

# Activists file motion to defend their Lake Erie Bill of Rights lawsuit against Ohio Attorney General

Plaintiffs seek to Address Unlawful Conduct of the State in Failing to Protect Lake Erie, Ohioans

## FOR IMMEDIATE RELEASE

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**Toledo, OH:** On Friday, three Toledoans filed their response in the pro se (*without an attorney*) lawsuit against the State of Ohio seeking a declaration from the Lucas County Court of Common Pleas that the Lake Erie Bill of Rights (LEBOR) is enforceable in its entirety under the Ohio Constitution. Plaintiffs Mike Ferner, John Michael Durback, and Bryan Twitchell of Toledo are seeking to uphold and protect LEBOR, a charter amendment approved by 61% of voters in February 2019.

This recent filing is in response to the State's motion to dismiss the case. The State has argued that Article I, Section 2 of Ohio's constitution – which states, "All power is inherent in the people....and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary" – "cannot be the foundation for a cause of [legal] action." The plaintiffs assert that this interpretation renders the phrase meaningless. The State has undermined the democratic rights of Toledo voters, and "failed to protect Lake Erie and all those who depend on her," the plaintiffs argue.

Local activist Mike Ferner said, "The State wants us to believe first, that citizens can be pacified by what it considers just pretty words in Ohio's constitution and second, that it has sole authority to protect Lake Erie and has done so. We hope what the State claims in its motion will sound as outrageous to Judge Goulding as they do to the three of us and to anyone with a brain in their head."

Pointing to dubious court decisions from American history like *Dred Scott v. Sandford*, in which the U.S. Supreme Court ruled African-Americans were never intended to be American citizens, and *Plessy v. Ferguson*, in which the U.S. Supreme Court upheld racial segregation, the plaintiffs' motion calls on the court "to stand on the right side of history."

Today, the plaintiffs write, “American law is failing to respond to the seriousness of ecological collapse, this lawsuit presents the court with another opportunity to bring Ohio law to the higher standard being held by the people demanding the necessary legal change required to adequately and immediately address the current climate and environmental crisis.”

“Ecological reality is more important than the legal ideology” that has prevented natural systems from being recognized as rights-bearing entities, Ferner, Durback, and Twitchell state.

The Lake Erie Bill of Rights, a first-in-the-nation Ecosystem Rights of Nature initiative passed by local residents, enshrines in the Toledo City Charter the legal rights of the Lake Erie watershed and ecosystem to exist and flourish. This forms the basis of a new legal framework for addressing environmental issues by giving citizens standing to hold major polluters accountable on behalf of Lake Erie.

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