DECLARATION OF LONNA SAUNDERS

My name is Lonna Saunders and I make this Declaration, concerning certain events that I personally observed and participated in on the afternoon of October 29, 2004 before and during a public hearing of the Board of Elections, in the County of Allen, State of Ohio.

The Board of Elections (hereinafter BOE) hearing was to begin at approximately one o'clock in the afternoon in a room located inside an Allen County government building at 204 North Main street, Lima, Ohio. At issue, were BOE hearings concerning right to vote challenges filed against 149 individuals, pursuant to 149 virtually identical challenges on a form, titled "Challenge of Right to Vote and Correction of Registration List", filed with the BOE on Friday, October 22, 2004.

If called and sworn, I could and would testify competently based on my personal knowledge as follows:

1. About an hour before the BOE hearing began, I was informed that a U.S. District Judge had made an Order earlier that day enjoining the BOE's proceedings. The first step I took to confirm this information, was to obtain a copy of an Associated Press wire story, concerning the Order.
2. Reading the wire service report, I decided that the BOE, and its counsel, had to be immediately informed that there was very strong if not certain reason to believe the hearing could not go forward. I, therefore, personally faxed a copy of the AP story to the office of counsel for the BOE, Allen County Prosecutor David Bowers. (Mr. Bowers' office is located in the same building as where the BOE was to meet shortly.)

3. Next, at approximately 12:30 PM (30 minutes before the BOE was to convene), I personally telephoned the Allen County Prosecutor's Office. I was told that David Bowers, the County Prosecutor, was unavailable. I personally told a man who identified himself as Assistant Prosecutor Daniel Berry that I was aware that there existed a federal judge's decision, stopping the BOE's proceedings on voter challenges that had been announced on local radio station WIMA-AM Radio 1150 at about noon, and he needed to investigate further.

4. Before the hearing, an attorney with the Voter Protection Project, told me that the members of the BOE also had to be notified that they could be held in contempt of court if they proceeded to consider matters enjoined by the court order. (This attorney, Richard Kerger, practices law in Toledo, Ohio. Mr. Kerger was on his way from Toledo to Lima to assist in the proceedings, when he learned of the order. With knowledge of the federal court order, Kerger decided to return to Toledo, believing no hearing could go forward.) Based on Mr. Kerger's suggestion to provide actual notice of the hearing to the BOE, I asked a colleague, attorney Paul Rizer, to actually warn the BOE. I do not practice law in the State of Ohio, although I am a licensed attorney in another state.
5. At around one o'clock in the afternoon, I heard Paul Rizor inform the BOE that a
federal court stopping the proceedings had been entered. Either a member of the BOE or a
representative of the County Prosecutor's Office told Rizor as an attorney, representing the Ohio
Democratic Party, he had no standing to address the BOE.

6. I also heard Paul Rizor ask that the hearing not go forward. Further, I heard Rizor ask
that at the very least, the BOE, or its Executive Director Keith Cunningham (who was present) or
County Prosecutor David Bowers (also present), contact either the Office of the Secretary of
State or telephone U.S. District Court Judge Drott's office to confirm the court's decision, or
possibly face contempt of court.

7. As the BOE hearing continued, I also heard Beverly McCoy (a BOE member) ask
David Bowers (the County Prosecutor) "for guidance" as to whether the BOE should proceed and
about contempt of court proceedings if the BOE did proceed.

8. To my surprise, I heard County Prosecutor Bowers tell the BOE members that they
could not be held in contempt of court if they went forward, and if anyone were held in contempt,
it would be he, Bowers. In addition, Prosecutor Bowers said that the AP story, Attorney Paul
Rizor's notice to him of the hearing, and Rizor's objection on the record, were all not enough to
cause him (Bowers) to inquire further of either the Secretary of State's Office or of the federal
district judge's office, issuing the order. Bowers said words to the effect that until he saw the order in
writing, he intended to allow the hearing to proceed.
9. I heard Paul Rizor contradict the County Prosecutor before the Board, and specifically inform the BOE members they were also at risk of contempt, regardless of the legal advice provided.

10. Following a short discussion, the BOE decided to proceed. I do not recall any dissent from that decision. I also heard one of the four BOE members state, “I just think that it is important that we proceed in order to clear the names of at least some of the challenged voters.”

11. I left the room. I had several telephone conversations with a second attorney for the Voter Protection Project. I was told that there was an oral order made in open court by Judge Diott halting the proceedings (but that nothing was yet available in writing). I returned to the hearing room with instructions to inform the BOE, through attorney Paul Rizor, of the confirmed fact of the oral order and that a written order was coming, in all probability very shortly.

12. Attorney Rizor made a second objection to the hearing proceeding on the record, again to no avail.

13. Although the 149 written “Challenge of Right to Vote” forms had been signed by three different individuals, none of the three gave any evidence; indeed I do not recall any of the
three being identified as even being present. The BOR, through Director Keith Cunningham, said it mailed the notices on Tuesday, (October 26, 2004) for the Friday hearing. I saw no witnesses testify in the proceeding in support of the challenges. Only a handful of voters showed up. The notices were not mailed by the BOR until Tuesday for a Friday hearing.

14. Although the BOR did not get the local newspaper to publish the names of the challenged voters, the newspaper did publish the names, but only after I delivered the names to the paper and asked a reporter and an editor, on behalf of the Voter Protection Project, to give some reasonable notice to the public. I am informed and believe that the Allen County Board made no effort to notify the 149 voters other than through mailings to addresses that the staff actually knew were bad—that is, that previous BOR mailings to those addresses had been returned by the U.S. Postal Service to the BOR with the notation, “undeliverable as addressed”.

15. At the end of a one-hour hearing involving 149 challenged voter registrations, the BOR decided to require thirty-five registered voters to vote provisional ballots.

I know personally from conversations, or by sight, the following people: Beverly McCoy (BOR member), Keith A. Cheney (BOR member), Charles A. Rossfeld (BOR member), Gary Pruch (BOB Chair), David Bowers (County Prosecuting Attorney) and Michael Rumer, an attorney (continuing to represent the challengers in the hearing after hearing Paul Rizer’s warnings to the BOR.)
I declare under penalty of perjury that this Declaration is executed on October 30, 2004 in the County of Allen, State of Ohio, and that the foregoing is true and correct.

Lonna Sanders