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

THE NORTHEAST OHIO COALITION  
FOR THE HOMELESS, et al.,

Plaintiffs,

vs.

J. KENNETH BLACKWELL, in his official  
capacity as Secretary of State of Ohio,

Defendant.

Civil Action No. **C2 06 896**

Judge **JUDGE FROST**

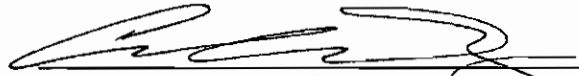
**MAGISTRATE JUDGE KING**

**MOTION OF PLAINTIFFS FOR  
EXPEDITED DISCOVERY**

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Pursuant to Federal Rules of Civil Procedure 26, 30, 33, 34 and 45, The Northeast Ohio Coalition for the Homeless and Service Employees International Union, Local 1199 (collectively "Plaintiffs") request that this Court issue an order for expedited discovery so that the parties can properly prepare for the hearing on Plaintiffs' motion for preliminary injunctive relief and because this case must be resolved before the statewide election on November 7, 2006. A proposed Order is attached as Exhibit A.

Respectfully submitted,



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Attorneys for Plaintiffs

**MEMORANDUM IN SUPPORT OF MOTION OF  
PLAINTIFFS FOR EXPEDITED DISCOVERY**

Plaintiffs request that this Court expedite discovery so that the parties may prepare adequately for the upcoming hearing on Plaintiffs' motion for preliminary injunctive relief. Plaintiffs are seeking preliminary injunctive relief to prevent constitutional violations related to an impairment of their right to vote in the November 7, 2006 statewide election. Accordingly, discovery must be expedited in order for the Court to resolve Plaintiffs' claims before that election.

The Federal Rules of Civil Procedure contemplate that discovery may be expedited in appropriate circumstances. Federal Rules of Civil Procedure 26(a), 30(a), 33(a), 34(b) and 45(c)(1), which govern initial disclosures, depositions, requests for production of documents and subpoenas, respectively, each state that discovery may be served and responses may be required in advance of the standard time periods provided by the Rules, if the Court should so "direct [] by order," or if leave of Court is obtained. Federal Courts generally permit expedited discovery to enable the parties to prepare for a preliminary injunction hearing. *Neighbors Organized to Insure a Sound Env't., Inc. v. McArtor*, 878 F.2d 174, 177 (6<sup>th</sup> Cir. 1989) (trial court granted request for expedited discovery prior to a preliminary injunction hearing); *Gray Drug Stores, Inc. v. Simmons*, 522 F. Supp. 961, 963 (N.D. Ohio 1981) (expedited discovery ordered to facilitate meaningful hearing).<sup>1</sup>

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<sup>1</sup> *Accord: Ellsworth Assocs., Inc. v. United States*, 917 F. Supp. 841, 844 (D.D.C. 1996) ("[e]xpedited discovery is particularly appropriate when a plaintiff seeks injunctive relief because of the expedited nature of injunctive proceedings."); *Edudata Corp. v. Scientific Computers, Inc.*, 599 F. Supp. 1084, 1088 (D. Minn. 1984) (ordering expedited discovery when it would "better enable the court to judge the parties' interests and respective chances for success on the merits" at a preliminary injunction hearing), *affirmed in part, dismissed in part on other grounds*, 746 F.2d 429 (8<sup>th</sup> Cir. 1984).

All of Plaintiffs' requested discovery is narrowly tailored to the relief that Plaintiffs are seeking. Specifically, Plaintiffs ask that this Court expedite the following:

- (1) Defendant's initial disclosures pursuant to Rule 26(a)(1) and 26(a)(2) should be produced by October 27, 2006;
- (2) Defendant should respond to Plaintiffs' initial document requests<sup>2</sup> and interrogatories,<sup>3</sup> which are being served upon Defendant at the same time as Plaintiffs' Complaint, by October 27, 2006;
- (3) The Rule 30(b)(6) deposition of Defendant<sup>4</sup> should take place no later than October 31, 2006; and
- (4) Subpoenas to the Butler County, Cuyahoga County, Franklin County, Hamilton County, Lucas County, Mahoning County, Montgomery County, Stark County, Trumbull County and Warren County Boards of Elections should be responded to by October 30, 2006 and the depositions of these Boards of Elections should take place on October 30, 2006.<sup>5</sup>

The foregoing discovery is necessary to prepare properly for the hearing that will occur as a result of Plaintiffs' request for preliminary injunctive relief.

For these reasons, Plaintiffs' Motion for Expedited Discovery should be granted.

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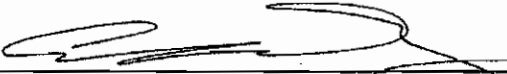
<sup>2</sup> Attached as Exhibit B.

<sup>3</sup> Attached as Exhibit C.

<sup>4</sup> The deposition notice of Defendant is attached as Exhibit D.

<sup>5</sup> The subpoenas and deposition notices are attached as Exhibits E through N.

Respectfully submitted,



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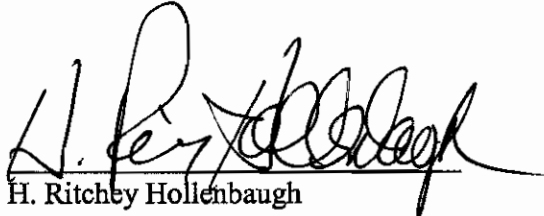
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing was served by hand delivery or via email and facsimile transmission this 23<sup>rd</sup> day of October, 2006 to the following:

J. Kenneth Blackwell, (*via hand delivery*)  
in his official capacity as Secretary of State of Ohio  
Ohio Secretary of State  
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Sharon A. Jennings (*via email and facsimile*)  
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