

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

Cynthia McKinney, et al,	:	
	:	
Plaintiffs	:	Case No. 2:08-cv-819
	:	
v.	:	Judge Marbley
	:	
Jennifer Brunner	:	
Ohio Secretary of State	:	
	:	
Defendant	:	

**RESPONSE OF PLAINTIFF TO MOTION BY JENNIFER BRUNNER,
SECRETARY OF STATE, TO CONSOLIDATE**

Plaintiffs support and adopt as their own the procedural analysis put forth by defendant Jennifer Brunner, Ohio Secretary of State, to consolidate the *McKinney v. Brunner* case, Case No. 2:08-cv-819, with the *Libertarian Party of Ohio v. Brunner* case, Case No. 2:08-cv-555 for resolution by Judge Sargus. As Defendant correctly notes, this Court granted a similar motion to consolidate *Libertarian Party* with another election case, *Moore v. Brunner*. Plaintiffs concur with Defendant that the consolidation serves the purposes of consistency and judicial efficiency.

Plaintiff would also like to note for the record that Defendant’s assertion that “the Green Party has filed no paperwork of any kind to appear on the ballot, much less had such a request denied” is a question of fact in dispute. The Green Party submitted more than 2,700 signatures on August 21, 2008 to the Ohio Secretary of State’s office in an attempt to be placed on the ballot and those signatures were not processed despite the fact

that this number of signatures would have most likely qualified the major Democrat and Republican Parties. Moreover, the Green Party intends to file as a write-in Party, and continues to contend that had an actual law been in place, and the state of confusion not reigned in Ohio regarding minor Party ballot access, the Greens would have most likely gathered enough signatures to be placed on the ballot.

Finally, Plaintiff points out that there was concern and confusion among Green Party members whether it was legal to use out of state petitioners and whether or not they could gather and sign their won petitions as circulators. The chaos created by the 6th Circuit decision and the inability of the Ohio legislature to respond with a clarifying statute made it virtually impossible for the Green Party to qualify its candidates under the Green Party label.

Respectfully Submitted,

Robert J. Fitrakis,
Attorney at Law

/s/ Robert J. Fitrakis
Robert J. Fitrakis,
OH # 0076796
1240 Bryden Road
Columbus, Ohio 43205
(614) 374-2380

CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon all counsel of record by means of the Court's electronic notification system on this 2nd day of September, 2008.

/s/ Robert J. Fitrakis

