

IN THE SUPREME COURT OF OHIO

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|---------------------------|---|--------------------|
| STATE OF OHIO, ex rel. | : | |
| DANA SKAGGS, et al., | : | |
| | : | |
| Relators, | : | |
| | : | |
| vs. | : | Case No. 08-2206 |
| | : | |
| JENNIFER L. BRUNNER | : | ORIGINAL ACTION IN |
| SECRETARY OF THE STATE OF | : | MANDAMUS |
| OHIO, et al., | : | |
| | : | |
| Respondents. | : | |

**REQUEST FOR EXTRAORDINARY PROCEDURAL
ARRANGMENT TO PROTECT JURISDICTION
TO ADJUDICATE MERITS ISSUES**

This action was removed to the United States District Court for the Southern District of Ohio, Eastern Division by Respondent Brunner on Friday, November 14, 2008. Shortly thereafter, Judge Algenon L. Marbley requested that Relators file their motion for remand by 4:30 p.m. the same day. He has scheduled a hearing on the pending request for interim injunctive relief for 9:00 a.m., Saturday, November 15, 2008.

Relators believe that the removal by the Secretary of State is defective in multiple ways. As such, the United States District Court may remand the case to the Supreme Court following Saturday morning's hearing. He may do so prior to ruling on the request for interim injunctive relief.

For the reasons explained in the motion for temporary restraining order and its accompanying affidavits, interim injunctive relief will be required to prevent Secretary of State Brunner from directing that the contested provisional ballots be opened and commingled with valid provisional ballots. Once opened and commingled, Relators' ability to obtain relief precluding counting of the provisional ballots they believe to be invalid will be eliminated. Thus

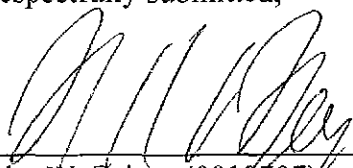
a temporary restraining order from the United States District Court or, if it remands the case as Relators are requesting, this Court, is necessary to protect the jurisdiction to assure a merits adjudication of Relators' claims.

The Franklin County Board of Elections is meeting on Friday afternoon, November 14, 2008. If, as expected, the Board of Elections deadlocks on whether the contested ballots should be opened, the Secretary of State breaks the tie. The Secretary of State's office has agreed not to commence opening the provisional ballots until the conclusion of Judge Marbley's hearing Saturday morning. Thus, if Judge Marbley remands the case to the Ohio Supreme Court, an adjudication of Relators' pending request for temporary restraining order may be required by noon on Saturday.

Relators respectfully request that the Supreme Court establish procedures for notification if the remand occurs during the weekend and for adjudication of the pending temporary restraining order request on Saturday, November 15, if the case is remanded by Judge Marbley.

The Court's consideration of this extraordinary request is appreciated. Counsel can be contacted at the office address, telephone number and e-mail listed on the pleadings.

Respectfully submitted,

 / By Christopher Hogan

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CERTIFICATE OF SERVICE

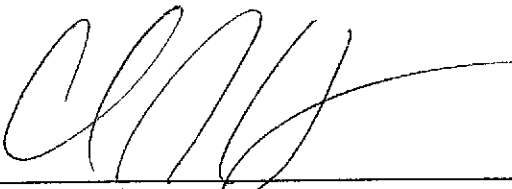
The undersigned hereby certifies that a copy of the foregoing has been served this 14th day of November, 2008, via email, upon the following:

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