

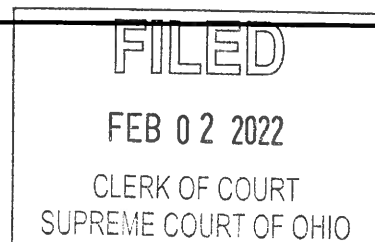
IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, <i>et al.</i> ,	:	
	:	Case No. 2021-1193
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

Bria Bennett, <i>et al.</i> ,	:	
	:	Case No. 2021-1198
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

The Ohio Organizing Collaborative, <i>et al.</i> ,	:	
	:	Case No. 2021-1210
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

OPPOSITION OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE
MINORITY LEADER ALLISON RUSSO TO ATTORNEY GENERAL'S MOTION TO
CONVERT RESPONSE BY NAMED RESPONDENTS TO AMICI BRIEF



FREDA J. LEVENSON (0045916)
ACLU of Ohio Foundation, Inc.
4506 Chester Avenue
Cleveland, OH 44103
(614) 586-1972 x125
flevenson@acluohio.org

DAVID J. CAREY (0088787)
ACLU of Ohio Foundation, Inc.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
(614) 586-1972 x2004
dcarey@acluohio.org

ALORA THOMAS (PHV-22010)
JULIE A. EBENSTEIN (PHV-25423)
American Civil Liberties Union
125 Broad Street
New York, NY 10004
(212) 519-7866
athomas@aclu.org
jebenstein@aclu.org

ROBERT D. FRAM (PHV-25414)
DONALD BROWN (PHV-25480)
JOSHUA GONZÁLEZ (PHV-25424)
JULIANA GOLDROSEN (PHV-25193)
DAVID DENUYL (PHV-25452)
Covington & Burling LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105-2533
(415) 591 6000
rfram@cov.com

LAURA B BENDER (PHV-25192)
ALEXANDER THOMAS (PHV-25462)
Covington & Burling LLP
850 W. Tenth Street, NW
Washington DC 20001-4956
Tel: (202) 662-5968
Fax: (202) 662-6291
bbender@cov.com
athomson@cov.com

YIYE FU (PHV-25419)
JAMES HOVARD (PHV-25420)
ANUPAM SHARMA (PHV-25418)
Covington & Burling LLP
3000 El Camino Real
5 Palo Alto Square
Palo Alto CA 94306-2112
Tel: (650) 632-4716
Fax: (650) 632-4800
yfu@cov.com
jhovard@cov.com
asharma@cov.com

**Counsel for League of Women Voters of
Ohio, *et al.***

DONALD J. MCTIGUE (0022849)
DEREK S. CLINGER (0092075)
McTigue & Colombo LLC
dmctigue@electionlawgroup.com
dclinger@electionlawgroup.com

ABHA KHANNA (PHV-2189)
WILLIAM B. STAFFORD (PHV-25433)
Elias Law Group
1700 Seventh Ave., Suite 2100
Seattle, WA 98101
Tel: (206) 656-0716
akhanna@elias.law
bstafford@elias.law

ARIA C. BRANCH (PHV-25435)
JYOTI JASRASARIA (PHV-25401)
SPENCER W. KLEIN (PHV-25432)
Elias Law Group
10 G Street NC, Suite 600
Washington, DC 20002
Telephone: 202-968-449
abbranch@elias.law
jjasrasaria@elias.law
sklein@elias.law

Counsel for Bria Bennett, *et al.*

ALICIA L. BANNON (PHV 25409-2021)
YURIJ RUDENSKY (PHV 25422-2021)
MICHAEL LI (PHV 25430-2021)
ETHAN HERENSTEIN
(PHV 25429-2021)
Brennan Center For Justice at NYU
School Of Law
120 Broadway, Suite 1750
New York, NY 10271
Tel: (646) 292-8310
Fax: (212) 463-7308
alicia.bannon@nyu.edu

PETER M. ELLIS (0070264)
M. PATRICK YINGLING (PHV
10145-2021)
NATALIE R. SALAZAR
REED SMITH LLP
10 South Wacker Drive, 40th Floor
Chicago, IL 60606
Tel: (312) 207-1000
Fax: (312) 207-6400
pellis@reedsmith.com

BEN R. FLIEGEL (PHV 25411-2021)
Reed Smith LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
Tel: (213) 457-8000
Fax: (213) 457-8080
bfliegel@reedsmith.com

BRAD A. FUNARI (PHV 3139-2021)
DANIELLE L. STEWART (0084086)
Reed Smith Centre
Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: (412) 288-4583
Fax: (412) 288-3063
bfunari@reedsmith.com
dstewart@reedsmith.com

BRIAN A. SUTHERLAND
(PHV 25406-2021)
Reed Smith LLP
101 Second Street, Suite 1800 San
Francisco, CA 94105 Tel: (415)
543-8700
Fax: (415) 391-8269
bsutherland@reedsmith.com

**Counsel for The Ohio Organizing
Collaborative, *et al.***

ERIK J. CLARK (0078732)
ASHLEY MERINO (0096853)
Organ Law LLP
1330 Dublin Road
Columbus, Ohio 43215
Tel: (614) 481-0900
Fax: (614) 481-0904
ejclark@organlegal.com
amerino@organlegal.com

**Counsel for Respondent Ohio
Redistricting Commission**

DAVE YOST
OHIO ATTORNEY GENERAL
BRIDGET C. COONTZ (0072919)
JULIE M. PFEIFFER (0069762)
MICHAEL A. WALTON (0092201)
MICHAEL HENDERSHOT (0081842)
30 E. Broad Street, 16th Floor
Columbus, OH 43215
Tel: (614) 466-2872
Fax: (614) 728-7592
bridget.coontz@ohioago.gov
julie.pfeiffer@ohioago.gov
michael.walton@ohioago.gov
michael.henderson@ohioago.gov

**Counsel for Respondents
Governor Mike DeWine,
Secretary of State Frank LaRose, and
Auditor Keith Faber**

CHARLES MILLER (0073844)
SHAWN BUSKEN (0083585)
30 E. Broad Street, 17th Floor
Columbus, OH 43215
(513) 607-0406
charles.miller@ohioago.gov

**Counsel for Limited Intervenor
Attorney General Dave Yost**

W. STUART DORNETTE (0002955)
BETH A. BRYAN (0082076)
PHILIP D. WILLIAMSON (0097174)
Taft Stettinius & Hollister LLP
425 Walnut St., Suite 1800
Cincinnati, Ohio 45202-3957
T: (513) 381-2838
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

PHILLIP J. STRACH (PHV 25444-2021)
THOMAS A. FARR (PHV 25461-2021)
JOHN E. BRANCH, III (PHV 25460-2021)
ALYSSA M. RIGGINS (PHV 25441-2021)
GREG MCGUIRE (PHV 25483)
Nelson Mullins Riley & Scarborough LLP
4140 Parklake Ave., Suite 200
Raleigh, North Carolina 27612
T: (919) 329-3812
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
greg.mcguire@nelsonmullins.com

**Counsel for Respondents
Senate President Matt Huffman and
House Speaker Robert Cupp**

EMILY SMART WOERNER (0089349)
Deputy City Solicitor
SHANNON PRICE (100744)
Assistant City Solicitor
801 Plum Street, Room 214
Cincinnati, Ohio 45202
Tel: (513) 352-3309
Fax: (513) 352-1515
emily.woerner@cincinnati-oh.gov
shannon.price@cincinnati-oh.gov

Counsel for Amicus Curiae City of Cincinnati

STEPHANIE M. CHMIEL (0087555)
MARY E. CSARNY (0097682)
Thompson Hine LLP
41 S. High Street, Suite 1700
Columbus, OH 43215
Tel: (614) 469-3247
Fax: (614) 469-3361
Stephanie.Chmiel@ThompsonHine.com
Mary.Csarny@ThompsonHine.com

Counsel for Amicus Curiae David Niven, Ph.D.

SUBODH CHANDRA (0069233)
DONALD SCREEN (0044070)
The Chandra Law Firm LLC
1265 West 6th Street
Cleveland, Ohio 44113
Tel: (216) 578-1700
subodh.chandra@chandraLaw.com
donald.screen@chandraLaw.com

JANETTE MCCARTHY WALLACE
(0066257)
NAACP
Office of the General Counsel
4805 Mount Hope Drive
Baltimore, MD 21215
Tel: (410) 580-577
jlouard@naacpnet.org

Counsel for Amicus Curiae Ohio State Conference of the NAACP

**OPPOSITION OF RESPONDENTS SENATOR VERNON SYKES AND HOUSE
MINORITY LEADER ALLISON RUSSO TO ATTORNEY GENERAL’S MOTION TO
CONVERT RESPONSE BY NAMED RESPONDENTS TO AMICI BRIEF**

Continuing pro se, we submit this opposition to the Attorney General’s motion to convert our response to petitioners’ objections to an amicus brief. We are Respondents Senator Vernon Sykes, Co-Chair of the Ohio Redistricting Commission, and House Minority Leader Allison Russo, Commissioner of the Ohio Redistricting Commission. In response to the Attorney General’s motion, we would like to bring two brief points to the Court’s attention:

First, we are named respondents in the above captioned lawsuits. By entry dated January 26, 2022, Chief Justice Maureen O’Connor ordered “that **respondents** shall file a response, if any, to petitioners’ objections no later than 12:00 p.m. on Friday, January 28, 2022.” (Emphasis added.) This order—to file a timely response if any—applies to us because we are individually named “respondents” in the lawsuits. While the Attorney General may have wanted only the Commission to respond, the Commission is not the only respondent in these lawsuits. As this Court held in its decision, the individual commissioners are also “proper parties,” Opinion 2022-Ohio-65, ¶¶ 10, 62, 63, and this Court also recognized in its opinion, ¶ 66, and through allotting separate argument time, that not all the interests of the individual respondents align. We are respondents in this case with personal knowledge of relevant facts that should be part of the record, and we should not be relegated to amici status.

Second, despite the fact that we are named respondents in this case, the Attorney General attempted to deny us the ability to file a response to the petitioners’ objections. As the Attorney General’s motion makes clear on the first page, he decided that: “No individual member was authorized to file in [his or her] official capacity.” Ice Miller, whom the Attorney General appointed as our counsel, informed us that, on instructions from the Attorney General’s office,

the firm could not file a response brief for us and could not even counsel us. The Attorney General thus attempted to silence us by disabling our appointed counsel. Therefore, we had no choice but to ask Ice Miller to withdraw so that we could file pro se and be heard as respondents.

The Attorney General also states on page two that there is a “walled-off” Assistant Attorney General who is still representing us. But that attorney never contacted us about a response and doubtless was just as powerless to help us file one as Ice Miller had been, given the Attorney General’s dictates. Tellingly, Leader Russo told the Attorney General and the First Assistant Attorney General we wanted to respond to petitioners’ objections; neither of them ever mentioned the continued representation of the walled-off counsel or that attorney’s ability to file a response for us. Rather, the First Assistant Attorney General doubled down, stating to Leader Russo that the Attorney General would even oppose pro bono counsel filing a response for us. The Attorney General’s motion notably does not refute that.

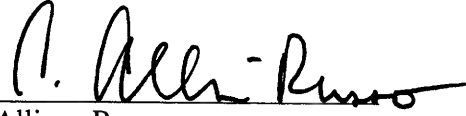
There is no doubt that the Attorney General has denied us counsel to file in these lawsuits. Indeed, we asked the “walled off” attorney to file an opposition to the instant motion. At the Attorney General’s direction, he rejected our request. Specifically, that attorney told me: “The Attorney General has concluded that you have had your opportunity to express your concerns . . . whether the filing is considered a response from a party or a filing from amici” and, therefore, “he [the Attorney General] has decided” that the purportedly walled-off counsel will not file the response to the Attorney General’s motion. *See* Affidavit of Leader Allison Russo, attached as Exhibit A. The Attorney General asserts that we have appointed counsel, but the Attorney General knows he has rendered that counsel unable to file anything for us in this Court.

We ask that the Court deny the Attorney General’s motion to relegate us to amici status.

Respectfully submitted,



Vernon Sykes



Allison Russo

*Respondents Senator Vernon Sykes and
House Minority Leader Allison Russo,
pro se*

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2022, a copy of the foregoing Opposition

was filed by hand and sent via email to the following:

FREDA J. LEVENSON
DAVID J. CAREY
flevenson@acluohio.org
dcarey@acluohio.org

ALORA THOMAS
JULIE A. EBENSTEIN
athomas@aclu.org
jebenstein@aclu.org

ROBERT D. FRAM
LAURA B BENDER
ALEXANDER THOMAS
YIYE FU
JAMES HOVARD
ANUPAM SHARMA
rfram@cov.com
bbender@cov.com
athomson@cov.com
yfu@cov.com
jhovard@cov.com
asharma@cov.com

**Counsel for League of Women Voters of
Ohio, *et al.***

DONALD J. MCTIGUE
DEREK S. CLINGER
dmctigue@electionlawgroup.com
dclinger@electionlawgroup.com

ABHA KHANNA
WILLIAM B. STAFFORD
ARIA C. BRANCH

JYOTI JASRASARIA
SPENCER W. KLEIN
akhanna@elias.law
bstafford@elias.law
abbranch@elias.law
jjasrasaria@elias.law
sklein@elias.law

Counsel for Bria Bennett, *et al.*

ALICIA L. BANNON
alicia.bannon@nyu.edu

PETER M. ELLIS
M. PATRICK YINGLING
BEN R. FLIEGEL
BRAD A. FUNARI
DANIELLE L. STEWART
BRIAN A. SUTHERLAND
pellis@reedsmith.com
bfliegel@reedsmith.com
bfunari@reedsmith.com
dstewart@reedsmith.com
bsutherland@reedsmith.com

**Counsel for The Ohio Organizing
Collaborative, *et al.***

ERIK J. CLARK
ASHLEY MERINO
ejclark@organlegal.com
amerino@organlegal.com

**Counsel for Respondent Ohio
Redistricting Commission**

BRIDGET C. COONTZ
JULIE M. PFEIFFER
MICHAEL A. WALTON
MICHAEL HENDERSHOT
bridget.coontz@ohioago.gov
julie.pfeiffer@ohioago.gov
michael.walton@ohioago.gov
michael.hendershot@ohioago.gov

**Counsel for Respondents Governor Mike
DeWine, Secretary of State Frank LaRose,
and Auditor Keith Faber**

CHARLES MILLER
charles.miller@ohioago.gov

**Counsel for Limited Intervenor
Attorney General Dave Yost**

W. STUART DORNETTE
BETH A. BRYAN
PHILIP D. WILLIAMSON
dornette@taftlaw.com
bryan@taftlaw.com
pwilliamson@taftlaw.com

PHILLIP J. STRACH
THOMAS A. FARR
JOHN E. BRANCH, III
ALYSSA M. RIGGINS
GREG MCGUIRE
phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com

john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
greg.mcguire@nelsonmullins.com

**Counsel for Respondents
Senate President Matt Huffman and
House Speaker Robert Cupp**

EMILY SMART WOERNER
SHANNON PRICE
emily.woerner@cincinnati-oh.gov
shannon.price@cincinnati-oh.gov

**Counsel for Amicus Curiae City of
Cincinnati**

STEPHANIE M. CHMIEL
MARY E. CSARNY
Stephanie.Chmiel@ThompsonHine.com
Mary.Csarny@ThompsonHine.com

**Counsel for Amicus Curiae David Niven,
Ph.D.**

SUBODH CHANDRA
DONALD SCREEN
subodh.chandra@chandralaw.com
donald.screen@chandralaw.com

JANETTE MCCARTHY WALLACE
jlouard@naacpnet.org

**Counsel for Amicus Curiae Ohio State
Conference of the NAACP**

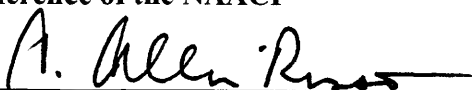
/s/ 

EXHIBIT A

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, <i>et al.</i> ,	:	
	:	Case No. 2021-1193
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

Bria Bennett, <i>et al.</i> ,	:	
	:	Case No. 2021-1198
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

The Ohio Organizing Collaborative, <i>et al.</i> ,	:	
	:	Case No. 2021-1210
Relators,	:	
v.	:	Original Action Filed Pursuant to Ohio
	:	Constitution, Article XI, Section 9(A)
Ohio Redistricting	:	
Commission, <i>et al.</i> ,	:	[Apportionment Case Pursuant to S. Ct.
	:	Prac. R. 14.03]
Respondents.	:	
	:	
	:	

AFFIDAVIT OF RESPONDENT ALLISON RUSSO

AFFIDAVIT OF C. ALLISON RUSSO

State of Ohio
County of Franklin, SS:

1. I have personal knowledge of all the information below.
2. I am a member of the Ohio House of Representatives, representing District 24. I am the House Minority Leader. I also serve as a Commissioner on the Ohio Redistricting Commission. I am named as a Respondent in the above-captioned lawsuits.
3. In my communications with the Attorney General and the First Assistant Attorney General about the ability of myself and Co-Chair Vernon Sykes to file a response to the petitioners' objections, they continuously told me that no individual respondents were allowed to file and that only the Commission could file. They never mentioned that Co-Chair Sykes and I were being represented by a walled-off Assistant Attorney General, Henry Appel, or that Mr. Appel could file anything on our behalf.
4. Mr. Appel never reached out to me about filing a response to the petitioners' objections, nor did he provide me any counsel on the petitioners' objections or my right to respond.
5. Attached to this affidavit are true and accurate communications that I had via email with Mr. Appel on February 1, 2022.

FURTHER AFFIANT SAYETH NAUGHT.




C. Allison Russo

Sworn to before me and subscribed in my presence this 2nd day of February, 2022.



Charles Benjamin Cooper, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.



Notary Public

RE: Response to motion [ATTORNEY-CLIENT PRIVILEGED]

Henry Appel <Henry.Appel@OhioAGO.gov>

Tue 2/1/2022 4:03 PM

To: Russo, Allison <Allison.Russo@ohiohouse.gov>;

Cc: Sykes, Vernon <Vernon.Sykes@ohiosenate.gov>; Jonathan Fulkerson <Jonathan.Fulkerson@OhioAGO.gov>;

House Minority Leader Russo and Senator Sykes,

On January 31, 2022, the Ohio Attorney General filed a Motion for Limited Intervention and a Motion to Convert 'Response' To Amici Brief.

Earlier today, I received an e-mail from you asking whether I would be able to file a response to these motions on your behalf.

The Attorney General has concluded that you have had your opportunity to express your concerns and legal arguments about the redistricting process whether your filing is considered a response from a party or a filing from amici. As a result, he has decided that the Ohio Attorney General's office will not file the response you requested.

If you have any questions or concerns, please let me know.



Henry G. Appel
Principal Assistant Attorney General – Health & Human Services
Office of Ohio Attorney General David Yost
Office number: 614-466-1502 (direct)
Office number: 614-466-8600 (main)
Fax number: 866-441-4738
henry.appel@ohioattorneygeneral.gov

Confidentiality Notice: This message is intended for use only by the individual or entity to whom or which it is addressed and may contain information that is privileged, confidential and/or otherwise exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by telephone.

From: Allison.Russo@ohiohouse.gov <Allison.Russo@ohiohouse.gov>

Sent: Tuesday, February 1, 2022 2:50 PM

To: Henry Appel <Henry.Appel@OhioAGO.gov>

Cc: Vernon.Sykes@ohiosenate.gov

Subject: Re: Response to motion [ATTORNEY-CLIENT PRIVILEGED]

Dear Mr. Appel,

Thank you for seeking additional clarification. We would like you to make clear that we had the right to file our brief from Friday in our official capacities as named respondents, not as amici. We would like you to oppose any attempt to have our brief from Friday "converted" to an amicus filing.

Please let us know if you will act as our counsel to do these things. We would appreciate a reply from you in writing by the close of business today.

Kind regards,

C. Allison Russo
Ohio House Minority Leader

On Feb 1, 2022, at 1:20 PM, Henry Appel <Henry.Appel@ohioago.gov> wrote:

Ms. Russo & Mr. Sykes,

I have received your e-mail and I do have one question about a proposed response to the Attorney General's Motion to Intervene. In light of the fact that the Attorney General is not opposing having your filing being treated as an amicus brief, what would you want for me to say if I did file a response on your behalf?



Henry G. Appel
Principal Assistant Attorney General – Health & Human Services
Office of Ohio Attorney General David Yost
Office number: 614-466-1502 (direct)
Office number: 614-466-8600 (main)
Fax number: 866-441-4738
henry.appel@ohioattorneygeneral.gov

Confidentiality Notice: This message is intended for use only by the individual or entity to whom or which it is addressed and may contain information that is privileged, confidential and/or otherwise exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by telephone.

From: Allison.Russo@ohiohouse.gov <Allison.Russo@ohiohouse.gov>
Sent: Tuesday, February 1, 2022 11:11 AM
To: Henry Appel <Henry.Appel@OhioAGO.gov>
Cc: Vernon.Sykes@ohiosenate.gov
Subject: Response to motion

Dear Mr. Appel,

I am hoping you can help me with something today.

First, would you have filed a response to petitioners' objections last week for Sen. Sykes and me?

Second, will you file a brief with the Court for Sen. Sykes and me (as respondents, not amici) responding to the motion filed yesterday by the Attorney General in the three state redistricting lawsuits and asserting our right to file as respondents?

I request a response from you in writing by the close of business today.

Thank you very much for your time and attention to this.

Sincerely,

C. Allison Russo
Ohio House Minority Leader