

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**American Broadcasting Company,  
Inc., et al.,**

**Plaintiffs,**

**-V-**

**Case No. 1:04-CV-00750  
Judge Michael H. Watson**

**J. Kenneth Blackwell,**

**Defendant.**

**ORDER**

This matter is before the Court on plaintiffs' emergency motion pursuant to Fed. R. Civ. P. 70 to enforce this Court's judgment and decree (Doc. 66). The motion concerns the Secretary's alleged failure to comply with this Court's order of September 26, 2006.

On September 26, 2006, the Court issued an opinion and order which stated in part as follows:

For the above reasons, the Court **ORDERS, ADJUDGES AND DECREES** as follows:

\* \* \*

5. The Court orders defendant to issue a written directive by **October 15, 2006** to Ohio election officials which shall prominently include the following language: "It would be

unlawful, and a violation of the First Amendment to the U.S. Constitution, to interpret, apply, or enforce Ohio's election Loitering Statutes, Ohio Rev. Code §§ 3501.30, 3501.35 and 3599.24, to prohibit exit polls within 100 feet of polling places."

Opinion and Order (Doc. 62) at 45.

On September 13, 2006, defendant's agent Monty Lobb issued Directive 2006-75 ("Directive") to all county boards of elections. The Directive includes the language referred to in paragraph 5, above. The required language, however, appears in smaller type than the rest of the text of the Directive.

Although it is difficult to conceive how the use of smaller type contributed to making the required language "prominent" under any recognized definition of that word, the Court nonetheless finds that defendant substantially complied with its order. Furthermore, the Court finds that the language of Directive 2006-75 is consistent with the Court's opinion and order of September 26, 2006, which upheld virtually the same language contained in the New Directive. For these reasons, the Court **DENIES** plaintiffs' emergency motion pursuant to Fed. R. Civ. P. 70 to enforce this Court's judgment and decree (Doc. 66).

**IT IS SO ORDERED.**

  
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**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**