and DeWine actions and conduct in the postponement of the Presidential Primary Election was barred by the doctrine of laches, *State ex rel Newell v. Tuscarawas Cty. Bd. of Elections* (2001) 93 OS 3rd 592, (holding that a **twenty day delay** in filing a protest from the filing of the petitions, and a **fourteen day delay** in filing the lawsuit was deemed laches as a matter of law, notwithstanding **the claim of a violation of ORC §3501.38 (E)**). This case is controlling and is right on point as to the present case. In fact, in the present case the delays are substantially long, they slept on their rights as evidenced by Exhibit D and E and paragraphs 107, 111, and 112. This has led the courts to declare time frames even as short as nine days to be untimely and deemed as laches. **Promptness and due diligence can be as short as nine days.** *State ex rel Bona v. Orange* (1999) 85 OS 3rd 18 (holding that a 35 day delay in filing a notice of appeal to the Supreme Court was not promptness and due diligence and thus laches) *State ex rel Manos v. Delaware Cty. Bd. of Elections* (1998) 83 OS 3rd 562, (holding that filing of protest on September 3 four weeks after certified petition was filed was untimely and

deemed laches) *State ex rel Ascani v. Stark Cty, Bd. of Elections* (1998) 83 OS 3rd 490. (holding that a 23 day delay of filing protest certification of issue was laches), *State ex Polo v. Cuyahoga Cty. Bd. of Elections* (1995) 74 OS 3rd 143 (holding that filing of expedited case 17 days after protest hearing was laches, and laches exist where filing of expedited case on October 6th was after the date absentee ballots could be sent out October 3rd), *State ex rel Paschal v. Cuyahoga Cty. Bd. of Elections* (1995) 74 OS 3rd 141 (holding that 9 days delay in filing after protest hearing on October 2 on October 11th after time absentee ballots could be sent out was untimely and laches existed). As recently as October 16, 2001 the Ohio Supreme Court has reaffirmed this requirement of extreme promptness and extreme due diligence in elections cases, stating that **the burden is upon the Relator to show he has acted with extreme promptness and extreme due diligence.** *State ex rel Carberry v. Ashtabula* (2001) 93 OS 3rd 522 (holding that a sixteen day delay in filing of the lawsuit from the September 4, 2001 rejection of the relators claim to put a charter amendment on the ballot was laches even though the lawsuit was filed prior to the absentee ballot date of October 2, 2001 since that date passed before the case was briefed and submitted on October 10, 2001)

121) In the present case, Acton and DeWine has been nothing but dilatory, and totally lacking in any promptness or due diligence as clearly evidenced by the following action and conduct:

- A) Exhibit D, DeWine's Emergency Order;
- B) Exhibit E, Acton's Director's Order Closure of the Polls;
- C) Acton and DeWine were clearly aware that the President Donald J. Trump declared the coronavirus pandemic a national emergency and that the World Health

- Organization announced that the COVID 19 outbreak can be characterized as a pandemic, but instead of forthwith action sleep on its legal obligations and duties;
- D) DeWine institution of a friendly lawsuit in the Franklin County Common Pleas, Case No. 20 CV 2105;
 - E) DeWine around 3:00 PM on 3-16-20 at the eleventh hour announced at a press conference that state officials had determined it was unsafe to hold the election Presidential Primary Election, and that he anticipated and would not contest a friendly lawsuit, a private lawsuit to postpone the Presidential Primary Election;
 - F) The Franklin County Common Pleas Court, announced its decision to deny the postponement of the Presidential Primary Election, Exhibit F, attached hereto;
 - G) A series of conflicting and erroneous messages and media reports from the Secretary of State Office Frank LaRose led boards of election to misinform poll workers through the afternoon and evening that the Presidential Primary Election has been postponed when in fact it had not been postponed;
 - H) At 10:26 PM the Ohio Department of Health Director Dr. Amy Acton (“Acton”) order all polls closed, Exhibit G;
 - I) Acton and DeWine conspire at the eleventh hour to undertake a conspiracy to derail the Presidential Primary Election for their own political gain, attention and promotion, including the Hair Mary Closure of the Polls, Exhibit G;
- 122) The doctrine of laches in election matters absolutely bars the postponement of the Presidential Primary Election as a matter of law as evidenced by the well-established authority above;

Quarantine

- 123) Ohio Revised Code Section 3701.13 gives State Medical Director, Amy Acton (“Acton”) ultimate authority concerning quarantine, who is appointed by Governor Michael DeWine (“DeWine”) (“Acton’s Powers”);
- 124) Acton Powers are overly vague and broad and are unconstitutional;
- 125) Acton Powers violate the Ohio Constitution as an unconstitutional delegation of legislative powers, the Action Powers are legislative powers not administrative powers carrying out existing laws;
- 126) Acton Powers violate the Ohio Constitution by the well-known doctrine and principles of separation of powers, the Acton Powers are legislative powers and not administrative powers carrying out existing laws;
- 127) Quarantine means the restriction of the movements or activities of a well individual or animal who has been exposed to a communicable disease during the period of communicability of that disease and in such manner that transmission of the disease may have occurred. The duration of the quarantine ordered shall be equivalent to the usual incubation period of the disease to which the susceptible person or animal was exposed, Ohio Adm. Code 3701-3-01 (W);
- 128) Period of Communicability means the interval during which an infected individual or animal is shedding the specific microorganism of a communicable disease in such a manner that those who are susceptible could acquire the infection, Ohio Adm. Code. 3701-3-01(U);
- 129) The department of health defines isolation as the separation of an infected individual from others during the period of disease communicability in such a way that prevents as

far as possible the direct or indirect conveyance of an infectious agent of those who are susceptible to infection or who may spread the agent to others;

130) The incubation period for the coronavirus, COVID 19, can be up to 14 days according to the Ohio Department of Health, and Acton;

131) Acton has quarantined the entire people of the State of Ohio, for more than 14 days, and Acton has no legal statutory, constitutional, or express legal authority to order such broad, unlimited, unrestricted, unlawful, illegal, and unconstitutional quarantine;

132) A true and accurate copy of Judge Eugene A. Lucci, decision in Lake County Common Pleas Court, Case No. 20 CV 000631 is attached hereto and incorporated herein as if fully restated herein, Exhibit H;

133) On March 17, 2020, three of the four states holding primary election preceded with their primary election without any significant difference in the COVID fatality rate, Ohio was the only state to illegally, unlawfully, and unconstitutionally postponed the Presidential Primary Election;

Secrecy of Quarantine

134) On 5-30-20 a Public Records Request was made upon Acton, for quarantine information and data, modeling information and data, and statistics analysis for the modeling projections, a true and accurate copy of such Public Request is attached hereto and made a part hereof, Exhibit I;

135) Acton has refused to comply and has not comply with such Public Records Request;

Statistics-Deceptive and Misleading Information and Data

136) As of the most recent data on the Coronavirus Ohio Website, there are 2,377 deaths from the COVID 19, 2,155 confirmed deaths, 222 probable-possible related deaths;

- 137) The COVID 19 deaths are concentrated in two centers, 1) Nursing Homes which account for 79% of the deaths, and these individuals are the most susceptible and vulnerable persons to contract the COVID 19; and 2) Inmates in state and federal prisons and institutions in the State of Ohio, and there are 80 deaths, 78 confirmed, 2 probable-possible deaths;
- 138) Out of the 2,377 confirmed deaths including those questionable, approximately 1,878 are among Nursing Homes, and 80 among Jails, leaving a mere 419 individuals in the State of Ohio outside Nursing Homes and Jails;
- 139) A mere 419 deaths for non-highly susceptible Ohioans, among 11,747,694 Ohioans, represents a mere .000036 (0.0036%), no justification to destroy Ohio's economy;
- 140) Testimony has recently been presented to the Ohio State Legislative stating that the more Ohioans died from the flu pandemic of 2018 in the first four months of that year, than the number of Ohioans who died in 2020 from the COVID in the first four months of 2020, but there were no actions and conduct similar to Acton and DeWine;
- 141) Acton and DeWine has used a "sledge hammer" to kill the Ohio economy through their unconstitutional actions, destroying the Ohio economy, and destroying the constitutional rights of all Ohioans, individuals and businesses, outside of Nursing Homes and Jails, when Acton and DeWine should have used a "scalpel and a knife" to delicately slice and dice the COVID 19;
- 142) Acton and DeWine should be both removed from office, consistent with and pursuant to Ohio Revised Code Section 3.04, Ohio Revised Code Section 3.07 through 3.10, Article 2, Section 38 of the Ohio Constitution, and impeachment procedures brought forth pursuant to Article 2, Section 23 and 24 of the Ohio Constitution;

Illegal Unlawful and Unconstitutional Postponement

143) For purposes of this Section Illegal Unlawful and Unconstitutional Postponement, Phillips does hereby incorporate by reference as is fully restated herein paragraphs 1 through 142;

144) The Postponement of the Presidential Primary Election was unlawful, illegal and unconstitutional including without limitation the Constitutional Violations and the Ohio Revised Code Section Violations;

Unconstitutional Exclusive Mail In or Absentee Ballot Alternative

145) For purposes of this Section Unconstitutional Exclusive Mail In or Absentee Ballot Alternative, Phillips does hereby incorporate by reference as is fully restated herein paragraphs 1 through 144;

146) The unconstitutional exclusive mail in or absentee ballot alternative as applied violated the National Voter Registration Act, (“NVRA”) and the Voting Rights Act of 1965;

147) The unconstitutional Exclusive Mail In or Absentee Ballot Alternative is susceptible to an increase of voter fraud, as is clearly evidenced by the Flores Election Voter Fraud Case, Lorain County Common Pleas Court, Case No. 15 CV 186631, this Court taking judicial notice of said case and decision;

148) The Unconstitutional Mail In or Absentee Ballot Alternative as applied unconstitutional deprives the registered voters in Lorain County in the Presidential Primary Election of their constitutional right to vote, the most precious of our constitutional rights;

Count I

Judgment Invalidation of the President Primary Election Results in the Hung-Phillips Primary Race, Uncertain Results

149) Contestor for purposes of his Count I do hereby incorporate herein paragraphs 1 through 148 as if fully restated;

150) As direct result of the Constitutional Right to Vote; Irregularities and Errors, paragraphs 27 through 99; Ohio Revised Code Violations; Constitutional Violations; Special Violations; Laches; Quarantine; Statistics-Deceptive and Misleading Information and Data; Secrecy of Quarantine; Illegal Unlawful and Unconstitutional Postponement, and Unconstitutional Exclusive Mail In or Absentee Ballot Alternative, have affected enough votes to change or make uncertain the results of the Presidential Primary Race for the Hung-Phillips primary race, forcing this Court to declare this primary race invalid, rescinding the certificate of election to Hung, and ordering a new primary race, *Otworth vs. Bays* (1951) 155 OS 367, Syllabus 1 (“Where irregularities and errors in an election are so great and so flagrant in character as to render it impossible to separate the illegal votes from the legal votes and raises a doubt as to how the election would have resulted has such irregularities not occurred they must be deemed fatal to the validity of the election and warrant the rejection of the entire vote of the election district”), *Mackin vs. Lorain County Board of Elections* (1982) 82-LW-0378 (9th District), *In Re Petition of Concerned Citizens of Ward 17, Precinct L* (1984) 13 Ohio Misc 10, 468 NE 2nd 791, *In Re Cathagena Local School District* (1958) 7 OO 2nd 84, 155 NE 2nd 267, Pg. 275 (“Hence, under the laws of Ohio, it is the considered opinion of the court that the only order possible is that the Carthengena Local School District election of November 4, 1958 is invalidated and set aside). *Hitt vs Tressler* (1983) 4 OS 2nd 174, 178 (“Accordingly, the judgment of the trial court must be modified so that the election for the fourth seat on Westerville City Council be set aside”);

Count II

Judgment Invalidation of the President Primary Election Results in the Hung-Phillips Primary Race, Laches bar to the Postponement of the Presidential Primary Election

- 151) Contestor for purposes of his Count II do hereby incorporate herein paragraphs 1 through 150 as if fully restated;
- 152) As direct result of the Constitutional Right to Vote; Irregularities and Errors, paragraphs 27 through 99; Ohio Revised Code Violations; Constitutional Violations; Special Violations; Laches; Quarantine; Statistics-Deceptive and Misleading Information and Data; Secrecy of Quarantine; Illegal Unlawful and Unconstitutional Postponement, and Unconstitutional Exclusive Mail In or Absentee Ballot Alternative, the postponement of the Presidential Primary Election was illegal, unlawful, and unconstitutional rendered the Presidential Primary Election null and void, and no further force and effect, setting aside the Hung-Phillips primary race, ordering a new primary election, and rescinding the certificate of election issued to Hung;

Count III

Judgment Invalidation of the President Primary Election Results in the Hung-Phillips Primary Race, Illegal Unlawful and Unconstitutional Postponement of the Presidential Primary Election

- 153) Contestor for purposes of his Count III do hereby incorporate herein paragraphs 1 through 152 as if fully restated;
- 154) As direct result of the Constitutional Right to Vote; Irregularities and Errors, paragraphs 27 through 99; Ohio Revised Code Violations; Constitutional Violations; Special Violations; Laches; Quarantine; Statistics-Deceptive and Misleading Information and Data; Secrecy of Quarantine; Illegal Unlawful and Unconstitutional Postponement, and Unconstitutional Exclusive Mail In or Absentee Ballot Alternative, the lack of in person

voting and the postponement of the Presidential Primary Election was illegal, unlawful, and unconstitutional rendered the Presidential Primary Election null and void, and no further force and effect, setting aside the Hung-Phillips primary race, ordering a new primary election, and rescinding the certificate of election issued to Hung;

Count IV

Judgment Invalidation of the President Primary Election Results in the Hung-Phillips Primary Race, Illegal Unlawful and Unconstitutional Exclusive Mail In or Absentee Ballot Alternative

155) Contestor for purposes of his Count IV do hereby incorporate herein paragraphs 1 through 154 as if fully restated;

156) As direct result of the Constitutional Right to Vote; Irregularities and Errors, paragraphs 27 through 99; Ohio Revised Code Violations; Constitutional Violations; Special Violations; Laches; Quarantine; Statistics-Deceptive and Misleading Information and Data; Secrecy of Quarantine; Illegal Unlawful and Unconstitutional Postponement, and Unconstitutional Exclusive Mail In or Absentee Ballot Alternative, the lack of in person voting and the postponement of the Presidential Primary Election was illegal, unlawful, and unconstitutional rendered the Presidential Primary Election null and void, and no further force and effect, setting aside the Hung-Phillips primary race, ordering a new primary election, and rescinding the certificate of election issued to Hung;

Wherefore, Contestor pursuant to ORC Section 3515.14 request that this Court enters into and order the following judgments and relief;

- 1) For judgment that the Presidential Primary Election is null and void and no further force and effect;
- 2) For judgment setting aside the Hung-Phillips primary race and invalidating such Hung-Phillips primary race;

- 3) For judgment ordering a new primary race for the Hung-Phillips primary race;
- 4) A certified copy of this Judgment and Order;
- 5) A cancellation of any certification of nomination or election to the Contestee Hung for the Hung-Phillips primary race,
- 6) For costs;
- 7) For reasonable attorney fees;
- 8) For such other relief at law or in equity or as is provided for in Section 3515.08 through Section 3515.16 of the Ohio Revised Code and/or for Election Contests⁴;
- 9) For an issuance of a Finding of Facts and Conclusion of Laws consistent with Civil Rule 52;

Gerald. W. Phillips (0024804)
Phillips & Co., LPA
461 Windward Way
Avon Lake, Ohio 44012
(440) 933-9142
Constestor and Attorney for Contestor

⁴ This Judgment should only effect the Hung-Phillips Primary Race, since the time period for Election Contests have most and universally have past; Phillips is not seeking in this Election Contest the invalidation of any election results other than the Hung-Phillips primary race; although this Court cannot set a new election and election date for the Hung-Phillips, this Court can set aside the Hung-Phillips primary race and order a new election;

State of Ohio)
)
Lorain County) Affidavit

I, Gerald W. Phillips, being first duly sworn, based upon my own personal knowledge depose and state the following:

- 1) That I am an attorney at law licensed in the State of Ohio since 1977, almost 43 years;
- 2) That I am a defeated Republican candidate for the Hung-Phillips Republican Primary Race for Lorain County Commissioner;
- 3) That I have made public records requests upon the Lorain County Board of Elections and I have attended Lorain County Board of Elections meetings including those for the Presidential Primary Election;
- 4) That I was present at the Lorain County Board of Elections on Election Day, 4-28-20 during the hours from approximately 9:00 AM until closing of the polls at 7:30 PM, and I witness the last pick up of the absentee ballots dropped off into the mailbox depository for the absentee ballots installed outside the Board Offices;
- 5) That I have reviewed all of the Coronavirus, COVID 19, materials on the State of Ohio web site for these matters;
- 6) That I have reviewed, read, research numerous articles, journals, and programs regarding the Coronavirus, COVID 19;
- 7) That I am an expert election attorney in the State of Ohio, having filed numerous cases in the Ohio Supreme Court and having litigated several election contest actions including the Flores Voter Fraud Case;

- 8) That I have reviewed the various legal actions challenging the Postponement of the Presidential Primary Election in the Ohio Supreme Court and Franklin County Common Pleas Court;
- 9) That I have reviewed the various legal actions challenging the shutdowns of businesses and the stay at home orders in Ohio, and other states including Michigan, Oregon, Wisconsin, and California;
- 10) That I have read the Election Contest Complaint including the facts and statements therein and the Exhibits attached thereto, and the facts therein and the Exhibits attached thereto are accurate, correct, and true based upon my personal knowledge, and the Exhibits A thru I are true and accurate copies of the original documents;
- 11) That I am competent to testify concerning the facts and statements contain in this Affidavit and in the Election Contest Complaint;

Gerald W. Phillips

Sworn to and subscribed to before me a notary public this 8th day of June 2020.

Maureen M. Phillips
Notary Public
Expiration Date 12-30-24