

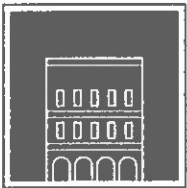
IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL. HEATHER HILL	)	
A CANDIDATE FOR GOVERNOR OF THE	)	
STATE OF OHIO AND A QUALIFIED	)	CASE NUMBER
OHIO ELECTOR	)	
5975 UPPER OIL SPRINGS RD.	)	
MALTA, OH 43758	)	
RELATOR	)	
	)	
V	)	
	)	
FRANK LAROSE	)	
OHIO SECRETARY OF STATE	)	
IN HIS OFFICIAL CAPACITY	)	
180 S. CIVIC CENTER DR.	)	
COLUMBUS, OH 43215	)	
RESPONDENT	)	

COMPLAINT FOR WRIT OF MANDAMUS, DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

1. This is an original action for mandamus, declaratory judgment, and injunctive relief arising from Respondent's refusal to accept and certify Relator's lawful replacement candidate for Lieutenant Governor of the State of Ohio, Larry Barnett.
2. Relator is a duly qualified candidate for Governor of the State of Ohio. Her originally certified Lieutenant Governor running mate, Stuart Moats, withdrew from the race on or about April 22, 2026, with the primary election being scheduled on May 5, 2026. Relator, pursuant to Ohio Revised Code Section 3513.311, promptly attempted to certify a replacement Lieutenant Governor candidate by certifying Larry Barnett as the replacement candidate for that office. A copy of that attempted certification is attached hereto as Exhibit "A" and incorporated by reference. Respondent has refused to accept



**GOTTLIEB, JOHNSTON,  
BEAM & DAL PONTE, PLL**

Attorneys At Law  
Legal Arts Building  
320 Main Street  
P.O. Box 190  
Zanesville, Ohio  
43702-0190  
(740) 452-7555  
FAX (740) 480-1664  
www.ZanesvilleLaw.com

the certification, citing an alleged statutory prohibition against replacement if the Lieutenant Governor candidate withdraws within seventy (70) days of the primary election. Respondent cites, as his authority for refusing to certify Larry Barnett as Relators Lieutenant Governor running mate, Ohio Revised Code Section 3513.311(C) alleging that it does not permit replacing a Lieutenant Governor candidate who withdraws less than seventy (70) days prior to the election. That section contains no such prohibition. Rather, it is silent on that occurrence.

3. Respondent has unlawfully denied Relator ballot access by refusing to accept her replacement certification and declaring her ineligible for the ballot, advising her that votes cast for her would not be counted. This action violates her constitutional rights, imposes an unlawful and unconstitutional restriction on ballot access, and denies Ohio voters the right to vote for the candidate of their choice.
4. Immediate relief is required because the primary is scheduled on May 5, 2026, ballots are to be finalized and Relator has no adequate remedy at law.

#### JURISDICTION AND VENUE

1. This Court has original jurisdiction over this action pursuant to Article IV, section 2(B)(1)(b) of the Ohio Constitution, which grants the Supreme Court of Ohio original jurisdiction of mandamus actions.
2. This action is brought pursuant to R. C. Chapter 2731 and this Court's authority to review the actions of the Secretary of State and election matters affecting ballot access.

## PARTIES

1. Relator, Heather Hill, is a resident of the State of Ohio, a qualified elector, and is a previously filed candidate for governor of the State of Ohio in the upcoming primary election scheduled May 5, 2026.
2. Respondent, Frank LaRose, is the duly elected Secretary of State of Ohio and the chief election officer of the State of Ohio. He is sued solely in his official capacity. Respondent is charged by law with accepting candidate filings, certifying candidates to the ballot, and enforcing Ohio's election statutes.

## STATEMENT OF FACTS

1. Relator properly filed as a candidate for governor of the State of Ohio in accordance with Ohio law.
2. At the time of filing, Relator also properly certified Stuart Moats as a candidate for Lieutenant Governor as required by Ohio law.
3. On or about April 22, 2026 Relator's certified candidate for Lieutenant Governor, Stuart Moats, withdrew from the race.
4. The withdrawal occurred thirteen days prior to the scheduled primary election of May 5, 2026.

5. Upon the withdrawal of her previously certified candidate, Relator prepared a valid certification naming Larry Barnett as a replacement candidate for Lieutenant Governor.
6. On or about April 23, 2026, Relator submitted the certification of the replacement Lieutenant Governor candidate to Respondent, tendering it to his office.
7. Respondent refused to accept the certification of Larry Barnett as replacement candidate for Lieutenant Governor, claiming that under Ohio law a replacement Lieutenant Governor candidate may not be certified within seventy (70) days prior to the election unless the original candidate has died.
8. Respondent has advised Relator that as a result of her no longer having a Lieutenant Governor candidate and being unable to replace her previously withdrawn Lieutenant Governor candidate, Relator is deemed to be ineligible to appear on the ballot for Governor and that any votes cast for her would not be counted.
9. ORC section 3513.31 allows for replacement of the Lieutenant Governor candidate if that candidate dies within seventy (70) days of the election. However, the statute is silent with respect to allowing replacement within seventy (70) days prior to the election in the event that the Lieutenant Governor candidate withdraws.
10. Respondent's interpretation of the statute creates an irrational, arbitrary, unreasonable, and unconstitutional distinction between death and withdrawal, even though both events result in the same incapacity of the original Lieutenant Governor candidate to serve or campaign.

11. Respondent's refusal to accept Relator's certification of Larry Barnett as a replacement candidate for Lieutenant Governor denies Relator access to the ballot, infringes on the rights of voters to choose a gubernatorial ticket, and unlawfully restricts political association.
12. ORC section 3513.31 is unconstitutional in that it severely restricts voting rights. If a resolution severely restricts voting rights, then strict scrutiny applies and the law must be narrowly tailored to advance a compelling state interest. *Burdick v Takushi* 504 U.S. 428, 434 (1992). There is no compelling state interest in not allowing a candidate for governor to replace a Lieutenant Governor candidate who has withdrawn within seventy (70) days of the election when that same candidate is permitted to replace the Lieutenant Governor candidate if the previously certified candidate dies. The two events produce the same legal incapacity. Both events are beyond the control of the gubernatorial candidate, yet one denies him ballot access and the other does not.
13. The statute, as written and as interpreted and applied by the Respondent does not survive strict scrutiny because the distinction between a candidate withdrawing and dying, allowing replacement of the Lieutenant Governor candidate in the event of the latter occurring but not the former, arbitrarily and invidiously discriminates against Relator and similarly situated individuals, It severely burdens the fundamental rights to associate and vote by limiting the field of candidates available to voters. See *State ex rel. Brown v Ashtabula County Board of Elections* 142 Ohio St. 3d 370 (2014).

14. The Statute, O.R.C. 3513.311 does not prohibit replacement of the Lieutenant Governor candidate that withdraws within seventy (70) days of the election. It is silent as to what occurs in that event. The statute, as written, is unconstitutional in that it arbitrarily deprives the gubernatorial candidate ballot access and deprives citizens of the right to vote for the candidate of their choice.
15. The two sections of the statute, ORC 3513.311 (A) and (C) contain the internal inconsistency that creates this constitutional infirmity. To clarify the ambiguity, the two sections must be read *in pari materia*. In reading statutes *in pari materia* and construing them together, the court must give a reasonable construction that provides the proper effect to each statute. *Maxfield v Brooks* 110 Ohio St. 566 (1924), paragraph 2 of the syllabus. All provisions of the Revised Code bearing upon the same subject matter should be construed harmoniously unless they are irreconcilable. *State ex rel. Cordray v. Midway Motor Sales, Inc.* 122 Ohio St. 3d 234 (2009); *Couts v Rose* 152 Ohio St. 458 (1950).
16. In interpreting a statute, this Court can read into its implied rights. In the case of *Holdeman v. Epperson* 2005 Ohio App. LEXIS 3479 (2d Dist. 2005), the court was dealing with the interpretation of ORC section 1705.21(A) in determining the ability of an executor to exercise rights of a member of the LLC. The court said that although the statute did not contain any language limiting an executor's exercise of rights to those a member has after death, the statute implied that the rights include those that members possess before death. The right was not expressly stated in the statute. The court reasoned that the statute implied certain rights that were not

specifically included.

17. In reading and interpreting ORC 3513.311( A ) and ( C ) the only logical interpretation of them is that a gubernatorial candidate has a right to replace a withdrawn Lieutenant Governor candidate who withdraws within seventy (70) days prior to the election, just as that candidate would have a right to replace the same Lieutenant Governor candidate that withdrew more than seventy (70) days prior to the election. There is no logical reason to allow replacement if a candidate dies, but not when it withdraws. The court must read these two sections of the statute in pari materia and conclude that the legislator's failure to specifically prohibit the gubernatorial candidate from replacing the withdrawn Lieutenant Governor candidate in these circumstances implies that the right exists.

#### COUNT 1—WRIT OF MANDAMUS

1. Relator incorporates the allegations set forth in paragraphs 1 through 17 above, as though fully rewritten herein.
2. Relator has a right to certify a replacement Lieutenant Governor candidate and to appear on the ballot for Governor.
3. Respondent has a duty to accept and process valid candidate certifications and to refrain from imposing disqualifications that are based on the interpretation of a statute that results in the unconstitutional deprivation of rights to the gubernatorial candidate and citizens of the State of Ohio.

4. Respondent's refusal to accept Relator's certification of Larry Barnett as a replacement candidate for Lieutenant Governor is based on an interpretation of the election statute that is improper, and imposes a restriction not stated in the statute. The statute does not say that a Lieutenant Governor candidate who withdraws cannot be replaced. It is silent on the subject.
5. Respondent's refusal to certify Larry Barnett as a replacement candidate for Lieutenant Governor is based on a statute that is unconstitutional, that severely restricts voting rights and does not survive strict scrutiny. The distinction between a candidate withdrawing and dying and allowing replacement of a Lieutenant Governor candidate in the one instance but not the other arbitrarily and invidiously discriminates against Relator and similarly situated individuals and severely burdens the fundamental rights to associate and vote by limiting the field of candidates available to voters.
6. The Statute upon which the Respondent relies to deny Relator the right to certify a placement candidate impermissibly denies Relator ballot access. The withdrawal and death of a Lieutenant Governor candidate are functionally equivalent for purposes of ballot qualification and Ohio law cannot constitutionally distinguish between them on a rational basis.
7. Relator has no adequate remedy at law and immediate action is necessary because the primary election is seven days away, on May 5, 2026.
8. Mandamus is warranted to compel Respondent to accept the certification of Larry Barnett as the replacement candidate for Lieutenant Governor and to replace Relator on the ballot and count all votes that are cast for her.

9. Relator has met the established requirements for a writ of mandamus to be issued: 1) Relator has a clear legal right to the relief prayed for; 2) Respondent has a clear legal duty to perform the act requested; and 3) Relator has no plain and adequate remedy in the ordinary course of law. *State ex rel. Manson v Morris* 66 Ohio St. 3<sup>rd</sup> 440, 441 (1993).

**COUNT II--DECLARATORY JUDGMENT**

10. Relator realleges and incorporates the allegations set forth in paragraphs 1 through 9 above as though fully rewritten herein.
11. A controversy exists regarding the proper interpretation of ORC section 3513.31 governing replacement of the Lieutenant Governor candidate.
12. Relator seeks a declaration that;
- a. The foregoing statute permits replacement of a Lieutenant Governor candidate who withdraws within less than seventy (70) days prior to the election;
  - b. That the statute must be construed to treat withdrawal and death equivalently, and that Respondent's interpretation to the contrary is unconstitutional as applied;
  - c. That Respondent's interpretation to the contrary is unconstitutional as applied.

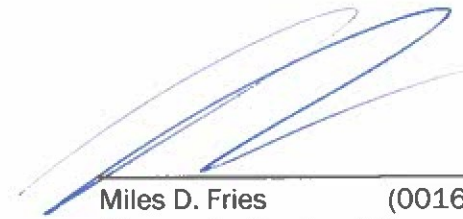
### III INJUNCTIVE RELIEF

13. Relator hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 12, above.
14. In the event that injunctive relief is not granted, Relator will be irreparably harmed by being excluded from the ballot.
15. Relator lacks an adequate remedy at law and the public interest favors preserving ballot access and voter choice rather than denying same.
16. Injunctive relief is necessary and appropriate to prevent Respondent from enforcing the challenged restriction pending final resolution.

Wherefore, Relator respectfully requests that this Court issue an order as follows:

1. A writ of mandamus ordering Respondent to accept Relator's certification of Larry Barnett as replacement Lieutenant Governor candidate or show cause why a writ should not issue;
2. A permanent writ of mandamus compelling Respondent to accept the replacement certification of Larry Barnett, certify Relator for placement on the ballot and count any and all votes cast for Relator;
3. A declaration that Ohio's election laws permit replacement of a Lieutenant Governor candidate who withdraws within seventy (70) days of the election;
4. Enjoining Respondent from refusing ballot access on the basis asserted herein;

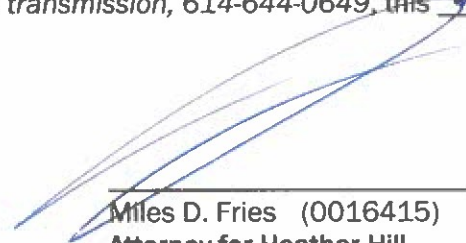
5. Awarding Relator her costs; and
6. For such further legal and equitable relief as the Court deems just and proper.



Miles D. Fries (0016415)  
Attorney for Heather Hill  
GOTTLIEB, JOHNSTON, BEAM  
& DAL PONTE, P.L.L.  
320 Main Street, P.O. Box 190  
Zanesville, Ohio 43702-0190  
Telephone: (740) 452-7555  
Facsimile: (740) 480-1664

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a true and accurate copy of the foregoing has been served upon Frank LaRose, in his official capacity, Ohio Secretary of State, 180 S. Civic Center Dr., Columbus, OH 43215 by *facsimile transmission, 614-644-0649*, this 24<sup>th</sup> day of April 2026.



Miles D. Fries (0016415)  
Attorney for Heather Hill

AFFIDAVIT

I, Heather Hill, being first duly caution and sworn, do hereby state the following:

I am the duly certified candidate for governor of the State of Ohio in the primary election to be held on May 5, 2026.

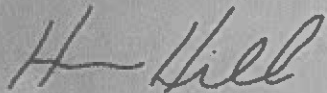
My previously certified joint candidate for lieutenant governor, Stewart Moats, has withdrawing from candidacy.

Pursuant to ORC section 3513.311, I hereby appoint and certify the following person to fill the vacancy for the office of Lt. Gov.:

Larry Barnett  
702 East Northern Avenue. Springfield, OH 45503

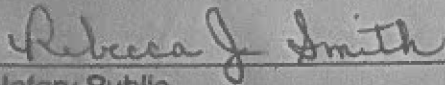
I certify this appointment in writing and under oath as required by law

Further after you sayeth naught



\_\_\_\_\_  
Governor Candidate Signature

Sworn to and subscribed before me this 23 day of April 2026



\_\_\_\_\_  
Notary Public



Rebecca J. Smith  
Notary Public, State of Ohio  
My Commission Expires 05-18-2030

Miss D. Filer  
Columbus, Ohio  
222 North 26th, 2nd Floor, Suite 100  
Columbus, OH 43201-2100  
Phone: (614) 432-1000  
Email: (614) 432-1001

EXHIBIT

A

tabbles