

**In The United States District Court
For The Northern District Of Ohio
Western Division**

League of Women Voters of Ohio, *et al.*,

Plaintiffs,

vs.

Case No. 3:05-CV-7309

J. Kenneth Blackwell, *et al.*,

Judge Carr

Defendants.

Defendants' Status Report on Discovery

Pursuant to this Court's prior orders, Defendants Governor Taft and Secretary of State Blackwell give the following status report on issues in this case.

I. The Plaintiffs Failure To Produce Responsive Documents And Witnesses

The Defendants have served three sets of interrogatories and requests for production upon the Plaintiffs. Unfortunately, the Plaintiffs have failed to even supply adequate responses to these requests. The bulk of the requests from the Defendants have centered around the membership in the League of Women Voters and the "Election Protection Coalition." The Plaintiffs have refused to provide a copy of the membership roster of League members. This

information is vital for the State in order to begin to test the Plaintiffs' allegations that there were any problems whatsoever in Ohio's election system.

Likewise, the League of Women Voters was one member of a group called the "Election Protection Coalition." One of the Plaintiffs has already testified that she was recruited by the League of Women Voters to become part of this group. She has further testified that members of this coalition were then assigned to various polling places in Ohio where they would solicit people who finished voting. The purpose of this group was to seek individuals who had experienced any problems in voting. They would then turn all of this information over to the Coalition.

The Plaintiffs, to date, have failed to provide specific answers to the Defendants' interrogatories concerning the Election Protection Coalition. The Defendants need the names of these individuals in order to conduct depositions. The Plaintiffs have alleged that Ohio had numerous problems in the conduct of its elections. The State disputes that allegation and needs the identities of the members of the Election Protection Coalition in order to determine whether, in fact, these allegations are true. Until the Plaintiffs produce this information, the Defendants simply engage in any meaningful discovery on this case.

II. Responses from the Governor

Governor Taft's office has continued to search for responsive records. However, since the Governor does not have any legal responsibilities concerning Ohio's election system, it is highly unlikely that any additional information might be found. The Governor's office has just identified some boxes of constituent correspondence that might include things concerning the election. The office is reviewing their weekly summaries to see if elections made it into a

summary. If any of these summaries show elections, that information will be pulled. The Governor's office is preserving this information in case it is responsive to any requests.

As it relates to depositions, the Governor's office has informed the Plaintiffs that it does not appear that any of the individuals proposed to be deposed by the Plaintiffs would have discoverable information. The Defendants have detailed the specific job duties of the individuals from whom depositions are sought. These individuals qualify as high ranking government officials. The Defendants have asked the Plaintiffs to let them know the type of information sought so that they would be in a better position to find people who would be able to answer the Plaintiffs questions. The Defendants are awaiting their response.

III. The Secretary of State

Absentee balloting began in Ohio on March 26, 2006 for Ohio's May 2, 2006 primary. This is the first election in the State's history that allows no fault absentee balloting. Thus, the focus of the Secretary of State's office has been on running this election..

The Secretary's office has found additional field representative reports. He has informed the Plaintiffs that those should be produced within the next week.

As far as depositions go, the Plaintiffs are seeking to depose the Director of Elections, the Elections Reform Administrator, various elections counsel, the Board of Elections liaison, and field representatives. All of these individuals are currently busy with their duties of this election. In addition to using no fault absentee balloting for the first time in State history, half of Ohio's counties received new voting machines pursuant to the Help America Vote Act for the first time in the November 2005 election. The other half of Ohio's counties will use these new machines for the first time in this May's election. As a result, the entire focus of the Secretary of State's office has been on preparing for this election.

The Secretary has already turned over to the Plaintiffs numerous documents. In fact, a summary of those documents is 32 pages long. In order for the Court to see exactly what the Secretary has done to date, he has attached a copy of that summary with this filing. The Secretary will continue to attempt to find documents which the Plaintiffs believe exist, but simply must be given enough time to also run elections for the State.

IV. Intervenor

The intervenors have sent the Secretary and Governor various discovery requests. The Governor does not believe that he has any information which would be responsive but is reviewing the request. The Secretary will also begin reviewing the request and will attempt to comply in a timely manner.

The Defendants have learned that the Plaintiffs had not supplied the Intervenor with copies of the documents the Secretary had already provided to them so the Secretary has assured the Intervenor that such information will be forthcoming in the next couple of days.

Unfortunately, most of the documentation sought by the Intervenor is in the possession of the various county boards of elections. The Defendants have informed the Intervenor that they would need to obtain that information from those boards. However, as a show of good faith, the Defendants had informed the Intervenor that to the extent the State Board of Voting Machine Examiners might have information that would be responsive to their requests, the Defendants would work with that Board in order to find the information.

Respectfully submitted,

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Certificate of Service

This is to certify a copy of the foregoing status report was served upon all counsel of record by means of the Court's electronic filing system.

/s Richard N. Coglianes
Deputy Attorney General