

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Project Vote, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
Madison County Board of Elections,)	
)	
and)	
)	
Jennifer Brunner, Secretary of State of Ohio,)	
in her official capacity)	Civil Action No. 08-2266
)	
Defendants.)	
)	
)	
)	
_____)	

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANT MADISON COUNTY
BOARD OF ELECTIONS' MOTION TO DISMISS OR, IN THE ALTERNATIVE,
TRANSFER VENUE**

INTRODUCTION

Defendant Madison County Board of Elections' (Madison County) motion rests on a mistaken characterization of both the subject matter of this case and the legal basis for Plaintiffs' legal claims. Contrary to the argument of Defendant Madison County, this case is not solely about a legal opinion put forward by its prosecuting attorney on September 5, 2008. It is instead about the chilling effect on the voting rights of citizens throughout the State of Ohio, posed by the interpretation of state law that was advanced in *State ex rel. Colvin v. Brunner* and embraced by three county prosecutors. In the *Colvin* case, where the writ has since been denied by the Ohio Supreme Court (attached hereto as Exhibit 1), relators (also represented by counsel for Madison County) argued that a voter who so much as *requests* an absentee ballot within 30 days of having registered has committed a fifth-degree felony. Relators' Br. at 6, 17-18. The prosecuting attorneys of three counties, one of them (Holmes) in the Northern District of Ohio, adopted this interpretation.

If this interpretation of state law were upheld, it would not only close down the five-day window within which citizens may simultaneously register and submit an absentee ballot under directives issued by the Ohio Secretary of State. It would also foreclose *any* citizen from asking for or obtaining an absentee ballot within 30 days of having registered. As a practical matter, that would make it impracticable for countless Ohioans to exercise their constitutionally protected right to vote. The chilling effect of this position is felt not just in Madison County, but throughout the State of Ohio.

The consequence is that a voter who registered within the last month – and within the October 6 deadline under Ohio law – could not have even requested an absentee ballot today, without facing the risk of criminal prosecution. While that risk is most acute in the three

counties whose prosecutors have opined on the subject, it existed for any newly registered voter anywhere in the State of Ohio. Accordingly, each of Plaintiffs, along with voters and voter registration groups throughout Ohio, were injured by the conduct complained of in this case and relief is necessary to protect their constitutional right to vote. There is thus no question that Plaintiffs have adequately stated injuries sufficient to confer standing.¹

Nor is there any serious question that venue lies in the Northern District of Ohio, both because the Secretary of State resides in this district by maintaining an office here, *see* 28 U.S.C. § 1391(b)(1), and because the effects of the interpretation of state law advanced by *Colvin* relators and county prosecutors flow throughout the State of Ohio, *see* 28 U.S.C. § 1391(b)(2). It is more than a little ironic for Madison County to take the position that this controversy is localized, when their own counsel has taken the position that voters anywhere in the state would be subject to criminal prosecution under their proffered construction of Ohio law. Although the Madison County Board of Elections was the only county of which Plaintiffs are aware that refused to abide by the Secretary of State's interpretation of Ohio law, it is simply false to suggest that the scope of this case is limited to one county. Defendant seeks to steer this dispute to a case filed in another federal court two days after this one, *Ohio Republican Party v. Brunner*, Civ. No. 2:08-cv-913-GCS-NMK (S.D. Ohio), contrary to the first-to-file rule. *See, e.g., Plating Resources v. UTI Corp.*, 47 F. Supp. 2d 899, 903 (N.D. Ohio 1999); *Fidelity Bank v. Mortgage Funding Corp. of America*, 855 F. Supp. 901, 903 (N.D.Tex.1994) (“[w]here two identical

¹ This response by Plaintiffs addresses only the arguments actually put forward in Madison County's motion to dismiss filed on September 28, 2008. That motion did not rely in any way on arguments concerning developments in the Ohio Supreme Court in the *Colvin* matter after their motion to dismiss was filed. Accordingly, if Madison County wishes to assert that any developments since the filing of Defendant's motion to dismiss have some bearing on the propriety of dismissal, Defendant should be required to file a new motion relying on such grounds so that Plaintiffs will have an opportunity to respond to any such arguments. Defendant should not be permitted to raise new arguments for the first time in its reply, because this would deprive Plaintiffs of an opportunity to respond.

actions are filed in courts of concurrent jurisdiction the court that first acquired jurisdiction should try the lawsuit.”).

Madison County’s motion to dismiss also rests on a mistaken characterization of Plaintiffs’ legal claims. Plaintiffs’ argument is not, as Defendant would have it, that there is a federal right to same-day registration and voting. Plaintiffs do not argue that federal law would prevent a state from commencing absentee voting after the close of registration, such as having a registration deadline 30 days before the election and allowing absentee voting starting 21 days before the election. However, that is not what the Ohio legislature enacted; Ohio law specifies that registration closes 30 days before Election Day while absentee voting begins 35 days before Election Day. The problem with the interpretation advanced by Defendant Madison County, and the three county prosecutors is that it contravenes federal law, which ties registration deadlines to *the date of the election*, and not the date on which a voter requests, receives, or submits an absentee ballot. Under federal law, states may not condition eligibility to vote on registration more than 30 days in advance of the election. Yet that is precisely what the misguided interpretation of state law advanced by Madison County, and two other county prosecutors would accomplish. Because their construction of state law conflicts with federally protected voting rights, it cannot be sustained consistent with the Supremacy Clause and the Equal Protection Clause of the U.S. Constitution.

ARGUMENT

- I. Plaintiffs have a justiciable claim that, in the absence of adjudication by this court, will result in violations of Plaintiffs’ constitutional and statutory rights.

The arguments of Defendant Madison County concerning justiciability are misguided. They rest on a mischaracterization of the allegations of the complaint and Plaintiffs’ injuries, and are unsupported by case law.

First, plaintiff Sherie Penix, a Madison County resident who is eligible to vote and wished to register and request and submit an absentee ballot without waiting 30 days after registering clearly has standing to challenge Madison County's announced intention to treat her ballot as void.

In order to satisfy the standing requirements of Article III of the Constitution, a plaintiff must show: "(1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81, 120 S.Ct. 693, 145 L.Ed.2d 610 (2000) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)).

Sandusky County Democratic Party v. Blackwell, 387 F.3d 565, 573 (6th Cir. 2004).

Plaintiff Penix clearly has met this standard. Madison County announced its intention to treat absentee ballots and/or applications as void with respect to any voter who did not register 30 days in advance of requesting and/or executing the absentee ballot. Davis Decl. (attached to ECF Doc. No. 007), ¶ 9. Plaintiff Penix explained that she would face hardship if she could not vote early by absentee when she registered, because family and work obligations would prevent her from voting at her polling place on Election Day. Penix Decl. (attached to ECF Doc. No. 007) By treating her application and/or vote as void, Madison County would violate numerous federal rights as outlined in Plaintiffs' memorandum in support of a temporary restraining order (ECF Doc. No. 007). For example, it would deny her an absentee ballot in express defiance of Section 202(d) of the Voting Rights Act, which requires issuance of an absentee ballot for presidential voting if an individual registers at least 30 days before the election and requests an absentee ballot at least seven days in advance of the election. Plaintiff Penix will satisfy both those conditions, yet Defendant Madison County announced it will treat her absentee ballot

and/or application as void because she would not have been registered 30 days prior to this period. This unquestionably creates a case or controversy that Penix has standing to litigate.

Indeed, the Relators in the Ohio Supreme Court litigation warned that voters such as Ms. Penix could be prosecuted for committing a felony if they sought to register and vote by absentee ballot. Relators' Br. at 6, 17-18. Absent relief requiring the Madison County Board of Elections to accept her registration and absentee ballot, Ms. Penix' registration would have been futile at best and potentially exposed her to criminal penalties at worst. Thus, she clearly has standing to seek relief in this court.

The uncertainties created by the litigation in the Ohio Supreme Court and *Ohio Republican Party v. Brunner*, the threat of criminal penalties, and the Secretary's failure to exercise her authority under OHIO REV. CODE §§ 3501.05 & 3501.16 also underscore the justiciability of Plaintiffs' claims against Secretary Brunner. Although Secretary Brunner's existing directives protect Plaintiffs' rights, litigation in the Ohio Supreme Court and later in the Southern District of Ohio challenged the enforceability of her directives. Had either of those actions been successful, Defendant Brunner would have been *obligated* – in the absence of action by this Court – to issue a directive that would apply statewide to void the absentee ballots that plaintiffs and/or their members executed when they registered between September 30 and October 6.

Accordingly, the chilling effect on Plaintiffs' ability to take advantage of registration and voting was more than adequate to establish both ripeness and standing to seek relief against Defendant Brunner to ensure that Plaintiffs could register and receive absentee ballots. Without an injunction from this Court, Plaintiffs would have risked not only the casting of void ballots, but also the possibility of criminal prosecution. This presented a classic situation when the need

for pre-enforcement relief was sufficient to satisfy the Article III case-or-controversy requirement. “When seeking declaratory or injunctive relief, the plaintiff must demonstrate actual present harm or a significant possibility of future harm to justify pre-enforcement relief.” *Peoples Rights Org. v. City of Columbus*, 152 F.3d 522, 527 (6th Cir. 1998). However, “an individual does not have to await the consummation of threatened injury to obtain preventive relief. Rather, if the injury is certainly impending, that is sufficient.” *Id. citing Babbitt v. United Farm Workers Union*, 442 U.S. 289, 298 (1979). “Standing depends on the probability of harm, not its temporal proximity. When injury has occurred or is likely in the future, the fact that state litigation may be deferred does not prevent federal litigation now.” *520 South Michigan Avenue Association, Ltd., v. Devine*, 433 F.3d 961, 962 (7th Cir. 2006); *accord, Doe v. Stevenson*, 2008 WL 77738 (S.D. Ohio 2008). *See also Milakoff v. Walsh*, 2007 WL 2572268, at *1 (N.D. Ohio 2007) (pre-enforcement case ripe even though defendant has indicated she will await outcome of litigation to bring enforcement action).

For all these reasons, Plaintiffs’ claims against Defendants seeking to preserve their federal rights are actionable, and Defendant Madison County’s motion should be denied.

Given that plaintiff Penix clearly has standing to pursue relief against both Defendants, the Court need go no further in assessing Plaintiffs’ standing, because it is a well settled rule that where one party has standing, the court need not determine whether other plaintiffs have standing in order to address the merits of the claim. *Crawford v. Marion County Elections Bd.*, 128 S. Ct. 1610, 1615 n. 7 (2008); *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 53 n.2 (2006); *Bowsher v. Synar*, 478 U.S. 714, 721 (1986). Nevertheless, it is clear that the remaining plaintiffs also have standing sufficient to satisfy Article III requirements.

First, plaintiffs NEOCH and 1Matters have standing to sue on behalf of their members,

who include homeless persons who intended to take advantage of the opportunity to register and execute their absentee ballots between September 30 and October 6 as provided by Ohio law. As the Sixth Circuit has noted:

An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Id.* at 181, 120 S.Ct. 693 (citing *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977)). The individual participation of an organization's members is “not normally necessary when an association seeks prospective or injunctive relief for its members.” *United Food & Commercial Workers Union Local 751 v. Brown Group, Inc.*, 517 U.S. 544, 546, 116 S.Ct. 1529, 134 L.Ed.2d 758 (1996) (citing *Hunt*, 432 U.S. at 343, 97 S.Ct. 2434).

Sandusky County Democratic Party, 387 F.3d at 583-84.

Under these standards, NEOCH and 1Matters both have standing to bring this action on behalf of their homeless members, who clearly would have standing to sue in their own right. The declaration of NEOCH’s director, Brian Davis, confirms that NEOCH has numerous members who are homeless, *see* Davis Decl., ¶¶ 4, 9, 14 (attached to ECF Doc. No. 007), and details the harm that would have been suffered by NEOCH’s homeless members if they were unable to take advantage of the opportunity to register and vote or to request an absentee ballot without waiting 30 days as Madison County would require:

Homeless individuals experience significant barriers to voting that can be minimized or alleviated by registering and immediately casting or requesting an absentee ballot. For example, many homeless individuals lack transportation, so making one trip to register and a second trip to vote poses a substantial hardship. Many homeless people need to change their address having recently lost their homes, and most have a difficult time receiving mail, such as an absentee ballot, inside the local homeless shelters.

Id. ¶ 11. The declaration of Ken Leslie, founder of 1Matters, also confirms that 1Matters has members who are homeless and needed to register and vote without waiting 30 days. Leslie

Decl., ¶¶ 12, 14 (attached to ECF Doc. No. 007). As a result, the members of these organizations would likely have been unable to vote in the upcoming election if they could not take advantage of the registration drives being organized by the two associations to bring their homeless members to polling places to register and execute their absentee ballots on the same day.

The interests at stake, moreover, clearly are germane to the purposes of NEOCH and 1Matters. NEOCH has been running voter registration and participation drives among homeless persons for nearly two decades, as part of its mission to empower homeless persons. It served nearly 2,000 persons during the week of September 30 to October 6 by running shuttles to the boards of elections to assist homeless persons in registering and voting absentee ballots. Davis Decl., ¶¶ 8-10. 1Matters also works to build the capacity of homeless persons to have a voice in their community, and has a major initiative of assisting with voter registration and participation in this year's election, including running shuttles to boards of elections so that homeless persons it serves could register and vote or request an absentee ballot application. Leslie Decl. ¶¶ 7-9, 10.

Finally, neither the claim asserted nor the relief requested requires the individual participation of the members of these organizations. The claims include no request for damages or other individual relief. Moreover, the same barriers that make it difficult for homeless persons to register and vote in person make it difficult for them to bring individual lawsuits and participate directly in litigation to enforce their rights. Accordingly, NEOCH and 1Matters clearly meet the standards for allowing an association to bring suit on behalf of its members.

Sandusky County Democratic Party, 387 F.3d at 583-84.²

² The decision in *Northeast Ohio Coalition for the Homeless v. Blackwell*, 467 F.3d 999 (6th Cir. 2006) does not affect NEOCH's standing to sue on behalf of its members in this case. In the case before the Sixth Circuit, standing was denied because the record on the standing issue consisted solely of the unverified complaint, and the complaint contained no reference to any injury suffered by NEOCH's members. *Id.* at 1010. Here, the complaint clearly alleges an injury to NEOCH's members and the record also includes a detailed declaration by NEOCH's director explaining the injury being suffered by NEOCH's homeless members.

Defendant Madison County argues that the Court lacks subject-matter jurisdiction over the claims of plaintiffs who are not conducting activities in Madison County because of the absence of a case or controversy. This ignores the fact that Plaintiffs have sought relief not only against Madison County, but against Secretary Brunner as well. Although the members of NEOCH and 1Matters are outside Madison County, their activities nevertheless are chilled because of Madison County's efforts to question the enforceability of defendant Brunner's directive. Had the Relators in the Ohio Supreme Court mandamus action been successful, Defendant Brunner would have been obligated to issue a directive that applied statewide to void the absentee ballots that Plaintiffs' members executed when they registered between September 30 and October 6. Worse still, it would have required newly registered voters – even those who did not plan to simultaneously register and receive an absentee ballot – to wait 30 days in order to request a ballot. This would have disfranchised tens if not hundreds of thousands of bona fide Ohio voters. Moreover, the rights of Plaintiffs' members to register and execute an absentee ballot without waiting 30 days were being chilled because of the threat of felony prosecution that would follow if Relators' interpretation is adopted by the Ohio Supreme Court. Relators' Br. at 6, 17-18. This threat of prosecution is obviously not limited to Madison County, but chills the activities of Plaintiff organizations and their members who justifiably feared that the registration and voting activities they intended to carry out would either be fruitless at best, or result in felony convictions at worst. The cases cited above addressing the justiciability of pre-enforcement actions when there is legal uncertainty and/or a threat of prosecution all serve to support the standing of NEOCH and 1Matters to sue on behalf of their members.

In addition to the standing of NEOCH and 1Matters to sue on behalf of their members, all three organizational plaintiffs – NEOCH, 1Matters, and Project Vote – have standing to sue on

their own behalves. The complaint and supporting declarations allege that each of these organizations conducts voter registration and outreach as part of their mission, and that each devoted substantial resources to assisting their target communities to register and cast absentee ballots between September 30 and October 6. In the absence of an injunction, these organizations faced a Hobson's choice – (1) expend resources on these voter mobilization activities knowing that their work may be rendered futile if the Ohio Supreme Court directed Defendant Brunner to revoke her directive and impose a 30-day “waiting period”; or (2) forgo the opportunity to encourage voter registration and early voting during this period. On the other hand, because Plaintiffs’ federal claims were successful, imposition of this additional 30-day “waiting period” was unlawful, and this Court entered injunctive relief ensuring that the Plaintiff organizations could proceed with their planned mobilization activities. Under these circumstances, the organizations clearly have standing to sue. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 378-79 (1982) (when defendants’ violations of federal housing law impaired organizations’ ability to achieve its mission and caused a drain on organization’s resources, organization had standing to sue on its own behalf).

II. The Northern District of Ohio is an Appropriate Venue for this Action.

Defendant Madison County claims that venue does not exist in this judicial district pursuant to 28 U.S.C. § 1391(b). To the contrary, this action satisfies 28 U.S.C. § 1391(b) in multiple respects: (1) Defendant Brunner resides in the Northern District of Ohio, which satisfies venue under 28 U.S.C. § 1391(b)(1); and (2) a substantial part of the events or omissions giving rise to Plaintiffs’ claim occurred in the Northern District of Ohio, which satisfies venue under 28 U.S.C. § 1391(b)(2).

28 U.S.C. § 1391(b)(1) provides that venue exists in “a judicial district where any defendant resides, if all defendants reside in the same State.” It is undisputed that both Defendants reside in the State of Ohio. Defendant Brunner is a resident of the Northern District in addition to elsewhere in the state. Her counsel informed Plaintiffs that she maintains an office in Northern District of Ohio. Indeed, in *Ohio Republican Party v. Brunner*, No. 08-cv-913 (S.D. Ohio), a federal challenge to Directive 2008-63 filed in the Southern District of Ohio on September 26, 2008, Secretary Brunner moved to have the case transferred to this district and consolidated with this action. *See Motion To Transfer Venue And To Consolidate*, attached to ECF Doc. No. 19, as Exh. A. Furthermore, as the chief election officer of Ohio, OHIO REV. CODE § 3501.04, Secretary Brunner has a number of statewide responsibilities, including promulgating rules, instructions, and directives for the conduct of elections in Ohio; appointing the boards of elections in every county, who serve as the Secretary’s representatives; and compelling election officers to observe the requirements of all state and federal election laws. OHIO REV. CODE §§ 3501.01, 3501.05, 3501.053(A), and 3501.06. Where a governmental official performs duties throughout the state, venue exists throughout the state. In *Bay County Democratic Party v. Land*, 340 F. Supp. 2d 802 (E.D. Mich. 2004), the court rejected a motion to transfer venue by the defendants, the Michigan Secretary of State and Director of Elections, from the Eastern District of Michigan to the Western District of Michigan, where those officials had their main offices. The district court found that the defendants had statewide duties, and as a result, venue was appropriate in the Eastern District: “It is abundantly clear that the defendants perform official duties in this district and therefore ‘reside’ here within the meaning of 28 U.S.C. § 1391(b)(1).”

In addition, a substantial part of the actions or omissions giving rise to this action occurred in the Northern District. Had the Ohio Supreme Court ruled that Ohio law requires that a voter must be registered for 30 days before he or she can cast an absentee ballot and the Secretary of State and county election officials throughout the State followed the Ohio Supreme Court, they would have been in violation of federal law and this violation would have been statewide. *See League of Women Voters of Ohio v. Blackwell*, 432 F. Supp. 2d 723, 734 (N.D. Ohio 2005) (request to transfer venue by Secretary of State of Ohio from the Northern District of Ohio to the Southern District of Ohio denied where court found many of the events alleged in the complaint occurred in the Northern District). Moreover, the uncertainty in the law – including that created by a prosecutor in Holmes County (which is in the Northern District) who claims that Directive 2008-63 violates Ohio law – created a chilling effect on voters and organizations registering voters throughout the state. Voters who requested or submitted absentee ballots at the same time they registered to vote were uncertain that they would not be subject to prosecution. Therefore, because Secretary Brunner is a resident of the Northern District and a substantial part of the actions or omissions giving rise to this action occurred in the Northern District, venue exists in the Northern District.

III. Defendant Madison County Mischaracterizes Plaintiffs' Arguments and Federal Law.

Defendant Madison County's argument that Plaintiffs are urging same day registration reflects a basic misunderstanding of Plaintiffs' position. What is required under numerous federal statutes cited in Plaintiffs' complaint and motion for temporary restraining order is: (1) the provision of absentee ballots for the offices of President and Vice President free from the taint of the very same durational residency requirements that Madison County, the Relators in the state supreme court case, the county prosecutors in Madison, Holmes, and Miami Counties,

and the plaintiffs in the *Ohio Republican Party* case would apply to Ohio voters, *see* 42 U.S.C. § 1973aa-1, *et seq.*; (2) a registration deadline sooner than 30 days for federal elections, *see* 42 U.S.C. § 1973gg-1, *et seq.*; and (3) that once a jurisdiction has made absentee voting available to voters in the jurisdiction, it cannot apply different qualifications for the absentee ballot to different voters who cast ballots in the same county, *see* 42 U.S.C. § 1971(a)(2)(A). Plaintiffs did not set the dates for the registration deadline or the advent of early voting; thus Plaintiffs did not create, nor are they urging this court to adopt, same-day registration. However, once the state has created the deadlines and methods for casting early ballots, the state cannot discriminate based on the happenstance of how far in advance of the registration deadline a bona fide voter's name was added to the registration list.

CONCLUSION

For the reasons set forth above, Defendant's motion should be denied.

Respectfully submitted,

/s/Meredith Bell-Platts
Meredith Bell-Platts (OH 72917)
Neil Bradley
ACLU VOTING RIGHTS PROJECT
230 Peachtree Street, NW
Suite 1440
Atlanta, GA 30303
(404) 523-2721 (phone)
(404) 653-0331 (fax)
mbell@aclu.org
nbradley@aclu.org

/s/Carrie L. Davis

Carrie L. Davis (OH 77041)
Jeffrey M. Gamso (OH 43869)
ACLU OF OHIO
4506 Chester Ave
Cleveland, OH 44103
(216) 472-2220 (phone)
(216) 472-2210 (fax)
cdavis@acluohio.org

Daniel P. Tokaji
The Ohio State University
Moritz College of Law (Institutional affiliation
provided for purposes of identification only)
55 W. 12th Ave.
Columbus, OH 43210
(614) 292-6566 (phone)
(614) 688-8422 (fax)
dtokaji@gmail.com

Paul Moke (0014099)
Professor of Social and Political Science
1252 Pyle Center
Wilmington College (Institutional affiliation
provided for purposes of identification only)
Wilmington, Ohio 45177
937-382-6661 ext 415 (phone)
937-382-7077 (fax)
paul_moke@wilmington.edu

Richard Saphire (0017813)
Professor of Law
University of Dayton School of Law (Institutional
affiliation provided for purposes of identification
only)
300 College Park
Dayton, Ohio 45469-2772
937-229-2820 (phone)
937-229-2469 (fax)
saphire@udayton.edu

Jon Greenbaum
Bob Kengle
LAWYERS COMMITTEE FOR CIVIL RIGHTS
UNDER LAW
1401 New York Avenue, NW
Suite 400
Washington, DC 20005
(202) 662-8600 (phone)
(202) 783-0857 (fax)
jgreenbaum@lawyerscomm.org

Teresa James (0031671)
PROJECT VOTE
23556 Marion Road
North Olmsted, Ohio 44070
(440) 503-5422
tjames@projectvote.org

Attorneys for the Plaintiffs

Brenda Wright
Legal Director, Democracy Program
DEMOS: A NETWORK FOR IDEAS AND
ACTION
358 Chestnut Hill Avenue
Suite 303
Brighton, MA 02135
(617) 232-5885 ext. 13 (phone)
(617) 232-7251 (fax)
bwright@demos.org

Jennifer R. Scullion
Matthew Morris
John Snyder
PROSKAUER ROSE LLP
1585 Broadway
New York, NY 10036
(212) 969-3600 (phone)
(212) 969-2900 (fax)
jscullion@proskauer.com
mmorris@proskauer.com
jsnyder@proskauer.com

Of Counsel

Certificate of Service

This is to certify that a copy of the foregoing was served upon all counsel of record via electronic filing this 28th day of October, 2008.

/s/Meredith Bell-Platts
Meredith Bell-Platts (OH 72917)
ACLU VOTING RIGHTS PROJECT
230 Peachtree Street, NW
Suite 1440
Atlanta, GA 30303
(404) 523-2721 (phone)
(404) 653-0331 (fax)
mbell@aclu.org