

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Ohio Democratic Party :
 :
 Plaintiff, : Case No.C2-04-1055
 :
 v. : JUDGE MARBLEY
 :
 J. Kenneth Blackwell, et al, : Magistrate Judge Kemp
 :
 Defendants. :

**ANSWER OF DEFENDANT FRANKLIN COUNTY
BOARD OF ELECTIONS TO PLAINTIFF'S COMPLAINT**

Defendant, Franklin County Board of Elections (FCBOE), for its answer to Plaintiff's Complaint (Complaint) states as follows:

First Defense:

1. FCBOE admits the allegations in Paragraphs 2, 3, 4 and 6 of the Complaint.
2. FCBOE denies the allegations in Paragraphs 1, 5, 7, 8, 9, 10, 12, 13 and Cause of Action 1 through 4 of the Complaint.
3. FCBOE admits that Plaintiffs have made contact with FCBOE and requested that paper ballots be used in the precincts, as alleged in Paragraph 11 of the Complaint. FCBOE further admits that the request was denied because the relief would result in the disenfranchisement of eligible voters. Further, FCBOE is committed to ensure that all eligible voters cast legally sufficient ballots.
4. Any allegation not specifically admitted in hereby denied.

Second Defense:

5. Plaintiff's Complaint fails to state a claim upon which relief may be granted

Third Defense.

6. Plaintiff's Complaint is barred by the doctrine of laches.

Fourth Defense

7. FCBOE acted in good faith in compliance with the law and not in a wanton and malicious manner.

Fifth Defense

8. The Court lacks subject matter jurisdiction.

Sixth Defense

9. The relief requested by Plaintiffs is impossible to perform and would cause FCBOE to violate its statutory duties and would cause the invalidation of votes from qualified electors.

Seventh Defense

10. FCBOE respectfully reserves the right to amend this answer as discovery permits.

WHEREFORE, FCBOE, respectfully requests that the Complaint be dismissed at Plaintiff's cost and that FCBOE be awarded its costs and attorneys fees in defending this action. Further, FCBOE requests any other relief that it is entitled to in law or equity.

Respectfully submitted,

RON O'BRIEN
PROSECTING ATTORNEY
FRANKLIN COUNTY, OHIO

/s/ Patrick J. Piccininni

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Attorneys for Franklin County
Board of Elections

CERTIFICATE OF SERVICE

The undersigned certifies that on this 3rd day of November, 2004, a copy of the foregoing Answer of Defendant Franklin County Board of Elections to Plaintiff's Complaint was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system.

/s/ Patrick J. Piccininni

Patrick J. Piccininni 0055324
Assistant Prosecuting Attorney

