

Chapter 11

Petitions Directive 2015-33

Jon Husted
Ohio Secretary of State 

Ohio Election Official Manual

SECTION 1.03 PETITIONS GENERALLY

The board of elections reviews candidate petitions and most issue petitions for validity and sufficiency.¹ The Secretary of State prescribes certain candidate and issue petition forms as required by law and many other frequently used petition forms as a courtesy. The Secretary of State's forms are provided in PDF format on the Secretary of State's website. The board must ensure that, if it is providing petition forms to candidates or issue groups, it is providing the most current version of the prescribed form.² Forms are updated promptly in response to law changes, so it is imperative that boards pull petitions directly from the Secretary of State's website when providing them to the public.

A. Candidate Petitions³

The statutes prescribing the form of candidate petitions generally require substantial compliance.

When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case

¹ [*R.C. 3501.11\(K\).*](#)

² [*R.C. 3501.38\(L\).*](#)

³ [*R.C. Chapter 3513.*](#)

of all other candidates, must determine whether the prospective candidate substantially complied with the form of the petition.

In determining whether a prospective candidate substantially complied with the form of the petition, the inquiry is typically fact-specific. The board should consult with its legal counsel, the county prosecutor, when reviewing petitions.

The board also should check municipal charters for additional requirements and qualifications for candidates seeking a municipal office.

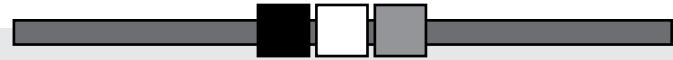
B. Local Question and Issue Petitions

The board must review, examine, and certify the sufficiency and validity of a local question and issue petitions. Sometimes the governing legal provisions vest another public office with the initial responsibility of certifying the sufficiency and validity of the petition before the petition comes to the board of elections. The board should check municipal charters for additional requirements and qualifications for initiated ordinances and referendums.

The Secretary of State's office publishes two resources that help boards of elections, taxing authorities, and the public gain a general overview of the laws governing ballot questions and issues. [*The Ohio Ballot Questions and Issues Handbook: A Guide for Board of Elections, Taxing Authorities and Political Subdivisions to Placing Questions and Issues on the Ballot*](#), along with the [*Guide to Local Liquor Options Elections*](#) both contain summaries of the statutes relevant to different types of ballot questions and issues. Both resources are accessible via the Secretary of State's website.

C. Petition Pre-Checks

No board of elections shall pre-check any petition to determine the petition's validity and sufficiency before such time as the original petition has been filed, along with the appropriate filing fee, with a board of elections, the



Secretary of State's Office, or other public office as provided by law.⁴

While pre-checks may appear to be a public service that potential candidates might rely on to improve their chances of being certified to the ballot, in reality, pre-checks provide a false sense of security for candidates and issue groups. It is a well-established principle of Ohio election law that the candidate is solely responsible for ensuring that his or her own petition satisfies the requirements of law. Candidates and issue groups are obligated to investigate, learn, and know the law governing the election process.⁵

To assist prospective candidates and issue petitioners, the Secretary of State's Office provides uniform guidance to through several free publications, including the [*Ohio Candidate Requirement Guide*](#), [*the Guide to Local Liquor Option Elections*](#), [*the Ohio Presidential Guide*](#), [*The Ohio Ballot Questions and Issues Handbook*](#), and the [*Campaign Finance Handbook*](#). This office also prescribes many of the forms used by candidate and issue petitioners. Boards can, and should, be helpful to potential candidates and issue petitioners by providing them with copies of these guides as well as information about the process of filing and the process elections officials will follow once the filing deadline has expired. With this information, and the public access terminals provided by many boards of elections, candidates have the tools to check their own petitions.

However, it is imprudent for a board of elections to engage in a practice that allows any candidate or petitioner to believe that his or her petition is valid

⁴ *State ex rel. McMillan v. Ashtabula Cty. Bd. of Elections*, 65 Ohio St.3d 186, 1992 -Ohio -85 (candidate's reliance on the misinformation of the board employee does not estop the board from removing a candidate's name from the ballot); *State ex rel. Shaw v. Lynch* (1991), 62 Ohio St.3d 174, 176-177 (estoppel does not apply against election officials in the exercise of governmental functions); *State ex rel. Senn v. Cuyahoga Cty. Bd. of Elections* (1977), 51 Ohio St.2d 173 (candidate could not file necessary part petition after having filed other petition papers); *State ex rel. Svete v. Bd. of Elections* (1965), 4 Ohio St.2d 16 (advice by board of elections deputy clerk that nominating petition appeared to be in order does not stop the board of elections from declaring such petitions to be invalid).

⁵ *State ex rel. Chevalier v. Brown* (1985), 17 Ohio St.3d 61, 63; *State ex rel. Sturgill v. Lorain Cty. Bd. of Elections* (Ohio App. 9 Dist., 2005), 164 Ohio App.3d 272, 2005 -Ohio- 5660; *State ex rel. Donegan v. Cuyahoga Cty. Bd. of Elections* (2000), 136 Ohio App.3d 589, 595.





and sufficient before the petition is filed, because, if the board subsequently determines that the petition is invalid, then the board must reject it regardless of whether the board staff previously pre-checked the identical petition. The practice of pre-checking petitions has resulted in some boards of elections being accused of incompetence, political favoritism, and misconduct.

SECTION 1.02 GENERAL RULES FOR VERIFYING CANDIDATE AND ISSUE PETITIONS

Reviewing Declarations of Candidacy

As mentioned above, the statutes prescribing the form of candidate petitions generally require substantial compliance. When there is an error or omission on a petition form, the Secretary of State, in the case of a statewide candidate, or the board of elections, in the case of all other candidates, must determine whether the prospective candidate substantially complied with the form.

A. Candidate Name

If any person desiring to become a candidate for public office has had a change of name within five years immediately preceding the filing of the person's declaration of candidacy, the person's declaration of candidacy and petition shall both contain, immediately following the person's present name, the person's former names.⁶ This does not apply to a name change due to marriage.⁷

B. Office

The statement of candidacy signed by the prospective candidate must identify the office sought so that both the electors signing the petition and the board of elections are able ascertain from the petition which office the candidate seeks.

⁶ *Martinez v. Cuyahoga Cty. Board of Elections*, 2006 WL 847211; *McLaughlin v. Cuyahoga Cty. Bd. of Elections*, 156 Ohio App.3d 98.

⁷ [R.C. 3513.06](#).



C. Term

Ohio law requires each person filing a declaration of candidacy or a nominating petition as a candidate for the unexpired term of any office to designate the date on which that unexpired term ends.⁸

D. Date of the Election

The purpose of the date of the election on a declaration of candidacy is to inform those signing the petition as to the election at which the candidate seeks to be on the ballot. The board must determine whether those signing the petition understand which election is at issue.⁹

E. Candidate Signature¹⁰

A candidate must sign the statement of candidacy.

The question of whether the prospective candidate signed the statement of candidacy before the petition was circulated is a question of fact for the members of the board of election to decide.

It is only necessary for the candidate to sign one part-petition paper, but the declaration of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it.

F. Nominating Petition Portion

The question of whether the board may certify a prospective candidate's petition when the "Nominating Petition" portion of the form is incomplete is a substantial compliance decision for the board of elections to make in consultation with its legal counsel, the county prosecuting attorney.

⁸ [R.C. 3513.08](#); [R.C. 3513.28](#).

⁹ *Hill v. Cuyahoga County Bd. of Elections*, 68 Ohio St.2d 39 (1981); *State ex rel. Stewart v. Clinton Cty. Bd. of Elections*, 124 Ohio St.3d 584.

¹⁰ [R.C. 3513.09](#).

G. Verifying the Validity of Part-Petitions

Prior to verifying the validity of individual signatures contained on a part-petition, the board of elections must verify the validity of that part-petition. Check each part-petition to determine whether the circulator's statement on the last page of the part-petition has been properly completed. The entire part-petition is invalid if the circulator's statement is not completed as required by law.

H. Fulfilling Public Records Requests

Boards of elections may receive one or more public records requests for copies of the part-petitions for particular candidate or issue. Boards should consult with their statutory legal counsel, the county prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

SECTION 1.03 CIRCULATOR STATEMENTS

A. Qualifications of Circulators:

- A circulator must be at least 18 years of age.¹¹
- A circulator is not required to be an Ohio elector or an Ohio resident.
- Each circulator of a candidate petition must be a member of the political party named in the declaration of candidacy.

A board of elections will determine a circulator's party affiliation as follows:

Not an Ohio Elector:

- If the circulator is not an Ohio elector, the board of elections should accept as true the claim of political party membership that is included in the circulator's statement, unless the board has knowledge to the contrary.

¹¹ [R.C. 3503.06\(C\)](#); *Citizens in Charge v. Husted*, Case No. 2:13-cv-00935 (S.D. Ohio, Mar. 16, 2015).



Ohio Elector:

- An Ohio elector who circulates another person's declaration of candidacy and petition for the nomination or election at a partisan primary must not have voted in any other party's primary election in the preceding two calendar years.¹² The board of elections should examine the circulator's Ohio voting history using the statewide voter registration database. If the board determines that the circulator voted in another political party's primary election during the prior two calendar years, then the part-petition is invalid.

B. Candidate as Circulator

A candidate may circulate his or her own part-petition regardless of how he or she may have voted in the prior two calendar years. If the candidate does not hold an elective office, or if the candidate holds an elective office other than one for which candidates are nominated at a party primary, the candidate does not need to file any additional forms. If the candidate holds partisan public office, the candidate can still run for office for a different party, if the candidate has filed a Declaration of Intent to Change Political Party Affiliation ([Form 10-Y](#)).¹³

C. Convicted Felons

Some convicted felons are prohibited from circulating petitions.¹⁴ However, state law does not require a circulator to provide key data points (e.g., date of birth, Social Security number, driver's license number, etc.) that constitute "satisfactory evidence" that the person that circulated a petition is the same individual who may be listed in a county's local voter registration database as cancelled due to incarceration of a felony conviction.

¹² [R.C. 3513.05, ¶7.](#)

¹³ [R.C. 3513.191.](#)

¹⁴ [Ohio Attorney General Advisory Opinion 2010-02.](#)



Thus, when verifying petitions, boards of elections should presume that a circulator is qualified to circulate petitions, unless there is “satisfactory evidence” that the individual is not qualified.

D. Circulator’s Statement on Each Part-Petition¹⁵

Each part-petition must contain a circulator’s statement that includes the following completed information:

- circulator’s signature,
- the number of signatures witnessed by the circulator,
- and, for a *statewide* candidate or issue petition:
 - circulator’s name,
 - address of the circulator’s residence¹⁶ , and
 - the name and address of the person employing the circulator to circulate the petition, if any.

Note: If the circulator is a qualified elector of Ohio, there is no requirement that the address of the circulator match the address on file with the board of elections. A board must not invalidate a part-petition solely because the address of the circulator in the circulator’s statement differs from the address on file with the board of elections.

The board must review each part-petition to determine that information required as a part of the circulator’s statement is entered on each part-petition. The board must accept the circulator statements of part-petitions

¹⁵ [R.C. 3501.38\(E\)\(1\)](#).

¹⁶ State law does not define “permanent residence address” for purposes of circulating issue petitions. A board of elections should presume that the address provided by the circulator is the circulator’s permanent residence as the statement is signed under penalty of election falsification, which is a fifth degree felony. To the extent that an entity other than the Board believes that the circulator’s written permanent residence address is not accurate, an informal objection or formal protest is not properly before a board of elections and should be filed with the Ohio Supreme Court as described in Section VI below.



at face value unless there are inconsistencies with the number of signatures witnessed (see below) or with information about the circulator across part-petitions reviewed within a single county (i.e., the circulator writes different permanent residence addresses on different part-petition).

If the number of signatures reported in the statement is less than the total number of uncrossed out signatures submitted on the part-petition, then the board *must reject the entire part-petition*.¹⁷

Example: The circulator's statement indicates 20 signatures witnessed, but there are 22 signatures on the petition, none of which were crossed out prior to the petition being filed.

If the number of signatures reported in the statement is equal to or greater than the total number of signatures not crossed out on the part-petition, then the board does not reject the part-petition because of the inconsistent signature numbers.¹⁸ Instead, the board must review the validity of each signature as usual.

Example: The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.

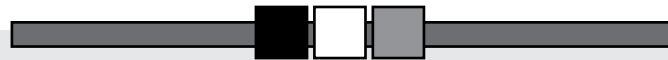
Note: In determining whether the number of signatures reported by a circulator of a non-statewide candidate's petition matches the number of signatures on that part petition, particularly with regard to crossed-out signatures, board of elections should take care so as to not make a determination that is "too technical, unreasonable, and arbitrary" given the unique fact set of that petition and information available to the board, if any.¹⁹

¹⁷ *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 841 N.E.2d 766 (2005).

¹⁸ *State ex rel. Citizens for Responsible Taxation v. Scioto Cty. Bd. of Elections*, 65 Ohio St.3d 167, 602 N.E.2d 615 (1992).

¹⁹ *State ex rel. Schwarz v. Hamilton Cty. Bd. of Elections*, 173 Ohio St. 321, 181 N.E.2d 888 (1962); *State ex rel. Curtis v. Summit Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-3787.





For a statewide petition, if a circulator identifies an employer on the circulator's statement but does not provide a corresponding address, the board must invalidate the entire part-petition.²⁰ If no employer or address is provided or if both the name of the employer and an address are provided, that aspect of the circulator's statement is presumed, on its face, to be valid and sufficient.

SECTION 1.04 PROCESSING VOTER REGISTRATION FORMS

When processing a statewide petition, each county board of elections must process all new, valid voter registrations and changes of name and/or address to existing registrations received by the board or the Secretary of State's Office as of the date the petition was filed with the Secretary of State *before* verifying the signatures on the part-petitions.²¹

For petitions filed with the board of elections, each board first must process all new, valid voter registrations and changes of name and /or address to existing registrations received by the board as of the date the petition was filed with the county board of elections' office.

²⁰ [R.C. 3519.06\(A\)](#).

²¹ [R.C. 3501.38\(A\)](#); [R.C. 3519.15](#).



SECTION 1.05 SIGNERS

A. Qualifications of Signers

- Must be a qualified elector of Ohio.²²
- Must be registered to vote at the address provided on the petition as of the date that the petition was filed with the applicable office.²³ For statewide issue petitions, the date the board of elections examines the petition.²⁴
- If signing a petition for a candidate seeking nomination in a partisan primary, must be a member of the political party of the candidate named on the declaration of candidacy. For purposes of signing candidate petitions for these parties, the person signing is considered to be a member of a political party if the signer voted in that party's primary election, or did not vote in any other party's primary election, in the preceding two calendar years.²⁵
- A 17-year old who will be 18 years old by the election at which the candidate or issue will appear on the ballot, and is properly registered to vote, may sign a petition.²⁶

B. Signatures²⁷

- Each signature *must* be an original signature of that voter.²⁸

²² [R.C. 3501.38\(A\).](#)

²³ [R.C. 3501.38\(A\).](#)

²⁴ [R.C. 3519.15.](#)

²⁵ [R.C. 3513.05, ¶17.](#)

²⁶ [R.C. 3503.06\(A\).](#)

²⁷ [R.C. 3501.011.](#)

²⁸ [R.C. 3501.38\(B\).](#)



- The signature must match the signature on file with the board of elections.²⁹ A board must not invalidate a signature because an elector signed using a derivative of his/her first name if the board can confirm the identity of the elector.³⁰ Some acceptable examples include Jack for John or Peg for Margaret. Also, inclusion or omission of a voter's middle initial is not a reason to invalidate a signature.
- For identification purposes, the elector may print his or her name on the petition *in addition* to signing in cursive his or her name to the petition.³¹
- The signature must be written in ink.³²
- An elector's signature *must not be invalidated* solely because "non-signature information" was completed by another person (e.g., the elector's printed name, address, county, or the date of signing). Non-signature information may be added by a person other than the elector.³³
- No one may sign a petition more than once. If a person does sign a petition more than once, after the first signature has been marked valid, each successive occurrence of the signature must be invalidated.

Note: Most software systems deployed by county boards of elections are capable of electronically recording decisions on the validity or invalidity of each signature on a petition and tracking for duplicate signatures

²⁹ If a board of elections has conducted a hearing concerning the consideration of signatures on a candidate or issue petition, it must not disregard evidence produced at that hearing. See *State ex rel. Scott v. Franklin County Board of Elections*, 2014-Ohio-1685; "if undisputed evidence shows a nonmatching signature to be genuine, then the board must count the signature even if it does not match the elector's legal mark on the voter-registration record" *State ex rel. Crowl v. Delaware Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-4097 (O'Connor, C.J., concurring); *State ex rel. Burroughs v. Summit Cty. Bd. of Elections*, Slip Opinion No. 2015-Ohio-4122.

³⁰ *State ex rel. Rogers v. Taft*, 64 Ohio St.3d 193, 594 N.E.2d 576 (1992).

³¹ [R.C. 3501.38\(B\)](#).

³² [R.C. 3501.38\(B\)](#).

³³ *State ex rel. Jeffries v. Ryan*, 21 Ohio App.2d 241, 256 N.E.2d 716 (10th Dist. 1969).





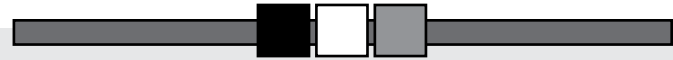
over time (including in those instances where petitioners are permitted to file supplemental petitions after an initial finding by the Secretary of State that the petition lacks sufficient signatures). These systems should be able to track more than one petition at a time. Additionally, these software systems should be able to produce an electronic file and a printed report of the names, addresses, and valid/invalid code for every signature reviewed by the board. If your county software system cannot provide any of these, or the board does not use that system component, please contact the Elections Division to determine a method that adequately and accurately records information to fulfill reporting and tracking standards.

C. Address of a Signer

The petition must contain the elector's voting residence address, including the house number and street name or Rural Free Delivery (RFD) number, and the appropriate city, village, or township.

- The elector's ward and precinct *are not* required.
- The elector's room or apartment number is not required.
- A post office box *does not* qualify as an elector's residence address.
- If an elector's address given on the petition differs from that on file with the board, then the board *must invalidate* that signature unless the signer has provided the elector's residence information in a format that is consistent with postal regulations as opposed to the political subdivision on file with the board of elections (e.g., writing "Columbus" as the city when the elector's political subdivision is "Perry Township"). A board must not reject a signature solely based on this difference.





D. Attorney in Fact

A registered elector who, by reason of disability, is unable to physically sign his or her name to a petition may authorize a qualified individual as an attorney in fact to sign the elector's name to a petition as provided in law.³⁴

A qualified person who has been appointed as an elector's attorney in fact may sign that elector's name to the petition paper in the elector's presence and at the elector's direction.³⁵ The board must compare the attorney in fact's signature on the petition with the document on file with the board office ([Form 10-F](#) or [10-G](#)).

In order to sign a petition on behalf of a registered voter as that person's attorney in fact, the board must have a completed [Form 10-F](#) or [10-G](#) on file. *Other types of power of attorney documents, filed with a court or some other agency, will not allow an individual to sign election documents on another's behalf.* The proper documentation must be on file with the board of elections.

If a person, who has not been designated the attorney in fact for elections purposes, signs another person's name to a petition, then the board must, at a minimum, invalidate that signature. If the board determines that the circulator knowingly allowed someone who they knew was unqualified to sign on another person's behalf, then the entire part-petition must be invalidated.³⁶

E. Dates

Each signature must be followed by the date it was affixed to the petition paper.³⁷ The board *must not invalidate* a signature solely because its date is out of sequence with other signatures on the same part-petition.

³⁴ [R.C. 3501.382](#).

³⁵ [R.C. 3501.382](#).

³⁶ [R.C. 3501.38\(F\)](#).

³⁷ [R.C. 3501.38\(C\)](#).



F. Illegible Signature

The board must invalidate illegible signatures. A signature is illegible only if *both* the signature and address are unreadable, such that it is impossible for board personnel to query the board's voter registration system to check the signature against a voter registration record.³⁸

G. Ditto Marks

Ditto marks may be used to indicate duplicate information, e.g., date, address, or county.³⁹

H. One County per Part-Petition

Each part-petition should contain signatures of electors of only one county. The board *must invalidate* signatures from any other county.⁴⁰

I. Non-Genuine Signatures

A board of elections must not invalidate an entire part-petition based solely on the number of non-genuine signatures it contains. Only if a circulator *knowingly* allows an unqualified person to sign a petition, should the entire petition be invalidated.⁴¹

SECTION 1.06 MARKING SIGNATURES

If a signature is valid, place a check mark in the margin to the left of the signature on the petition paper.

If a signature is invalid, indicate why it is invalid by writing in the margin to the left of the signature the appropriate code symbol for the reason the signature is invalid as follows:

³⁸ *State ex rel. Owens v. Brunner*, 125 Ohio St.3d 130, 2010-Ohio-1374.

³⁹ *State ex rel. Donofrio v. Henderson*, 4 Ohio App.2d 183, 211 N.E.2d 854 (7th Dist. 1965).

⁴⁰ [R.C. 3513.05, ¶19](#); [R.C. 3519.10](#).

⁴¹ [R.C. 3501.38\(F\)](#).



- CIR “Circulator.” Signed as an elector the part petition he or she was circulating. (This invalidates the circulator’s signature as a signer, but not the entire part petition.)
- DUP “Duplicate.” The person has signed more than one part petition or twice on the same part petition.
- ILL “Illegible.” Applies only if both the signature and address are unreadable, so that it is impossible to check the signature against a voter registration record.
- NA “No address.” The signer must have provided his/her complete address: house number and street name or RFD, and the appropriate city, village, or township. Failure to provide the name of the county of residence is not fatal if board officials can determine the county from the other information given. Ward and precinct information is not required.
- ND “No Date.” The petition does not indicate the date on which the signature was affixed. (However, acceptable are: month-date-year, month-date, date out of sequence with other signers’ dates, ditto marks.)
- NG “Not Genuine.” The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, compared to the signature on file with the board of elections as of the date the board checks the petition.
- NR “Not Registered.” The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the petition is filed or, for a statewide issue petition, as of the date that the board examines the petition.





- NRA "Not Registered Address." The address provided on the petition paper is not the address on file with the board of elections as of the date petition is filed, or for a statewide issue petition, as of the date the board examines the petition.
- OC "Other County." The signer is a resident of some other county. Do not cross out signature or address; instead, place code at left margin.
- P "Pencil." The signature was written using a pencil.
- WP "Wrong Party." The circulator or signer is of a different political party than the party listed on the declaration of candidacy.

It is advisable to use a red ink pen for making marks by the board.

After checking an entire part petition, write on the right side of the front page of each part-petition both the number of valid signatures and the initials of the board employee who checked the part-petition under the number.

SECTION 1.07 FILING

A. Where to File Declarations of Candidacy, Nominating Petitions, and Question or Issue Petitions⁴²

For an office or issue submitted to electors throughout the entire state, including a petition for joint candidates for the offices of governor and lieutenant governor, petitions are filed with the Secretary of State's Office.

For an office or issue submitted only to electors within a county or within a district or subdivision or part thereof smaller than a county, petitions are filed with the board of elections of the county.

For an office or issue submitted only to electors of a district or subdivision or part of a subdivision that overlaps into more than one county, petitions

⁴² [R.C. 3513.05](#); [R.C. 3513.261](#).





are filed with the board of elections of the county containing the major portion of the population. The most-populous county of districts for Congress, State Senate, State Representative, State Board of Education and Court of Appeals districts is listed at the end of the Candidate Requirement Guide. If an Educational Service Center (ESC) district overlaps into more than one county, the petitions are filed in the county in which the ESC's administrative office is located.

B. Unfair Political Campaign Activities Notice

At the time a person files a declaration of candidacy, nominating petition, or declaration of intent to be a write-in candidate, the Secretary of State or the board of elections shall furnish that person with a copy of [R.C. 3517.21](#), which sets forth various unfair political campaign activities. Each person who receives the copy shall acknowledge its receipt in writing.⁴³

⁴³ [R.C. 3513.33](#). Please note the decision in *Susan B. Anthony List v. Ohio Elections Commission*, Case No. 1:10-cv-00720 (S.D. Ohio Western Division, Sept. 11, 2014).

