

IN THE COURT OF APPEALS  
SIXTH APPELLATE DISTRICT  
STATE OF OHIO

KATRINA VANDERVEER	)	
	)	
Plaintiff-Appellant,	)	
	)	Appellate Case No. 25FU000007
v.	)	
	)	
OHIO ASSOCIATION OF PUBLIC	)	
SCHOOL EMPLOYEES/AMERICAN	)	Trial Court Case No. 25 CV 000093
FEDERATION OF STATE, COUNTY	)	
AND MUNICIPAL EMPLOYEES,	)	
LOCAL 660 PIKE-DELTA-YORK	)	
LOCAL SCHOOL DISTRICT, et al.,	)	APPELLANT’S REPLY TO BRIEF
	)	OF STATE EMPLOYMENT
Defendant-Appellee.	)	RELATIONS BOARD

**I. Summary**

The State Employment Relations Board (“SERB”) makes two arguments. First, that Appellant Katrina Vanderveer (“Mrs. Vanderveer”) is asking SERB to issue an advisory opinion. This argument fails because Mrs. Vanderveer brought a declaratory judgment action against SERB and SERB is a necessary party under Ohio’s declaratory judgment statute. Mrs. Vanderveer merely asks SERB to admit what it has said in other cases—that it will not adjudicate her claims. Second, SERB argues that Mrs. Vanderveer should file her claims in SERB if she wants it to adjudicate them. However, based on an earlier SERB decision on identical claims, SERB is not an available forum because Mrs. Vanderveer’s claims do not allege unfair labor practices over which SERB has jurisdiction. At the same time, some appellate courts have held that such claims are—as a matter of law—unfair labor practices. See, e.g., *Sheldon v. Ohio Association of Public School Employees*, 2025-Ohio-5210, ¶ 1 (7th Dist.). As such, Mrs. Vanderveer respectfully requests that this Court reverse the lower court’s decision dismissing SERB and allow her to obtain a declaration regarding

the forum in which she can pursue her claims.

## **II. Facts**

Appellant Katrina Vanderveer filed a Complaint in Common Pleas Court seeking declaratory relief relating to her membership contract with his former union, American Federation of State, County, and Municipal Employees, Ohio, Council 8, AFL-CIO (“the Union”). (R. 1). Mrs. Vanderveer is seeking a declaration that her membership contract with the Union—the contract that permitted the Union to continue to withdraw dues from her paycheck even after her Union membership had ended—is invalid and imposes an impermissible penalty under Ohio law. Fundamentally, Mrs. Vanderveer seeks a forum in which she can bring her contractual claims. Accordingly, Mrs. Vanderveer named SERB as a defendant to answer whether it has jurisdiction over the types of claims alleged in the complaint. In August, the trial court issued an order granting the Union’s and SERB’s Motion to Dismiss. (R. 10).

## **III. Law and Argument**

### **A. Ohio’s declaratory judgment statute requires SERB’s involvement in this case because its rights and obligations will be affected.**

SERB insists that Mrs. Vanderveer misjoined it to this case and asks it to issue an advisory opinion. SERB Response at 4. But that’s not the case. Mrs. Vanderveer included SERB in this case to satisfy Ohio’s declaratory judgment statutory requirements. Revised Code 2721.12(A) requires that “all persons who have or claim any interest that would be affected by the declaration shall be made parties to the action or proceeding.” “[O]nly those persons who are legally affected are proper parties to a lawsuit,” and “[a] party is legally affected by a cause of action if the party has a legal interest in rights that are the subject matter of the cause of action.” (Citation omitted.)

*Rumpke Sanitary Landfill, Inc. v. State*, 2010-Ohio-6037, ¶ 14.

Here, SERB has a legal interest in the Court's determination. Up to this point, the entire case has revolved around deciding the proper venue for Mrs. Vanderveer's claims. The legislature gave SERB exclusive jurisdiction over some claims but not others. *Ohio Council 8, AFSCME, AFL-CIO v. Lakewood*, 2025-Ohio-2052, ¶¶s 13, 27 (Ohio); *see also*, *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State*, 2016-Ohio-478, ¶ 51 ("As a state agency and a creature of statute, SERB is limited to the powers and jurisdiction conferred on it by statute"). A judicial determination on the claims Mrs. Vanderveer asserted will directly impact SERB's jurisdiction going forward. No matter how this Court resolves that statutory question, the result will affect SERB's jurisdiction and power to adjudicate claims. Thus, SERB must be a party to this case to speak for itself and either advocate for or disclaim its jurisdiction. Either way, this Court has the authority to interpret R.C. 4117 to determine the proper venue for Mrs. Vanderveer's claims. *See* R.C. 2721.03.

**B. Mrs. Vanderveer is not asking SERB to issue an advisory opinion—she is asking the Court to declare what the law is.**

SERB correctly states that "courts [or administrative tribunals] will not issue advisory opinions." SERB Response at 4, citing *Kline v. Newton Falls*, 2023-Ohio-3841, ¶ 11 (11th Dist.). But SERB wrongly claims that Mrs. Vanderveer does not seek relief from SERB, as she brought a declaratory judgment action. *See id.* "[A] declaratory judgment is a binding adjudication of the contested rights of litigants, though unaccompanied by consequential relief, whereas an advisory opinion is merely the opinion of a judge or judges of a court, which adjudicates nothing and is binding on no one." *State ex rel. Draper v. Wilder*, 145 Ohio St. 447, 455 (1945). Mrs. Vanderveer sought a binding adjudication on the issues presented, including the Court of Common Plea's jurisdiction versus the SERB's. She did not ask SERB to rule on the merits of the claims, just to



state or deny its jurisdiction to hear them. Thus, there is a live controversy between the parties.

Ohio's declaratory judgment statute authorizes anyone with an interest in a,

written contract, or other writing constituting a contract or any person whose rights, status, or other legal relations are affected by a constitutional provision, statute, rule . . . contract, or franchise may have determined any question of construction or validity arising under the instrument, constitutional provision, statute, rule, ordinance, resolution, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

R.C. 2721.03. Mrs. Vanderveer, in bringing this case, sought to clarify her rights under the supposed contract with Defendant Union *and* her rights under the statute that controls SERB, R.C. 4117.11. This serves the interest of judicial economy for Ms. Vanderveer and future litigants by having the SERB answer the question of its own jurisdiction at the outset.

It's true that Mrs. Vanderveer's primary dispute is with the Union. She is seeking a judgment that the supposed contract between she and the Union violates Ohio contract law. But Mrs. Vanderveer also seeks a declaration of her rights under R.C. 4117.11 to know whether the Court of Common Pleas can adjudicate those claims. That is one of the controversies Mrs. Vanderveer presented.

Mrs. Vanderveer does not have any other forum to bring these claims since they are not unfair labor practices—the courthouse doors must be open.

SERB insists that Mrs. Vanderveer has another forum to assert her claims—SERB. SERB Response at 5. But this argument fails because SERB said in previous cases that the claims Mrs. Vanderveer brought are not unfair labor practices.

While Mrs. Vanderveer did not bring any claims before SERB, similarly situated plaintiffs have brought identical claims before both SERB and courts of common pleas, only to be turned away by both. See, e.g., *Darling*, 2024-Ohio-2181 (10th Dist.), and *Littlejohn*, C.P. Hamilton, No.

24-03410. In a case with identical claims, SERB asserted that “no statute involving SERB’s legal duties is involved or being challenged.” Def. SERB’s Reply to Plaintiff’s Memo. Oppo. to SERB’s Mot. To Dismiss, *Chandler v. OAPSE*, C.P. Stark, No. 2025CV00690 (filed May 8, 2025) (same).<sup>1</sup>

SERB’s assertion in *Chandler* evidences its view that SERB does not have jurisdiction over these contract claims. That supports the Court of Common Pleas jurisdiction over such contract claims. While SERB may argue that this justifies its dismissal from this case, SERB’s statement should be read as a disclaimer of jurisdiction, meaning the Court of Common Pleas is the only forum available to Mrs. Vanderveer.

#### **IV. Conclusion**

For the above reasons, the Court of Common Pleas Dismissal should be reversed.

Respectfully submitted,

/s/ Jay R. Carson

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<sup>1</sup> *Chandler* is an ongoing case.

### **CERTIFICATE OF SERVICE**

This will certify that a true and accurate copy of the above brief has been served by e-mail to counsel of record for Defendants this 8th day of December 2025.

/s/ Jay R. Carson  
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*One of the Attorneys for Appellant*