

Speelman, Eleanor

From: Farrell, David
Sent: Tuesday, October 07, 2008 6:40 PM
To: BOE Contacts; All Counties
Cc: Field Staff; Elections Attorneys
Subject: New Development In Federal Court Case
Attachments: 10-5-08 Renewed TRO - SWVRDB-HAVA.pdf; Cunningham affidavit.pdf; Damschroder affidavit.pdf; Sam Kindred Affidavit.pdf

Dear Board of Elections Directors, Deputy Directors, and Members:

On October 5 the Ohio Republican Party filed a **“Renewed Motion for Temporary Restraining Order”** which focuses on the Ohio Statewide Voter Registration Database (“SWVRD”) system. The motion was filed in an existing case in federal court in Columbus called *Republican Party of Ohio v. Brunner* and includes several supporting affidavits from the designer of the SWVRD and two board of elections directors. If the court grants the motion boards of elections will likely be impacted. A copy of the motion for the TRO and the supporting affidavits have been attached for your review.

The staff and I at the Secretary of State’s Office wanted you to be aware of the potential impact the case could have on your county’s voter registration verification procedures and Election Day preparation, including the preparation of signature poll books or poll lists, to allow for you to plan as best you can should the plaintiffs obtain the court order that they have asked for. If the court grants the order sought by the Plaintiffs, **there will likely be an impact on boards of elections’ ability to begin processing absentee ballots ten (10) days before Election Day.** The plaintiffs want the Court to order the following:

“1. On or before October 12, 2008, the Secretary of State’s office shall ensure that the information from all new registration applications in Ohio received on or after January 1, 2008, are compared to and matched against the data contained in the Ohio Bureau of Motor Vehicles. (BMV) database, as mandated by federal law. At a minimum, the matching must include a comparison between the registrant’s name, social security number or driver license number, the address, and the date of birth and the information maintained by the BMV.

2. On or before October 12, 2008, the Secretary of State’s office shall provide Plaintiffs and all county Boards of Elections with a list of registration applications from its county where there is a discrepancy or non-match (collectively hereinafter ‘a discrepancy’) between the data maintained or regularly accessed by the BMV and the information provided in any new registration application that was submitted on or after January 1, 2008.

3. On or before October 13, 2008, the Secretary of State’s office shall certify that it has complied with paragraphs 1-2.

4. On or before October 20, 2008, the Secretary of State’s office shall ensure that each county will attempt to either (i) verify the information contained in the registration application to resolve any discrepancy in the registration application or, (ii) if a county cannot resolve the discrepancy before that date, will ensure that any unresolved discrepancy is identified in the official list of registered voters so that it can be resolved on election day. If a voter is unable to resolve the discrepancy on Election Day, the voter shall be provided an opportunity to cast a provisional ballot and provide the necessary information as set forth in Ohio law.

5. On or before October 21, 2008, the Secretary of State’s office shall certify that it and the 88 county boards of election have complied with paragraph 4.

6. In the event that a discrepancy arises in connection with a registration application where the voter already has cast or will cast an absentee ballot prior to October 20, 2008, the Secretary of State’s office will ensure that each county: (i) identifies and separates any absentee ballot where the voter’s registration cannot be verified or matched; (ii) attempts to contact the voter and remedy the discrepancy; and (iii) if the discrepancy cannot be resolved prior to the ballot being counted, treats the absentee ballot as a provisional ballot subject to the requirements of such ballots under Ohio law.”

If you have any questions regarding the attached motion for Temporary Restraining Order, please contact the elections attorney assigned to your county.

Sincerely,

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and Director of Elections
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