

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

THE NORTHEAST OHIO COALITION FOR THE HOMELESS, et al.,	:	Civil Action No. C2-06-896
	:	Judge Algenon L. Marbley
Plaintiffs,	:	Magistrate Judge Terence P. Kemp
vs.	:	
JENNIFER BRUNNER, in her official capacity as Secretary of State of Ohio,	:	MOTION OF PLAINTIFFS
	:	<u>FOR EXPEDITED DISCOVERY</u>
Defendant.	:	
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THE NORTHEAST OHIO COALITION FOR THE HOMELESS, et al.,	:	
	:	
Plaintiffs,	:	
vs.	:	
THE STATE OF OHIO,	:	
	:	
Intervenor-Defendant.	:	
	:	
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Pursuant to Rules 26, 30, 33, 34 and 45 of the Federal Rules of Civil Procedure, Plaintiffs request that this Court issue an order for expedited discovery. Said order is necessary so that the parties can properly prepare for a hearing on Plaintiffs' motion for a preliminary injunction, which is being filed concurrently with this Motion. A proposed Order is attached as Exhibit A.

Respectfully submitted,

/s/ Caroline H. Gentry
Caroline H. Gentry, Trial Attorney (0066138)
Lindsay Sestile (0075618)
Paul G. Hallinan (0010462)
PORTER, WRIGHT, MORRIS & ARTHUR LLP
One South Main Street, Suite 1600
Dayton, OH 45402
Tel: (937) 449-6748
Fax: (937) 449-6820
Email: cgentry@porterwright.com

and

Subodh Chandra (0069233)
THE CHANDRA LAW FIRM, LLC
1265 W. 6th Street, Suite 400
Cleveland, OH 44113-1326
Tel: (216) 578-1700
Fax: (216) 578-1800
Email: Subodh.Chandra@StanfordAlumni.org

and

H. Ritchey Hollenbaugh (0001072)
CARLILE PATCHEN & MURPHY LLP
366 East Broad Street
Columbus, OH 43215
Tel: (614) 228-6135
Fax: (614) 221-0216
Email: hrh@cpmlaw.com

Attorneys for Plaintiffs

MEMORANDUM IN SUPPORT

Plaintiffs request that this Court expedite discovery so that the parties may prepare adequately for the requested hearing on Plaintiffs' motion for preliminary injunctive relief. Discovery must be expedited so that the requested hearing can be held, and the Court can issue its ruling, before the November 2008 Election.

The Federal Rules of Civil Procedure contemplate that discovery may be expedited in appropriate circumstances. Rules 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, either 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 (6th Cir. 1989); *Gray Drug Stores, Inc. v. Simmons*, 522 F. Supp. 961, 963 (N.D. Ohio 1981).

The requested discovery, which is attached, is narrowly tailored to the facts at issue and the relief that Plaintiffs are seeking. Specifically, Plaintiffs ask the Court to expedite the following:

- (1) Defendant Brunner should respond to Plaintiffs' document requests¹ and interrogatories² by noon on Friday, October 17, 2008;
- (2) The Rule 30(b)(6) deposition of Defendant Brunner³ should take place on Wednesday, October 22, 2008;

¹ Attached as Exhibit B.

² Attached as Exhibit C.

³ The deposition notice is attached as Exhibit D.

- (3) Subpoenas duces tecum issued to the Boards of Elections in Belmont, Butler, Clark, Clermont, Coshocton, Cuyahoga, Franklin, Greene, Hamilton, Logan, Lorain, Lucas, Madison, Miami, Montgomery, Putnam, Seneca, Stark, Summit and Warren Counties⁴ should be responded to by noon on Friday, October 17, 2008; and
- (4) Deposition subpoenas issued to the Boards of Elections in Belmont, Butler, Clark, Clermont, Coshocton, Cuyahoga, Franklin, Greene, Hamilton, Logan, Lorain, Lucas, Madison, Miami, Montgomery, Putnam, Seneca, Stark, Summit and Warren Counties⁵ should require their attendance at limited one-and-one-half hour depositions scheduled for Monday, October 20 and Tuesday, October 21.

The foregoing discovery is necessary to properly prepare for the hearing that is being requested as part of Plaintiffs' motion for a preliminary injunction.

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

Respectfully submitted,

/s/ Caroline H. Gentry
Caroline H. Gentry, Trial Attorney (0066138)
Lindsay Sestile (0075618)
Paul G. Hallinan (0010462)
PORTER, WRIGHT, MORRIS & ARTHUR LLP
One South Main Street, Suite 1600
Dayton, OH 45402
Tel: (937) 449-6748
Fax: (937) 449-6820
Email: cgentry@porterwright.com

and

⁴ Attached as Exhibit E.

⁵ Id.

Subodh Chandra (0069233)
THE CHANDRA LAW FIRM, LLC
1265 W. 6th Street, Suite 400
Cleveland, OH 44113-1326
Tel: (216) 578-1700
Fax: (216) 578-1800
Email: Subodh.Chandra@StanfordAlumni.org

and

H. Ritchey Hollenbaugh (0001072)
CARLILE PATCHEN & MURPHY LLP
366 East Broad Street
Columbus, OH 43215
Tel: (614) 228-6135
Fax: (614) 221-0216
Email: hrh@cpmlaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on October 14th, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the counsel of record in this case.

/s/ Caroline H. Gentry
Caroline H. Gentry (0066138)
Attorney for Plaintiffs
PORTER, WRIGHT, MORRIS & ARTHUR LLP
One South Main Street, Suite 1600
Dayton, Ohio 45402
(937) 449-6748 / (937) 449-6820 Fax
cgentry@porterwright.com