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ARNOLD & PORTER LLP

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555 Twelfth Street, NW  
Washington, DC 20004-1206

March 24, 2006

**VIA E-MAIL AND FIRST CLASS MAIL**

Richard N. Coglianesse, Esq.  
Deputy Attorney General  
Constitutional Offices Section  
30 East Broad Street, 17<sup>th</sup> Fl.  
Columbus, Ohio 43215

Re: *League of Women Voters of Ohio et al. v. Blackwell et al.*

Dear Rich:

Pursuant to Chief Judge Carr's instructions during yesterday's status conference, this letter is a summary of outstanding discovery issues. Subject to receiving expeditious answers to the issues we raise herein, we are of the view that discovery in this case can be completed consistent with the targets discussed on yesterday's call to complete deposition discovery by May 15 and expert discovery by June 15. Proceeding expeditiously will leave sufficient time for a trial on the merits in time to effect relief prior to the 2006 general election.

In light of the Court's Order providing that the parties file status report(s) on discovery issues and disputes by April 3, 2006, we propose to have a meet and confer on these issues either next Tuesday, March 28 or Wednesday, March 29. Please let us know times during those days when you will be available.

**A. Depositions**

Enclosed please find copies of our letters dated November 11, 2005 and November 22, 2005 identifying certain of Defendants' former and current employees for deposition. With regard to the witnesses identified in these letters, please advise (a) whether your office represents the individual in question, and (b) the witnesses availability prior to May 15, 2006. For purposes of your planning, you should assume that for each witness, we will use the time allotted to us under the Federal Rules.

Also enclosed please find the 30(b)(6) deposition notices which we previously served on November 18, 2005. As discussed with Chief Judge Carr during yesterday's status conference, we plan to proceed with these depositions during the first two weeks of

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April. Based on our review of materials, we also believe that it will help streamline discovery if we can notice one additional Rule 30(b)(6) deposition during this time on topics we will set forth in a notice that will be issued next week. Please let us know the availability of your 30(b)(6) witnesses.

**B. Interrogatories and Requests for Admission**

As discussed with Chief Judge Carr during the March 23 status conference, we will be serving interrogatories and requests for admission next week. We believe that these will help us streamline issues that we need to explore during depositions.

**C. Document Discovery**

While discovery has been stayed we have had the opportunity to take a closer look at Defendants Blackwell's and Taft's production of documents in response to Plaintiffs' Requests for Production of Documents, dated September 14, 2005. This letter follows up on concerns expressed in my letter of November 11, 2005 regarding Defendants' production, and sets forth additional questions concerning specific issues raised by our review.

With regard to deficiencies raised in my November 11 letter, there are three priority areas we expect you will be in a position to address next week:

1. *Failure to Identify Custodian or File Owner:* We have been unable to determine the file owner or custodian for the documents Defendants have produced to date. Please confirm that, pursuant to Fed. R. Civ. Pro. 34(b) you have produced documents as they are kept in the ordinary course of business, and, if so, please provide us with a means of determining the custodian or file owner of the produced documents.

2. *Failure to Produce Responsive E-mail:* As set forth in our November 11 letter, there appears to be significant deficiencies in Defendants' e-mail and electronic document production. Notably, neither Defendant Blackwell nor Defendant Taft produced any responsive e-mail. Moreover, we have seen minimal e-mail responsive to Plaintiffs' document requests from current or former personnel in the Division of Elections. Our November 11 letter specifically lists individuals whose e-mail we believe are responsive to Plaintiffs' requests. Please let us know when we can expect to receive these materials.

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3. *Failure to Produce a Privilege and Redaction Log*: Judge Carr directed Defendants to provide a privilege log of all withheld/redacted documents; a memorandum explaining the claimed privileges (to the extent they were other than 'garden variety' attorney client or work product privileges); and, in camera, a set of the withheld/redacted documents. Please let us know when we can expect to receive Defendants' log, along with the memorandum Judge Carr requested, so that we can be in a position to assess your claims of privilege.

In addition to these three areas, we have a number of questions about apparent deficiencies in Defendants' production and would like you to address the following issues:

1. *Failure to Produce Reports to the Governor (Request Nos. 8 and 17)*: R.C. §3501.05(O), requires the Secretary of State to provide the Governor with reports concerning, among other things, election costs. We have only seen Annual Reports to the Governor for FY 1994, 1995, and 1997. Please produce a comprehensive set of reports to the Governor or, if you believe a comprehensive set has been provided, please identify where within Defendants' production where such materials are located. We were also surprised that your production did not appear to include any drafts of these reports, nor any documents from the Governor's office reflecting that the Governor's office received, reviewed, and considered these reports.

2. *Failure to Produce Board of Election Reports or Funding Reports (Request No. 17)*: Pursuant R.C. §3501.11(N) and various directives from the Secretary of State, including Directives 98-32, 2000-3, 2000-34, 2002-34, 2004-3 and 2004-59, each Board of Elections was required to provide an annual report to the Secretary of State discussing, among other things, appropriations received and expenditures made. We have seen few of these reports in your files, suggesting that the Secretary of State made little effort to enforce the law or its directives. Please produce a comprehensive set of these reports from the Boards of Elections for each election covered by our requests, or, if you believe a comprehensive set has been provided, please identify within Defendants' production where such materials are located.

Similarly, we have seen in your production several reports prepared by the Secretary of State compiling the annual expenses of conducting elections. *See* 007207-39, 7249-66, 7267-84. We have seen no such reports in your production, however, concerning elections prior to 1997 or after 2003. If such reports exist, please produce

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them. If such reports do not exist, please explain why the Secretary of State decided to stop preparing such reports.

3. *Failure to Produce Documents Concerning the Adequacy of Election Funding (Request Nos. 17, 20, and 21)*: We have not seen any documents reflecting that the Secretary of State's or the Governor's office ever considered, sought or reviewed the adequacy of election administration funding. Please either confirm that such documents do not exist, produce such documents or identify within your production where these materials are located.

4. *Failure to Produce Documents Concerning Election Training (Request Nos. 13, 16, and 24)*: R.C. §3501.27(B) provides that with regard to election worker training, each "board shall establish a program as prescribed by the secretary of state for the instruction of election officers." However, Defendants have produced only one complete poll worker training manual, from the May 3, 2005 Special Election, provided by the Secretary of State to the county Boards of Elections. If the Secretary of State prescribed materials for poll worker training as required under §3501.27(B), please produce a comprehensive set of poll worker training materials for each election covered by these requests, or, if you believe all responsive materials have been produced, identify within Defendants' production the location of such materials.

5. *Failure to Produce Forms Concerning Election Turnout (Request No. 22)*: Directive 2004-41, dated Oct. 21, 2004, encloses a form for county Boards of Elections to report both the total number of registered voters who will be eligible to vote in the 2004 General Election and estimates of voter turnout. We have seen no evidence in your production that Defendants did anything to enforce this directive, nor any evidence that Defendants tracked or considered estimated voter turnouts, or planned for heightened turnout in 2004. Nor have we seen evidence in your production that such planning occurred in prior elections. If Defendants received voter registration reports or voter turnout estimates, or if there are documents reflecting that Defendants considered or planned for heightened voter turnout, please produce these materials, or to the extent you believe these materials have been produced, please identify where such materials may be found in Defendants' production.

6. *Failure to Produce All Field Representative Reports: (Request Nos. 7, 12, 14, and 15)*: As set forth in greater detail in our Nov. 11 letter, Defendants have produced field reports from only two of the eight field representatives for the 2004 election, and have not produced any correspondence between field representatives and other

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employees of the Division of Elections, or any such materials from prior elections. Please produce all such field representative reports and communications or, if you believe they have been produced, please specify where such materials are located in Defendants' production. If 2004 was the first election in which field representatives made such reports, please explain why this new procedure was implemented.

7. *Failure to Produce Reports Reflecting Investigations of Voter Complaints (Request Nos. 7 and 15)*: We have seen materials in your production reflecting that Defendants received complaints from voters, but no materials reflecting that such complaints were, in fact, investigated. All such documents, including discussion of, responses to, and resolution of complaints, are relevant to the allegations of the complaint. If you believe all documents reflecting Defendants' investigation of and response to voter complaints have been produced, please provide us with the bates numbers. If not, please produce all such documents.

8. *Failure to Produce Receipts Demonstrating Compliance with NVRA Requirements Concerning the Removal of Voters from Official Registration Lists (Request No. 10)*: Directives No. 2005-12 and 2001-05 require the counties to complete and return receipts certifying compliance with Ohio's voting records maintenance program, including providing information on the dates confirmation notices were mailed. Within Defendants' production we have only seen three completed receipts (from Muskingum, Wyandot and Union counties) in response to Directive No. 2001-05 and no completed receipts in response to Directive No. 2005-12. Please identify within your production all documents relating to whether counties were properly complying with these directives. Additionally, if you believe there are other documents in your production reflecting that Ohio complied with the NVRA voter list purge requirements, please identify them.

9. *Failure to Produce Training Materials Regarding the Removal of Voters from Official Registration Lists (Request Nos. 10 and 13)*: We have not seen training materials for the county Boards of Elections concerning the removal of voters from registration lists. Please identify in your production all documents relating to whether county election workers were being trained on NVRA purging procedures.

10. *Failure to Produce Purge Lists or Summaries of Such Lists (Request No. 10)*: We have seen no substantial evidence of detailed purge lists from before the November 2, 2004 election in Defendants' production, or even summaries of such lists. For example, we have seen no evidence detailing the 2003 voter purge, or directives or advisories

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regarding the same, and for prior years we have seen only sporadic and incomplete evidence of purge lists. Please either confirm that no additional responsive documents exist, produce such documents, or identify within Defendants' production where they can be located.

11. *Failure to Produce Documents Regarding Precinct Size (Request Nos. 7 and 13)*: In certain cases, R.C. §3501.19(C) allows a county Board of Elections to apply to the Secretary of State for a waiver from the law setting a maximum number of electors per precinct. We have seen no documents within Defendants' production reflecting that any waivers have ever been granted. Nor have we seen any documents in Defendants' production reflecting the criteria used by Defendants in considering such requests for waivers. Please confirm that no such requests have ever been granted, or advise where in your production all documentation of waivers granted pursuant to R.C. §3501.19(C) may be found.

12. *Failure to Produce Documents Regarding the Change in Location of Precincts and Polling Places (Request Nos. 7 and 13)*: R.C. §3501.21 requires the county Boards of Elections to inform electors by mail of any precinct change locations. We have seen complaints from voters in your production stating that they had not received such notification, but we seen no evidence of a response from Defendants, including evidence of an inquiry or investigation. Please either confirm that such documents do not exist, produce such documentation or, if you believe all responsive materials have been produced, please identify the location within Defendants' production.

13. *Failure to Produce Documents Reflecting Policies, Procedures or Plans Concerning Absentee Ballots (Request No. 13)*: Defendants have not produced policies or procedures governing the timeframe in which absentee ballots must be processed. Nor have Defendants produced policies and procedures addressing a process by which individuals who submit an absentee ballot application, but do not receive that ballot, can vote in person on election day. Moreover, we have not seen any policies, procedures or instructions sent by Defendants to the county Boards of Elections regarding a process for allowing individuals who did not receive absentee ballots by election day to vote. Please confirm that such documents do not exist or identify in your production evidence that county Boards of Elections were provided with such guidance concerning absentee ballots.

14. *Failure to Produce Documents Reflecting Policies, Procedures or Plans Concerning Provisional Ballots (Request No. 13)*: Defendants have not produced any

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documentation of policies or procedures concerning the standards governing the counting of provisional ballots or concerning procedures for distributing provisional ballots among precincts and to voters on election day. Please either confirm that such documents do not exist, produce such documents, or identify in your production all documentation reflecting that county Boards of Elections were provided with such guidance concerning provisional ballots.

15. *Failure to Produce Forms Demonstrating Compliance with Federal Laws Governing Voter Registration (Request Nos. 10 and 18)*: Within Defendants' production we have only seen completed county Board of Elections "NVRA Survey" forms prior to the 2000 election. If such reports exist for elections following the 2000 election, please produce them. If such reports do not exist, please explain why the Secretary of State decided to stop obtaining such reports from the county Board of Elections following the 2000 election.

Within Defendants' production we have seen blank "HAVA Surveys for the Election Assistance Commission" sent to the county Boards of Elections. See 0001121, Defendants have produced only one completed survey, reflecting that only one county complied with this request. See 013893-94. Please produce all such completed surveys, or identify where the completed surveys may be found in your production. If such reports are not in your possession, please explain why the Secretary of State did not collect the surveys.

16. *Failure to Produce Requests for Polling Place Exemptions Concerning Accessibility for Physically Disabled Persons (Request Nos. 11 and 19)*: Directives No. 94-19, 96-23, 98-21, 2002-23, and 2004-30 all provide that county Boards of Elections can submit a written request for an exemption, pursuant to Form No. 10-I, if a polling place does not satisfy state and federal accessibility standards. Within Defendants' production, we have not seen any evidence of exemption forms submitted by the county Boards of Elections. Nor have we seen any evidence that requests for such exemptions had been granted by the Secretary of State. Please either confirm that no such documents exist, provide such materials or identify their location in Defendants' production.

17. *Failure to Produce Documents Reflecting Communications with the Ohio State Legislature Concerning Elections (Request No. 20)*: We have seen virtually no documentation reflecting communications between your office and the Ohio State Legislature or any member or employee thereof relating to elections, funding, or proposed changes to state election law. Further, we have not seen any documentation

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Richard N. Coglianesi, Esq.  
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reflecting internal communications concerning election funding or changes in state election law, including, but not limited to H.B. 3. Please either confirm that all responsive documents have been produced, produce such materials or identify their location in Defendants' production.

18. *Failure to Produce a Complete Set of Documents Concerning Investigations of County Boards of Elections (Request Nos. 7 and 15)*: We are aware from press reports that on at least seven occasions, the Secretary of State investigated and/or removed members or employees of various Board of Elections (Ashtabula in 2001, Auglaize County, Butler County in 2002, Cuyahoga County in 2004, Franklin County in 1994, Lucas County in 2005, Miami County in 2002, and Summit County in 2002). With respect to certain of these incidents we have seen what appear to be partial productions in your files. But in no case have we seen what we understand would be a complete case file -- which can include a Complaint, Findings or Recommendations, internal correspondence about the support for decisions *either* to remove a member or not to remove a member. We are entitled to complete records for all such investigations.

Similarly, where Boards have been placed under administrative oversight, we have seen no reports, internal correspondence, or memoranda with respect to the violations, analysis of events at the Board during or prior to administrative oversight, or evidence that the Boards were monitored by your office. We are entitled to all such records.

Finally, we have seen no evidence that, beyond the seven instances identified above, the Secretary of State considered any other potential investigations of Boards of Elections, such as complaints, internal correspondence and memoranda about whether to take such an investigation, or documentation of the reasons for investigating, or not to pursue an investigation. We are entitled to all such records.

19. *Failure to Produce Documents Reflecting Compliance with Court Orders Concerning Absentee Ballots (Request No. 13)*: We have not seen any documents reflecting steps Defendants have taken to comply with Judge Katz's orders in *White, et al. v. Blackwell, et al*, Case No. 3:04 CV 7689. Please either confirm that such documents do not exist, produce such materials or identify where they can be located within Defendants' production.

20. *Failure to Produce Documents Reflecting an Analysis of Provisional Ballots (Request No. 13)*: We have seen little to no documentation reflecting reports or analysis

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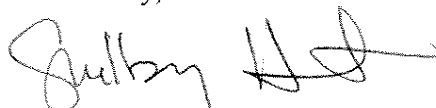
Richard N. Coglianese, Esq.  
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Page 9

done by the Secretary of State's office concerning the numbers of provisional ballots cast and actually counted on a county-by-county and precinct-by-precinct basis. Please produce all such reports and analysis or, if you believe they have been produced, please specify where such materials are located in Defendants' production.

\* \* \*

Please let us know whether next Tuesday, March 28 or Wednesday, March 29 works for you to discuss the status of discovery, including the issues raised above. We hope that you will have substantive responses during this discussion so that, as Chief Judge Carr instructed, we may resolve the bulk of these matters without intervention of the Court.

Sincerely,



Shelby Hunt

cc: Jon M. Greenbaum, Esq.  
Benjamin J. Blustein, Esq.  
Jennifer R. Scullion, Esq.  
John A. Freedman, Esq.  
Michael R. Geske, Esq.  
Steven P. Collier, Esq.

Enclosures

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555 Twelfth Street, NW  
Washington, DC 20004-1206

November 11, 2005

Via facsimile, electronic mail and U.S. Mail

Richard N. Coglianesse, Esq.  
Deputy Attorney General  
Constitutional Offices Section  
30 East Broad Street, 17th Fl.  
Columbus, Ohio 43215

Re: *League of Women Voters of Ohio et al. v. Blackwell et al.*

Dear Rich:

Since we understand by your November 10 letter that Defendants have concluded taking depositions of fact witnesses in this case, as provided for in the August 30 status conference, we now want to set a schedule for depositions of Defendants and their current and former employees.

For planning purposes, we will be issuing Rule 30(b)(6) notices to both Defendants early next week, calling for testimony on identified topics on December 1 and 2. Pursuant to Chief Judge Carr's direction, we would like to schedule the remaining witnesses between December 5 and December 16. With regard to each of the witnesses identified below, please advise (a) whether your office represents the individual in question, and (b) the witnesses' availability to be deposed prior to December 16.

Based on our investigation and review of the discovery record, we have identified the following current and former employees of the Division of Elections for deposition: Robin Fields, Judith Grady, Judith Hoffman, Karen Lafferty, Joe Leonti, Faith Lyon, Gretchen Quinn, Connie Seguro, Dana Walch, Richard Weghorst, Joy Went, and Pat Wolfe. We are still evaluating your production to determine whether we need to call other current and former employees of the Division of Elections, including Pat Garrity, Betty Hull, David Kennedy, Ramona Pannell, Traci Washington, Faith Whittaker, Dorothy Woldorf, Kate Yonkura, and the regional representatives. We assume that your office does not represent Samuel Kindred (dba Spirit Consulting and/or Excel Management) or Nola Hang (dba Hang Consulting), but if this is incorrect, we would be happy to coordinate their depositions through your office.

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Richard N. Coglianesse, Esq.  
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Page 2

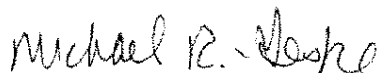
Based on our investigation and review of the discovery record, we have identified the following current and former employees of the Secretary of State's office for deposition: J. Kenneth Blackwell, Sherri Dembinski, Cassandra Hicks, Dilip Mehta, and Robert Taft. We are still evaluating your production to determine whether we need to call other current and former employees of the Secretary of State, including James Hocker, Monty Lobb, and Eric Seabrook.

As discussed in Shelby Hunt's letter also of today, the Defendants' document production for many of these individuals contain significant deficiencies. In order to minimize the inconvenience to these witnesses and the likelihood that these witnesses will need to be recalled, we would encourage you to complete your document production prior to the commencement of each deposition.

We also note that, to date, the document production from the Governor's office has not complied with the requirements of Rules 26 or 34, in that *inter alia*, it is clear that a reasonable search has not been conducted. Accordingly, we reserve the right to identify specific witnesses from the Governor's office when you have completed production. So that you may plan appropriately, our present intent is to call Jon Allison, Ann Aquillo David Payne, Brad Reynolds, Christopher Marston, Elizabeth Luper Schuster, and Robert Taft.

Please advise on these issues at your earliest convenience.

Sincerely,



Michael R. Geske

cc: Jon M. Greenbaum, Esq.  
Benjamin J. Blustein, Esq.  
Caroline S. Press, Esq.  
Jennifer R. Scullion, Esq.  
John A. Freedman, Esq.  
Shelby H. Hunt, Esq.  
Steven P. Collier, Esq.

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November 22, 2005

**VIA E-MAIL AND FIRST CLASS MAIL**

Richard N. Coglianesse, Esq.  
Deputy Attorney General  
Constitutional Offices Section  
30 East Broad Street, 17<sup>th</sup> Fl.  
Columbus, Ohio 43215

Re: *League of Women Voters of Ohio et al. v. Blackwell et al.*

Dear Rich:

In addition to the Rule 30(b)(6) depositions that have been noticed for December 1 and 2, and the witnesses identified in Michael Geske's November 11, 2005 letter, based upon further evaluation of the discovery record, we now believe that we need to take the depositions of the eight field representatives (Jeremy Demagall, Madhu Singh, Richard Fais, Michael Claret, Andrew Shiflette, Christian Lobb, Toni Slusser, and Sarah Spence). With regard to each of these witnesses, please advise (a) whether your office represents the individual in question and (b) the witnesses' availability to be deposed prior to December 16.

We note that we have not received a response to Mr. Geske's November 11 letter requesting your confirmation that your office does, in fact, represent the identified witnesses, and if so, the dates on which you propose to make each witness available for deposition. If we do not hear from you by early next week, we will notice these depositions to ensure their testimony will be taken within the scheduling parameters established by Judge Carr.

We also note that (per Mr. Geske and my letters of November 11, 2005), we have serious questions regarding the sufficiency of the document production from most of the witnesses identified in Mr. Geske's November 11 letter. In addition to those issues, we have been unable to find in your production to date the field reports filed, if any, by Messrs. Demagall, Singh, Fais, Claret, Lobb, and Slusser, nor have we found any emails or any other internal communications involving these individuals. As you know, it is to everyone's benefit if we receive all responsive documents well in advance of the depositions for these individuals to minimize the likelihood that they need to be recalled.

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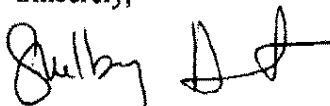
555 Twelfth Street, NW  
Washington, DC 20004-1206

Richard N. Coglianese, Esq.  
November 22, 2005  
Page 2

We look forward to receiving the balance of your document production at your earliest convenience.

Please let me know if you have any questions.

Sincerely,



Shelby Hunt

cc: Jon M. Greenbaum, Esq.  
Benjamin J. Blustein, Esq.  
Caroline S. Press, Esq.  
Jennifer R. Scullion, Esq.  
John A. Freedman, Esq.  
Michael R. Geske, Esq.  
Steven P. Collier, Esq.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|   |   |                       |
|---|---|-----------------------|
| League of Women Voters of Ohio, <i>et al.</i> , | ) |                       |
|   | ) |                       |
| Plaintiffs,                                     | ) |                       |
|   | ) |                       |
| v.  | ) | Case No. 3:05-CV-7309 |
|   | ) | Chief Judge Carr      |
| J. Kenneth Blackwell, <i>et al.</i> ,           | ) |                       |
|   | ) |                       |
| Defendants.                                     | ) |                       |

**NOTICE OF DEPOSITION OF DEFENDANT BLACKWELL AND THE OFFICE OF THE SECRETARY OF STATE OF OHIO PURSUANT TO F.R.C.P. 30(b)(6)**

Plaintiffs give notice that they will take the deposition pursuant to Fed. R. Civ. P. 30(b)(6) of Defendant J. Kenneth Blackwell and the Office of the Secretary of State of Ohio. Defendant Blackwell has a duty pursuant to Fed. R. Civ. P. 30(b)(6) to designate one or more employees of the Office of the Secretary of State, or other persons who consent to testify on its behalf, and such person(s) shall testify as to the matters known, or reasonably available to the Office of the Secretary of State, on the topics specified in the attached Schedule A.

The deposition shall take place at 333 E. Stewart Ave., Columbus, Ohio 43206 on December 2, 2005 at 9:00 a.m., and will continue from day to day until complete.

/s/ Jon M. Greenbaum  
LAWYERS' COMMITTEE FOR CIVIL  
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/s/ Jennifer R. Scullion

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/s/ John A. Freedman

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/s/ Steven P. Collier

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/s/ Brenda Wright

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LAWYERS' COMMITTEE FOR CIVIL  
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ATTORNEYS FOR PLAINTIFFS

### PROOF OF SERVICE

I hereby certify that a copy of the foregoing Notice of Deposition has been filed electronically this 18<sup>th</sup> day of November, 2005. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: /s/ Shelby H. Hunt  
Counsel for Plaintiffs

**SCHEDULE A**

**TOPIC NO. 1**

The identity of all personnel with responsibility for any aspect of elections in the Secretary of State's office since 1994 (including any independent contractors or other personnel retained by that office who had responsibility for elections, election reform, or voting accessibility for persons with disabilities), their job title and duties, and the chain of command in the Secretary of State's office with respect to those personnel.

**TOPIC NO. 2**

Directives, advisories, rules, instructions, election plans, manuals and guides prepared and/or promulgated by the Secretary of State's office since 1994 that address the preparation for or conduct of elections.

**TOPIC NO. 3**

Policies and procedures in the Secretary of State's office for monitoring the preparation for and conduct of elections, including but not limited to: (a) the duties of "field representatives"; (b) obtaining reports from boards of elections pursuant to Ohio Code Section 3501.05(L); (c) obtaining projections of, or otherwise attempting to estimate, voter turnout in elections; (d) ensuring that boards of elections have adequate resources (including but not limited to voting machines and poll workers); (e) ensuring that boards of elections have assigned a reasonable number of electors to a precinct; (f) obtaining election results, costs and other election-related information from county boards of elections; (g) ensuring compliance by the county boards of elections of directives, advisories, rules, instructions, manuals and guides prepared and/or promulgated by the Secretary of State's office; and (h) ensuring compliance by the county boards of elections of federal, state or county laws and regulations.

TOPIC NO. 4

Policies and procedures in the Secretary of State's office for investigating or otherwise responding to any suspected, alleged, or actual failure by any Ohio state, county, or local election officer, board of elections or board of elections member to abide by the requirements of federal, state or county election laws, rules, instructions, directives, advisories, guidelines or procedures.

TOPIC NO. 5

Policies and procedures in the Secretary of State's office for compelling the observance by election officers in the counties of the requirements of the election laws, pursuant to Ohio Code Section 3501.05(M).

TOPIC NO. 6

Policies and procedures in the Secretary of State's office relating to its efforts to comply with the requirements of the National Voter Registration Act ("NVRA"), including but not limited to the registration of voters, maintenance of voter registration lists, removal of voters from official registration lists, issuance of notices pursuant to Section 8 of the NVRA, 42 U.S.C. Section 1973gg-6, and updating voter registration information.

TOPIC NO. 7

Policies and procedures in the Secretary of State's office relating to voter registration, including but not limited to the requirement of Ohio Code Section 3501.05(R) that the Secretary of State prescribe a general program for registering voters or updating voter registration information.

TOPIC NO. 8

Policies and procedures in the Secretary of State's office relating to the removal of voters from official registration lists, including but not limited to the requirement of Ohio Code Section

3501.05(Q) that the Secretary of State prescribe a general program to remove ineligible voters by reason of change of address.

TOPIC NO. 9

Policies and procedures in the Secretary of State's office relating to efforts to comply with the requirements of the Help America Vote Act, including but not limited to any statewide computer voter database system.

TOPIC NO. 10

Policies and procedures in the Secretary of State's office for ensuring accessibility, privacy and independence for persons with disabilities at polling places, including policies and procedures relating to efforts to comply with the disability access components of HB 262 (2004) and other federal and state laws governing or pertaining to the provision of accessible voting to individuals with disabilities.

TOPIC NO. 11

Policies and procedures relating to the Secretary of State's issuance of annual reports to the Governor as required by Ohio Code Section 3501.05(O).

TOPIC NO. 12

Policies and procedures in the Secretary of State's office relating to poll worker training, including, but not limited to: (a) training sessions, plans, policies, procedures, manuals and other communications with county boards of elections about poll worker training; and (b) the funding of poll worker training, including but not limited to the Voter Education/Poll Worker Training Fund and reimbursement to counties for conducting poll worker training.

TOPIC NO. 13

Policies and procedures in the Secretary of State's office relating to the requirements of Ohio Code Section 3501.27, including but not limited to training election officers, programs for instructing members of the boards of elections and employees of boards about rules, instructions, directives, advisories, practices, procedures and law relating to elections.

TOPIC NO. 14

The Secretary of State's office's budget for, and funding of, election-related activities, including the sources of funding (including but not limited to funds obtained pursuant to HAVA), and how the funding was allocated (including but not limited to the county electronic voting machine maintenance fund and the Election Reform Fund).

TOPIC NO. 15

Policies and procedures relating to requests or proposals made by or on behalf of the Secretary of State's office to the Ohio Controlling Board for funding of any aspect of administering voter registration or elections.

TOPIC NO. 16

The Citizen Education program or any other voter education plan promulgated, implemented, funded or otherwise supported by the Secretary of State's office.

**In The United States District Court  
For the Northern District of Ohio  
Western Division**

**League of Women Voters of Ohio, *et al.*,**

**Plaintiffs,**

**vs.**

**Case No. 3:05-CV-7309**

**J. Kenneth Blackwell, *et al.*,**

**Judge Carr**

**Defendants.**

**Notice of Deposition**

Plaintiffs give notice that they will take the deposition pursuant to Fed. R. Civ. P. 30(b)(6) of Defendant J. Kenneth Blackwell and the Office of the Secretary of State of Ohio. Defendant Blackwell has a duty pursuant to Fed. R. Civ. P. 30(b)(6) to designate one or more employees of the Office of the Secretary of State, or other persons who consent to testify on its behalf, and such person(s) shall testify as to the matters known, or reasonably available to the office, on the topics specified in the attached Schedule A.

This deposition shall take place at 333 E. Stewart Ave., Columbus, Ohio 43206, on December 1, 2005, at 9 a.m., and will continue from day to day until it is complete.

November 18, 2005

Respectfully served,

/s/Shelby H. Hunt

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OF THE SAN FRANCISCO BAY AREA

Robert Rubin

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San Francisco, CA 94105

(415) 543-9444

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all counsel of record by means of the court's electronic filing system on the 18<sup>th</sup> day of November, 2005 to:

Richard N. Coglianesi  
Deputy Attorney General  
Constitutional Offices Section  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
RCoglianesi@ag.state.oh.us

By: /s/ Shelby H. Hunt  
Shelby H. Hunt

SCHEDULE A

TOPIC NO. 1:

Office of the Secretary of State's e-mail system, including, but not limited to:

- (a) Hardware;
- (b) Software;
- (c) Back-up procedures and policies;
- (d) Back-up software;
- (e) Operating systems and software;
- (f) Back-up hardware; and
- (g) All efforts made by the Office of the Secretary of State after the

filing of this action to preserve potentially relevant e-mails.

TOPIC NO. 2:

All steps undertaken to preserve documents after this lawsuit commenced, including the preservation of hard-copy documents, and files and hard drives of current and former employees, as well as steps undertaken to discontinue the recycling of back-up tapes.

TOPIC NO. 3:

Search, collection, identification and production of documents and e-mail (electronic or hard copy) responsive to plaintiffs' request for production of documents, including, but not limited to the search for responsive documents and e-mail from the following current and former personnel in the Office of the Secretary of State: Pat Wolfe; Myra Hawkins; Gretchen Quinn; Dana Walch; Judith Grady; Judith Hoffman; Keith Scott; Faith Lyon; Karen Lafferty; Conni Siegrus; Traci Washington; Pat Garrity; Fay Whittaker; Dorothy Woldorf; Kate Yonkura;

Robin Fields; Joy Went; Richard Weghorst; Betty Hull; Joe Leonti; Michael Clarett; Andrew Shifflett; Richard Fais; Christian Lobb; Madhu Singh; Toni Slessor; Sarah Spence; Jeremy Demagall; David Kennedy; Linda Brown; Jo-Ellyn Tucker; Harry Huff; Cassandra Hicks; Monty Lobb; Sherri Dembinski; Delip Mehta; James Hocker; Carol Taylor; and Carlo LoParo.

TOPIC NO. 4:

Search, collection, identification and production of documents and e-mail (electronic or hard copy) responsive to plaintiffs' request for production of documents from the consultants employed by the Office of the Secretary of State, including, but not limited to Samuel Kindred and Nola Hang.

TOPIC NO. 5:

Existence, preparation, organization, storage, maintenance, and present location of the following documents (electronic and hard copy):

- (a) all documents, databases and other sources of information related to election results submitted by the Board of Elections;
- (b) all documents, databases and other sources of information related to the Office of Secretary of State's budget for or funding of elections and how such funding was allocated;
- (c) all documents, databases and other sources of information related to the receipt of or consideration or investigation of voter election complaints or the investigation into the conduct of elections;
- (d) all reports prepared, issued, or received by the Secretary of State's office relating to election law or election administration;

(e) all documents and other sources of information related to relating to reports or information conveyed to your office by "field representatives" about any monitoring of elections or election procedures (including but not limited to annual reports issued pursuant to Ohio Code Section 3501.05(O));

(e) all documents, databases and other sources of information relating to, projecting or otherwise attempting to estimate voter turnout in elections;

(f) all documents, databases and other sources of information relating to any proposals or requests reflecting efforts to obtain election-related funding from the federal government;

(g) all documents, databases or other sources of information relating to the Secretary of State's compliance, non-compliance, or preparation for compliance with the Help America Vote Act and the disability components of HB 262;

(h) all documents, databases or other sources of information relating to the Secretary of State's compliance or non-compliance with the National Voter Registration Act;

(i) all documents, databases, or other sources of information received from the county Boards of Elections used to prepare the Report of the Boards of Elections of the State of Ohio, Showing Expenses of Conducting Elections in the State During the Year Ending December 31 of any year for which such Report was prepared;

(j) all documents discussing, relating to, or reflecting any suspected, alleged, or actual failure by any Ohio state, county or local election officer, board of elections, or board of elections member to abide by the requirements of federal, state or county election laws, rules, instructions, directives, advisories, guidelines, or procedures;

(k) all documents related to or used in the preparation of the Ohio Elections Summit Report, and any documents reviewing or recommending action by the Secretary of State or any board of elections with respect to that Report;

(l) all documents received from the county boards of elections pursuant to Ohio Code Section 3501.05(L);

(m) all documents discussing, relating to, reflecting or in any manner memorializing any irregularity reported, problem encountered, or complaint made about any aspect of the election process, including but not limited to ballots, voter registration, casting votes, or handicap accessibility;

(n) all documents relating to or constituting communications between the office of the Secretary of State and the Ohio Controlling Board, or any member thereof, concerning elections, including without limitation any requests or proposals for funding of voter registration or any aspect of elections; and

(o) any electronic precinct map used in the last three decennial congressional redistricting processes.

**In The United States District Court  
For the Northern District of Ohio  
Western Division**

**League of Women Voters of Ohio, et al.,**

**Plaintiffs,**

**vs.**

**Case No. 3:05-CV-7309**

**J. Kenneth Blackwell, et al.,**

**Judge Carr**

**Defendants.**

**Notice of Deposition**

Plaintiffs give notice that they will take the deposition pursuant to Fed. R. Civ. P. 30(b)(6) of Defendant Bob Taft and the Office of the Governor of the State of Ohio. Defendant Taft has a duty pursuant to Fed. R. Civ. P. 30(b)(6) to designate one or more employees of the Office of the Governor, or other persons who consent to testify on its behalf, and such person(s) shall testify as to the matters known, or reasonably available to the office, on the topics specified in the attached Schedule A.

This deposition shall take place at 333 E. Stewart Ave., Columbus, Ohio 43206, on December 1, 2005 at 9:00 a.m., and will continue from day to day until it is complete.

November 18, 2005

Respectfully served,

/s/ Shelby H. Hunt

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James P. Joseph

John A. Freedman

Michael R. Geske

Shelby H. Hunt

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/s/ Jon M. Greenbaum

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all counsel of record by means of the court's electronic filing system on the 18<sup>th</sup> day of November, 2005 to:

Richard N. Coglianesse  
Deputy Attorney General  
Constitutional Offices Section  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
RCoglianesse@ag.state.oh.us

By: /s/ Shelby H. Hunt  
Shelby H. Hunt

**SCHEDULE A**

**TOPIC NO. 1:**

Office of the Governor's e-mail system, including, but not limited to:

- (a) Hardware;
- (b) Software;
- (c) Back-up procedures and policies;
- (d) Back-up software
- (e) Operating systems and software;
- (f) Back-up hardware; and
- (g) All efforts made by the Office of the Governor after the filing of

this action to preserve potentially relevant e-mails.

**TOPIC NO. 2:**

All steps undertaken to preserve documents after this lawsuit commenced, including the preservation of hard-copy documents, and files and hard drives of current and former employees, as well as steps undertaken to discontinue the recycling of back-up tapes.

**TOPIC NO. 3:**

Search, collection, identification and production of documents and e-mail (electronic or hard copy) responsive to plaintiffs' request for production of documents, including, but not limited to the search for responsive documents and e-mail from the following current and former personnel in the Office of the Governor: Jon Allison, David Payne, Ann Aquillo, Elizabeth Luper Schuster, Brad Reynolds, and Christopher Marston.

TOPIC NO. 4:

Existence, preparation, organization, storage, maintenance, and present location of the following documents (electronic and hard copy):

- (a) all documents, databases and other sources of information related to the budgets for or funding of elections and how such funding was allocated;
  - (b) all documents, databases and other sources of information relating to any investigation into the conduct of elections or any investigation into voter election complaints;
  - (c) all reports prepared, issued, or received by the Office of the Governor relating to election law or election administration;
  - (d) all documents or other sources of information relating to communications between the Office of the Governor and the Ohio State Legislature, or any member or employee thereof, concerning elections;
  - (e) all documents or other sources of information relating to communications between the Office of the Governor and the Office of the Secretary of State, or any member or employee thereof, concerning elections;
  - (f) all documents, databases and other sources of information relating to, projecting or otherwise attempting to estimate voter turnout in elections;
  - (g) all documents and other sources of information sufficient to identify all personnel with responsibility for any aspect of elections in the Office of the Governor;
- and

(h) all documents, databases or other sources of information relating to the Office of the Governor's compliance, non-compliance, or preparation for compliance with the Help America Vote Act;

(i) all documents, databases and other sources of information relating to any proposals or requests reflecting efforts to obtain election-related funding from the federal government; and

(j) all documents, databases or other sources of information relating to the Office of the Governor's compliance or non-compliance with the National Voter Registration Act.