

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

*Granted
Susan J. Dlott
6/24/11*

TRACIE HUNTER, et al., : Case No. 1:10-cv-820
: :
Plaintiffs, : :
: :
vs. : Chief Judge Susan J. Dlott
: :
: :
HAMILTON COUNTY BOARD OF : PLAINTIFF HUNTER'S MOTION
ELECTIONS, et al. : TO VACATE AGREED ORDER
: PERMITTING TRANSFER OF
Defendants. : BALLOTS AND RE-USE OF
: EQUIPMENT AND SUPPLIES
: :

On June 10, 2011 this Court entered an Agreed Order Permitting Transfer of Ballots and Re-Use of Equipment and Supplies (Doc. 64). While the order was styled an Agreed Order, Counsel for Plaintiff Hunter had not agreed to the order. Counsel for Hunter and Counsel for Defendant Board of Elections had a miscommunication about whether Plaintiff agreed to the proposed agreed order. This miscommunication was promptly corrected on June 10, 2011. Since then, Counsel have been negotiating in good faith to attempt to come to agreement regarding the order, but to no avail. By agreement, during this period of negotiation, Defendant took no action to execute the Order. Plaintiff now files this motion to vacate the Agreed Order.

Plaintiff objects to the transfer of ballots, computer records, paper rolls, equipment and supplies. Plaintiff requests that the ballots and materials not be moved from their current storage location until after this Court has entered a final order in this case. Regardless of how this Court rules, the ballots and materials must be available for a recount that will have to take place after this case is concluded. Plaintiff is concerned that any transfer or movement of the ballots may result in ballots being misplaced or lost.