



2. The fully completed request for observers is made pursuant to Ohio Revised Code Section 3505.21 and meets all the requirements of 3505.21.
3. Defendants are the Delaware County Board of Elections and its Director in her official capacity as Director.
4. On October 24, 2008 Plaintiffs made a request for Observers in compliance with Ohio law. Said request is attached as Exhibit "A."
5. On October 29, Defendants stated in writing that they refused to comply with Plaintiffs request, in violation of Ohio law.
6. Attempts to reach a negotiated result to this issue were attempted and failed on October 30, 2008.
7. Defendant Delaware County Board of Elections has a history of clear and blatant violations of election procedures with glaring examples of fraud in the 2004 election including but not limited to:
  - i. 360 consecutive votes (all at the end of the day to close out the voting) for George W. Bush in Genoa Twp Precinct I, a precinct that was otherwise a 65/35 vote split with John Kerry. (Exhibit B).
  - ii. 151 consecutive votes for George W. Bush in Porter Twp Precinct B (Exhibit C).
  - iii. 81 consecutive votes for George W. Bush in Genoa Twp Precinct C (Exhibit D).
8. Pursuant to Ohio law, a Complaint for Declaratory Judgment and Writ of Mandamus is proper to obtain a mandatory injunction to force Defendant to allow Plaintiffs to conduct their vote observer work in compliance with Revised Code 3505.21. (See, State ex. rel. General Motors v. Industrial Commission (2008), 117 Ohio St.3d 480.

### **DECLARATORY JUDGMENT**

9. Plaintiff reincorporates all of the paragraphs of this complaint as though fully restated.
10. Pursuant to Ohio Revised Code Section 2721.01 *et seq.*, Plaintiffs request that this Court make a finding as to the legal rights and responsibilities of the parties in this case pursuant to Revised Code 3505.21.
11. Plaintiffs request that this Court make a specific finding that the Plaintiffs are in compliance with R.C. 3505.21 and that Defendants must allow for an observer project at the general election on November 4, 2008.
12. Plaintiffs are entitled to legal fees associated with this action.

### **WRIT OF MANDAMUS**

13. Plaintiff reincorporates all of the paragraphs of this complaint as though fully restated.
14. If a public entity has misinterpreted a statute, a Writ of Mandamus is an appropriate remedy. (See, State ex. rel. General Motors v. Industrial Commission (2008), 117 Ohio St.3d 480.)
15. Plaintiffs have a clear legal right to conduct an observer project pursuant to Revised Code 3505.21.
16. Defendants have a clear legal duty to permit the observer project.
17. Plaintiffs have a lack of any other adequate remedy in the ordinary course of the law.
18. Plaintiffs request that this Court issue an order mandating that Defendants allow Plaintiffs to conduct their vote observer project at the general election in compliance with R.C. 3505.21.
19. Plaintiffs are entitled to legal fees associated with this action.

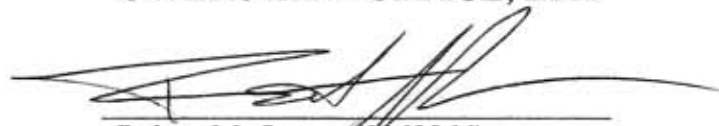
**PRELIMINARY INJUNCTION**

20. Plaintiff reincorporates all of the paragraphs of this complaint as though fully restated.
21. Plaintiff requests that this Court grant a preliminary injunction prohibiting Defendants from prohibiting Plaintiffs from fully exercising their right to conduct a vote observer project.
22. Plaintiff has discussed this matter with Defendants and Counsel for Defendants. Said correspondence is attached as Exhibits E and F.

**WHEREFORE**, Plaintiff demands an ORDER forcing Defendants to accept Plaintiffs application for a vote observer project and permit Plaintiffs to fully exercise their rights under Revised Code Section 3505.21 plus grant Plaintiffs an award of filing fees, attorney fees and all other relief that this Court deems just.

Respectfully submitted,

**OWENS LAW OFFICE, LPA**



Robert M. Owens (0069866)  
46 North Sandusky Street, Suite 202  
Delaware, OH 43015  
(740) 368-0008  
(740) 368-0007 (fax)  
*robert@owenslawoffice.com*  
Attorney for Plaintiffs

# Fax



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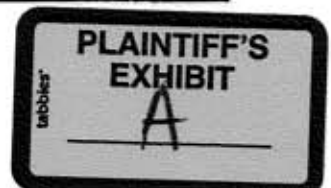
Date 10-24-08 Fax \_\_\_\_\_  
To Board of Elections  
Company \_\_\_\_\_  
From Paddy Shaffer Tele # 614-266-5283  
Re Election Observers  
Total Pages \_\_\_\_\_

### Comments

Dear Board  
Enclosed please find our notice of observers  
for the upcoming General Election. Kindly direct  
all correspondence or ~~other~~ questions to either  
Paddy Shaffer  
2408 Sonnington Drive  
Dublin, Ohio 43016  
(614) 266-8253  
Marian Lupo  
(614) 276-0948  
Thank you for your help at this busy time,  
Paddy Shaffer and Marian Lupo

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**NOTICE OF APPOINTMENT OF OBSERVERS  
OR AMENDMENT OF APPOINTMENT**  
By the Executive/Central Committee of a Political Party  
R.C. 3595.21, 3506.13

(To be filed with the Boards of Elections not less than 11 days before the election. Amendments may be filed until 4 p.m. of the day before the election.)

The Chairperson and Secretary of the State Controlling Committee  
(State, county, city)

of the Constitution Party appoint the following persons as observers at the  
(Name of political party)

General election to be held on the 4 day of November, 2008.  
(General, primary, special)

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
1.	Genoa I Township	Patricia J. Shaffer 2408 Sunnington Dr. Dublin, Ohio 43016
2.	Ashley B	Mark P. Brown 83 Hanford St. Columbus, Ohio 43206
3.	Powell City F	Danny Lee Stanton 287 Chesystone <sup>Dr.</sup> South Yakenna, Ohio 43230
4.	Concord Township B	Bruce T. Duncanson 947 East Weber Rd. Columbus, Ohio 43211
5.	Orange Township A	Marian Lupo 310 Eureka Ave. Columbus, Ohio 43204
6.	BOE	Alfred Martin 243 Park Ave. Apt 5 Delaware, Ohio 43015
7.	Delaware City 2-B	Mike Noterman 2700 Hogback Rd. Sunbury, Ohio 43074
8.		
9.		

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

Morgan

**NOTICE OF APPOINTMENT OF OBSERVERS  
OR AMENDMENT OF APPOINTMENT**  
By the Executive/Central Committee of a Political Party  
R.C. 3595.21, 3506.13

(To be filed with the Boards of Elections not less than 11 days before the election. Amendments may be filed until 4 p.m. of the day before the election.)

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(Name of political party)

General election to be held on the 4 day of November, 2008.  
(General, primary, special)

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
1.	BOE	Patricia J. Shaffer 2408 Sonnington Dr. Dublin, Ohio 43016
2.	Penn Twp	Mark P. Brown 83 Hanford St. Columbus, Ohio 43206
3.	Union Twp	Danny Lee Stanton 87 Cherrystone <sup>Dr.</sup> Sdrn Mahanna, Ohio 43230
4.	Bristol Twp	Bruce T. Duncanson 947 East Weber Rd. Columbus, Ohio 43211
5.	Chesterhill Village	Marian Lupo 310 Eureka Ave. Columbus, Ohio 43204
6.	Stockport #2	Maslye J. Barbee 8137 W. Sharps Ridge Rd. McConneleville, OH 43756
7.		
8.		
9.		

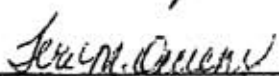
WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

Montgomery Count.

	Please specify Board of Elections office or name of particular precinct	Name and Address of Appointee
10.	BOE	Peter H. Jones 4098 Wagner Rd. Dayton 45440
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		

Dated this 19 day of November, 2008.

Signed   
(Signature of Chairperson)

  
(Signature of Secretary)

Note: Appointees must file certificates of appointment with the presiding judge of the precinct during the evening before the election or on the day of the election.

This form may be used to file an amendment list of witnesses or challengers. Amendments may be filed with the board of elections until 4:00 p.m. of the day before the election. Additions or deletions should be indicated before the names of the appointees when filing an amended notice.

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

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WILLIAM J. OWEN  
FIRST ASSISTANT

CRIMINAL DIVISION  
MARIANNE T. HEMMETER  
CAROL H. O'BRIEN  
ALISON S. PETERS  
KYLE E. ROHRER  
JANICE L. HITZEMAN

JUVENILE DIVISION  
KARI Y. CHILDS  
KATHERYN L. MUNGER



**DAVE YOST**

DELAWARE COUNTY PROSECUTING ATTORNEY

CIVIL DIVISION  
CHRISTOPHER D. BETTS  
ARIC I. HOCHSTETTLER

TABITHA SPRING  
VICTIMS UNIT SUPERVISOR

WALTER BOHAM  
DIRECTOR OF DIVERSION

MICHAEL SPIERT  
INVESTIGATOR

October 28, 2008

Ms. Paddy Shaffer  
2408 Sonnington Drive  
Dublin, Ohio 43016

Re: Notice of Appointment of Observers

Dear Ms. Shaffer:

The Delaware County Board of Elections ("Board") received from you a Notice of Appointment of Observers ("Notice"). The Notice was received via facsimile at 1:34PM on Friday, October 24, 2008. Please be advised that the Notice is incomplete and cannot be accepted.

In accordance with Section (II)(v)(b) of Directive 2008-29 issued by the Ohio Secretary of State:

The proper, statutorily designated persons must sign the forms referenced above [Form 214 – Notice of Appointment of Observers or Amendment of Appointment by the Executive/Central Committee of a Political Party]. For political parties, those are the chairperson and secretary (unless the chairperson and secretary of a political party have delegated such authority according to party rules, in which case a copy of a written delegation of authority must be filed with the county board(s) of elections along with the Notice of Appointment forms).

The Notice as received by the Board is not signed and is thus incomplete. Specifically, the received Notice consists of the first page of Form 214 labeled "Delaware," the first page of Form 214 labeled "Morgan," and the second page of Form 214 labeled "Montgomery Cont." (Please see enclosed copy of the received Notice.) Signatures appear on the page labeled "Montgomery Cont.," however this is clearly intended as part of a notice to be filed in Montgomery County. The signatures do not appear on the application to be filed in Delaware County. As a result, the Notice cannot be accepted and you will not be permitted to have observers present at the Delaware County Board of Elections or any Delaware County precinct on the day of the election (November 4, 2008.)

In accordance with R.C. § 2505.21, in order to appoint observers for election day a properly completed Form 214 – Notice of Appointment of Observers or Amendment of

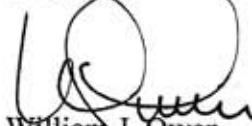


Appointment by the Executive/Central Committee of a Political Party is required to be filed with the Board by the close of business eleven (11) days before the election (October 24, 2008.) Observers cannot be appointed where such properly completed form is not filed by the deadline. As the Notice was not properly completed when submitted, it cannot now be resubmitted or amended.

Again, due to the submission of an incomplete Notice, you are hereby advised that you will not be permitted to have observers present at the Delaware County Board of Elections or any Delaware County precinct on the day of the election (November 4, 2008.)

Should you have any questions, please feel free to contact me.

Sincerely,



William J. Owen  
Assistant Prosecuting Attorney

Enclosure:

cc: Delaware County Board of elections  
Janet Brenneman  
Brian Mumpford  
Dave Yost



Robert Owens &lt;robert@owens2008.com&gt;

**Appointment of observers**

2 messages

Owen, William &lt;WOWen@co.delaware.oh.us&gt;

Thu, Oct 30, 2008 at 5:23 PM

To: robert@owens2008.com

Cc: "Yost, David" &lt;dyost@co.delaware.oh.us&gt;, "Betts, Christopher" &lt;CBetts@co.delaware.oh.us&gt;, "Brenneman, Janet" &lt;delaware@sos.state.oh.us&gt;

Robert:

In our brief discussion today you requested that we review the rejection of a Notice of Appointment of Observers submitted to the Delaware County Board of Elections on October 24, 2008. You requested that the Notice be approved and that observers be permitted on election day at designated polling locations on behalf of the Constitution Party. You advised it was your opinion the Notice submitted by facsimile transmission to the Board of Elections on October 24 meets all the technical requirements of Ohio law and should not have been rejected. (See October 28, 2008 correspondence from this office to Ms Paddy Shaffer) I have further reviewed the applicable Ohio law, Directives from the Secretary of State and the submitted Notice of Appointment of Observers. Based upon the same I respectfully disagree with your conclusions.

The Notice submitted to the Delaware County Board of Elections includes three (3) relevant pages. The first page requests that seven (7) individuals be designated as observers at locations in Delaware County on behalf of the Constitution Party. Spaces 8 and 9 as numbered on the document are blank. There is no required signature page attached. The second page requests that six (6) individuals be designated as observers at precincts in Morgan County. Of the six names listed, five are identical to names listed on page one (Delaware County). On page two, however, the precincts listed are clearly not located in Delaware County. The sixth name on page two identifies an individual living in McConnelsville, Ohio. Finally, page three (3) designates one observer and one address, the Board of Elections of Montgomery County. The third page, which generally constitutes the second page of the required form, is signed by an individual whose name is illegible. It is also dated November 19, 2008. More significantly, at the top of page three "Montgomery Cont." is handwritten confirming this signature page is to accompany a Notice of Appointment of Observers for Montgomery County. There is no valid signature page submitted with these documents and certainly no signature page whatsoever relevant to Delaware County.

Based upon the foregoing therefore, it is our opinion that the Notice of Appointment of Observers submitted to the Delaware County Board of Elections was properly rejected as insufficient under Ohio law. Please contact me with any further questions you may have.

Cordially,

*William J. Owen**First Assistant Prosecuting Attorney**140 N. Sandusky Street**Delaware, Ohio 43015**(740)833-2701**(740)833-2688 FAX**wowen@co.delaware.oh.us*

DISCLAIMER NOTICE

This e-mail, together with any attachments or files transmitted with it, may contain confidential information belonging to the sender, or constitute non-public information that is not subject to disclosure under O.R.C. Section 149.43, Ohio's Public Records Act. Additionally, if the sender is an employee of the Delaware County, Ohio Prosecuting Attorney's Office, this e-mail, together with any attachments or files transmitted with it, may contain information that is protected by the attorney-client privilege or other applicable privileges. The information in this e-mail is intended solely for the use of the individual or entity to whom it is addressed. If you are not the named addressee, you should not disseminate, distribute, or copy this e-mail. If you have received this e-mail in error, please immediately notify the sender by e-mail and delete this e-mail from your system. If you are not the intended recipient, do not disclose, copy, distribute, or re-distribute this e-mail or take any action in reliance on the contents of the information contained in this e-mail. Nothing contained in this disclaimer notice by itself exempts, nor should it be interpreted to by itself exempt, this e-mail from disclosure as a public record upon the proper submission of a request for public records pursuant to O.R.C. Section 149.43, Ohio's Public Records Act.

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Robert Owens <robert@owens2008.com>  
To: "Owen, William" <WOwen@co.delaware.oh.us>

Fri, Oct 31, 2008 at 12:32 PM

Thank you for your reply. We are working on a complaint now including an immediate order prohibiting the BOE from keeping our observers out. I intend to file and seek an immediate order. I just wanted to give you a heads up. I will call when the papers are prepared later today.

[Quoted text hidden]

