

Case No. 08-4322
IN THE UNITED STATES COURT OF APPEAL
FOR THE SIXTH CIRCUIT

Ohio Republican Party, et al.	:	
	:	
Plaintiffs-Appellees,	:	On Appeal from
	:	the United States District Court
v.	:	for the Southern District of Ohio:
	:	District Court Case No. 2:08:CV913
Jennifer Brunner,	:	
Ohio Secretary of State,	:	
	:	
Defendant-Appellant	:	

RENEWED PETITION FOR IMMEDIATE EN BANC REVIEW

As Judge Griffin noted in his dissent from the panel decision, the panel appears to have “violat[ed] ... the practices of our court” by issuing that decision while a petition for initial en banc review is pending. Dis. 1. Both the majority and the dissent appear to have contemplated that, notwithstanding the panel decision, the motion for initial en banc consideration remains “[c]urrently pending before this court”. Maj. op. 12 n.1; see Dis. 1 (“[A] petition for initial en banc hearing is pending and will be decided tomorrow by our active judges.”) To the extent the issuance of the panel opinion has affected the status of the pending petition, plaintiffs-appellees hereby make clear that they continue to

seek immediate en banc review of defendant-appellant's emergency motion to vacate or stay the districts court's TRO, whether deemed initial en banc hearing or en banc rehearing of the panel decision. And plaintiffs-appellees hereby respectfully submit that en banc consideration should take place on the basis of the briefs already filed, since there is not time for any additional briefing.

Respectfully submitted,

/s/ William M. Todd
William M. Todd (0023061)
BENESCH FRIEDLANDER COPLAN &
ARONOFF LLP
2600 Huntington Center
41 South High Street
Columbus, OH 43215-6197
Tel: (614) 223-9348
Fax: (614) 223-3300
Email: wtodd@bfca.com

Counsel for Plaintiffs-Appellees

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically on October 11, 2008. Notice of the filing will be sent by the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ William M. Todd

William M. Todd