

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

King Lincoln Bronzeville Neighborhood	:	Case No.: No. C2-06-745
	:	
Association, et al.,	:	Judge Algenon Marbley
	:	
Plaintiffs,	:	Magistrate Judge Kemp
	:	
vs.	:	
	:	
J. Kenneth Blackwell, et al.,	:	
	:	
Defendants.	:	

MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Fed. R. Civ. P. 65, the Plaintiffs respectfully move for a temporary restraining order enjoining Defendant Blackwell as Ohio Secretary of State prior to the next statewide general election from violating Plaintiffs' constitutional rights, including the right to vote and the right to equal protection of the laws, and ordering

1. Back-up paper ballots

At all times during the election on November 7th, 2006, absentee ballots, in adequate supply, will be made available at the polling places for any voter who wants to use them, and in particular

- a) whenever an electronic voting machine, including its capability to print a voter verified paper trail, becomes unavailable for use at its assigned voting location, or
- b) whenever, for whatever reason, the apparent waiting time to vote at a precinct location exceeds a half-hour.

Such absentee ballots may be turned in at the assigned voting location for delivery to the County Board of Elections along with other materials.

2. Audit

Before the certification of the election results, a statewide hand count of the voter verified paper trail, the provisional ballots, and the absentee ballots of a random sample of 3% of the voting precincts.

and ordering for circulation of this notice of injunction to the Board of Elections officials in all eighty-eight counties and posting of this notice at all polling places; and appointing a special prosecutor pursuant to F.R.Crim.P.42(b) to prosecute criminal contempt of this injunctive relief on the grounds that the Defendant Blackwell has and continues to violate the Plaintiffs' rights under the Civil Rights Act of 1870 and 1871, 42 U.S.C. § 1983, 42 U.S.C. § 1985(3); The Civil Rights Act of 1964, 42 U.S.C § 1971(a) & (b); Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973(a); 42 U.S.C. § 1988a; the First, Fourth, Thirteenth, Fourteenth, Fifteenth, Nineteenth and Twenty-Sixth Amendments to the United States Constitution; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; and the Constitution and laws of the State of Ohio.

In support of this Motion, the Plaintiffs rely upon their Memorandum in Support of Plaintiffs' Motion for a Temporary Restraining Order and supporting material filed concurrently therewith. Through these materials and others that will be introduced at the hearing on the Plaintiffs' Motion, the Plaintiffs will demonstrate the following:

1. The Plaintiffs have a substantial likelihood of prevailing on the merits of at least one of their claims;
2. the Plaintiffs and other Ohio voters will suffer irreparable harm to their rights as voters unless the restraining order is granted;
3. The threatened injury to the rights of the Plaintiffs and other Ohio voters outweighs whatever damages the proposed restraining order may cause the opposing party (which is none); and

4. the grant of a restraining order would serve the public interest.

Accordingly, the plaintiffs' Motion for a Temporary Restraining Order should be granted.

A proposed Order is attached.

Dated: Columbus, Ohio
November 3, 2006

Respectfully Submitted,

By: /S/ Clifford O. Arnebeck, Jr.
Clifford O. Arnebeck, Jr. (0033391)
(*arnebeck@aol.com*)
341 South Third Street, Ste. 10
Columbus, Ohio 43215
Phone: (614) 224-8771
Fax: (614) 224-8082
Trial Attorney for Plaintiffs

Henry W. Eckhart (0020202)
(*henryeckhart@aol.com*)
50 W. Broad St., #2117
Columbus, Ohio 43215
Phone: (614) 461-0984
Fax: (614) 221-7401
Co-Counsel

OF COUNSEL:

Robert J. Fitrakis (0076796)
(*truth@freepress.org*)
341 S. Third St., Ste. 10
Columbus, Ohio 43215
Phone: (614) 253-2571
Fax: (614) 224-8082

CERTIFICATE OF SERVICE

This is to certify that the foregoing amended complaint was filed electronically on the 3rd day of November 2006 in accordance with the Court's Electronic Filing Guidelines. Notice of this filing will be sent to Larry H. James, Crabbe, Brown & James, Counsel for Defendant J. Kenneth Blackwell, Ohio Secretary of State, by operation of the Court's Electronic Filing System.

/S/ Clifford O. Arnebeck, Jr.
Clifford O. Arnebeck, Jr.