

DECLARATION OF CARRIE L. DAVIS

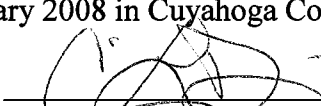
I, Carrie L. Davis, being of sound mind, declare as follows:

1. My name is Carrie L. Davis.
2. I am the Staff Attorney and lobbyist for the American Civil Liberties Union of Ohio, Inc. (ACLU of Ohio).
3. I serve as counsel for Plaintiffs in the case ACLU of Ohio, et al. v. Brunner, et al., ND Ohio Case No.: 1:08-cv-145.
4. In my roles as lobbyist for the ACLU of Ohio and later as counsel in the above-referenced case, I have reached out to a variety of Ohio elections officials since the release of the EVEREST report by Secretary of State Jennifer Brunner on December 14, 2007.
5. One of the elections officials I reached out to was Matthew Damschroder, the Director of the Franklin County Board of Elections and immediate past president of the Ohio Association of Elections Officials.
6. I have been in communication – by telephone, electronic mail, and in person – with Mr. Damschroder dating back to Thursday, January 10, 2008.
7. I first met Mr. Damschroder at an Ohio General Assembly committee hearing on Thursday, January 10, 2008, where we were both testifying on legislation.
8. I attempted to contact Mr. Damschroder by telephone and by electronic mail the following day, Friday, January 11, 2008.
9. During a telephone conversation with Mr. Damschroder on January 12, 2008, he agreed to provide me with a declaration relating to the use of specified types of voting systems for what I then expected to be a forthcoming lawsuit.

10. On Tuesday, January 15, 2008, I spoke with Mr. Damschroder at the mid-winter conference of the Ohio Association of Elections Officials in Columbus, Ohio. I repeated my request for a declaration and mentioned that our lawsuit would be filed very soon.
11. I notified Mr. Damschroder by electronic mail on Thursday, January 17, 2008, that our lawsuit had been filed.
12. One week later, on Thursday, January 24, 2008, I sent Mr. Damschroder an electronic mail message to check on the status of his declaration. I told him we would be filing a motion with the court soon, and we need to include declarations. I attached a sample declaration that he could use as a model. I asked him to let me know if he was still willing to provide a declaration, when it could be ready, and if he had any questions.
13. I received no replies from Mr. Damschroder, nor any questions, until Monday, January 28, 2008, the day our motion was due. On January 28, Mr. Damschroder finally replied by electronic mail that he could not provide us with a declaration without a subpoena.
14. As Mr. Damschroder backed out of providing a declaration at the last minute, my co-counsel and I had to file Plaintiffs' Motion for Preliminary Injunction without the benefit of his expected declaration.
15. In response to Mr. Damschroder's January 28th electronic mail, I replied that if we decide to issue subpoenas, we will let him know.
16. A subpoena for Mr. Damschroder was drafted on Thursday, January 31, 2008.
17. I attempted to reach Mr. Damschroder prior to serving the subpoena. I called his mobile phone and left a voice message that we needed his testimony and would like to make arrangements for him to attend the February 5th hearing. I asked him to call me back to discuss it, but he never responded.

18. On Friday, February 1, 2008, the very same week he said we would have to subpoena him, a subpoena was served on Mr. Damschroder.
19. Mr. Damschroder never returned my call.
20. Late in the day of February 1, 2008, Patrick Piccininni of the Franklin County Prosecutor's Office left a message at my office regarding Mr. Damschroder's subpoena. I was in a meeting and did not receive his message until past 5p.m.
21. I consulted with co-counsel Friday evening and early Saturday. After the meetings I had scheduled on Saturday, I tried to call Mr. Piccininni at his office. I left a voice message with all of my contact information, asking Mr. Piccininni to contact me so we could make arrangements to provide for costs associated with Mr. Damschroder's travel to the hearing.
22. Later that evening, Saturday, February 2, Mr. Piccininni filed a motion to quash Plaintiffs' subpoena.
23. On Sunday, February 3, 2008, I drafted our response in opposition to Mr. Piccininni's motion to quash.
24. Rather than filing our opposition right away, I once again attempted to contact Mr. Piccininni on Sunday, February 3, to attempt to settle the dispute over the subpoena, either through a declaration from Mr. Damschroder that would be provided in time for the February 5th hearing or by making arrangements to accommodate Mr. Damschroder's schedule and costs to attend the hearing.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 4th day of February 2008 in Cuyahoga County, Ohio.



Carrie L. Davis