

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

**STATE EX. REL DAVID YOST,
ET AL.**)

Plaintiffs,)

v.)

**NATIONAL VOTING
RIGHTS INSTITUTE, ET AL.**)

Defendants)

and)

KERRY-EDWARDS 2004, INC.,)

Intervenor-Defendant)

**NATIONAL VOTING
RIGHTS INSTITUTE, ET AL.**)

Counter-Plaintiffs,)

and)

KERRY-EDWARDS 2004, INC.,)

Intervenor/Counter-plaintiff,)

v.)

**DELAWARE COUNTY BOARD
OF ELECTIONS**)

and)

J. KENNETH BLACKWELL,)

Counter-Defendants.)

**Civil Action No. C2-04-1139
(ES/TK)**

**INTERVENOR-DEFENDANT'S
MOTION FOR A PRELIMINARY INJUNCTION**

Intervenor-defendant and intervenor/cross-plaintiff Kerry-Edwards 2004, Inc., hereby join the motion of defendants/counter-plaintiffs for a preliminary injunction requiring counter-defendant Ohio Secretary of State Blackwell to prescribe and require the eighty-eight Boards of Election to use adequate, fair and uniform standards and instructions for conducting the state-wide recount in Ohio to ensure that they accurately, fairly and finally determine the results of the 2004 election for the President of the United States.

As candidates for President and Vice President of the United States, John Kerry and John Edwards have an interest in fully participating in a fair and adequate recount, which was requested by the Defendants/counter-plaintiffs in the instant action, and ensuring that the procedures employed are uniform and harmonized throughout all 88 of Ohio's county Boards of Election. As the Supreme Court emphasized in *Bush v. Gore*, 531 U.S. 98, 110 (2000), procedures for conducting a recount must be uniform across a state in order to guarantee due process and the equal protection of the laws to all candidates. In further support thereof, Kerry-Edwards 2004 hereby submit the declaration of counsel Donald J. McTigue. Furthermore, we adopt by reference the memorandum in support of the motion for preliminary injunction submitted by defendants/counter-plaintiffs.

Counsel for Kerry-Edwards 2004 also joins in defendants/counter-plaintiffs' request that this motion be heard this afternoon, December 10, 2004, at 3:45 p.m. Counsel for Kerry-Edwards 2004 will be available and present for such hearing.

Dated: December 10, 2004

Respectfully submitted,

/s/ Donald J. McTigue

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Counsel for Kerry-Edwards 2004, Inc.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was electronically filed this 10th day of December, 2004. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Richard M. Kerger