

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KING LINCOLN, ET AL.

PLAINTIFFS,

AND

THE OHIO ELECTION JUSTICE CAMPAIGN,
PADDY SHAFFER, MARLYS BARBEE,
VIRGINIA BROOKS, MARK BROWN,
BRUCE DUNCANSON, MARIAN LUPO,
PETER JONES, AND TIMOTHY KETTLER

individually and as CLASS REPRESENTATIVES
under Fed.R.Civ.P. 23,

v.

JENNIFER BRUNNER, ET AL.

DEFENDANTS.

Civil Action No. C2 06 745

JUDGE ALGENON
MARBLEY

MAGISTRATE
JUDGE KEMP

**INTERVENOR-PLAINTIFFS OHIO ELECTION JUSTICE CAMPAIGN AND
NAMED PLAINTIFFS' SHAFFER, BARBEE, BROOKS, BROWN,
DUNCANSON, LUPO, JONES, AND KETTLER REPLY TO PLAINTIFFS'
COUNSELS' MOTION TO STRIKE THEIR MOTION FOR INTERVENTION
AND CRIMINAL CONTEMPT/GRAND JURY PROCEEDINGS**

Intervenor-Plaintiffs submit that Plaintiffs' counsel have not raised any legal arguments in the Motion to Strike the Intervenor-Plaintiffs' Motion for Intervention and Motion for Criminal/Grand Jury Proceedings not already addressed by Proposed Intervenor-Plaintiffs in their filings before this Court. Their motion, however, asserts several misrepresentations of fact to this Court, which are addressed in the attached

affidavits and exhibits of Proposed Intervenor-Plaintiffs Timothy Kettler, Marian Lupo, and Paddy Shaffer.

Proposed Intervenor-Plaintiffs respectfully request this Court to deny Plaintiffs' counsels' Motion to Strike their Motion for Intervention and Motion for Criminal Contempt/Grand Jury Proceedings.

Dated: August 12, 2008

Respectfully submitted,

Paddy Shaffer

Paddy Shaffer, Pro Se
2408 Sonnington Drive
Dublin, Ohio 43016
(614) 266-5283
paddy@columbus.rr.com

Dated: August 11, 2008

Respectfully submitted,

A handwritten signature in cursive script that reads "Marlys Barbee". The signature is written in black ink and is positioned above the printed contact information.

Marlys Barbee, *Pro Se*
8137 W. Sharps Ridge Road
McConnelsville, OH 43756
740-962-2741

mibarbee@emvneonle.net

Dated: August 12, 2008

Respectfully submitted

A handwritten signature in cursive script that reads "Virginia Brooks". The signature is written in black ink and is positioned above the typed contact information.

Virginia Brooks, Pro Se
1196 Twp. Rd. 2116
Ashland, Ohio 44805
419-368-6074
vareforms1@bright.net

Dated: August 10, 2008

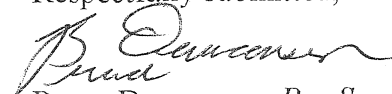
Respectfully submitted,

A handwritten signature in cursive script that reads "Mark A. Brown". The letters are fluid and connected, with a prominent initial "M".

Mark Brown, *Pro Se*
83 Hanford Street
Columbus, Ohio 43206
614-449-1989

Dated: August 11, 2008

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bruce Duncanson".

Bruce Duncanson, *Pro Se*

947 E. Weber Road

Columbus, Ohio 43211

bruce@redpeacecross.com

614-747-4533

Dated: August 12, 2008

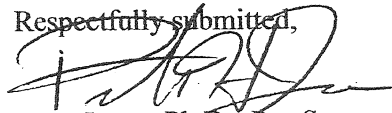
Respectfully submitted,

Marian Lupo

Marian Lupo, *Pro Se*
310 S. Eureka Avenue
Columbus, Ohio 43204
614-276-0948
marianlupo90@msn.com

Dated: August 11, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter Jones', written over the printed name below.

Peter Jones, Ph.D., *Pro Se*

4098 Wagner Rd.

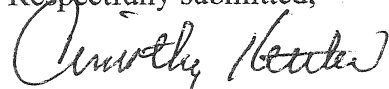
Dayton, OH 45440

937-320-9680

peter@poetics.org

Dated August 11, 2008

Respectfully submitted,

A handwritten signature in cursive script that reads "Timothy Kettler". The signature is written in black ink and is positioned above the typed name.

Timothy Kettler, *Pro Se*
29674 Township Road 30
Warsaw, Ohio 43844
740-502-6453
tmkettler@aol.com

I Timothy Kettler, do solemnly swear:

1. I reside at 29674 Township Road 30 Warsaw, Coshocton County, Ohio
2. I have served as the secretary of the Green Party of Ohio for approximately the last four years.
3. I voted in the November 2004 General Election.
4. I served as a 2004 Presidential Vote Recount Regional Coordinator, County Coordinator and candidate's witness for David Cobb.
5. I was a co-plaintiff in the lawsuit *Rios, et al. v Blackwell* (USDC Case No.3:04CV7724)
6. I was a candidate for Ohio Secretary of State in the November 2006 General Election.
7. I appeared on the Ohio Ballot in the November 2006 General Election having gathered over 10,000 signatures on the nominating petition.
8. The official results of the 2006 Ohio General Election for Ohio Secretary of State recorded 78,075 votes cast for my candidacy (2.04%)
9. I made statements publicly and privately in conversation and print and electronic media relating to the 2004 Presidential Vote Recount in Coshocton County and the election recount fraud I was a witness to;
<http://www.freepress.org/departments/display/19/2006/2138>
as well as other election issues.
<http://www.freepress.org/departments/display/10/2006/1769>
10. I have participated in many public events focused on election issues arising from the November 2004 general election as a speaker, organizer and participant.
11. Approximately February, 2006 at the request of Robert Fittrakis, Co- Counsel for the Plaintiffs in *King Lincoln, et al* I supplied all original documents in my possession related to recount fraud in the Presidential Vote Recount of 2004 in Coshocton County.
12. According to Robert Fittrakis these documents were to be scanned and used in *King Lincoln, et al*.
13. Approximately June, 2006 I retrieved aforementioned documents from Robert Fittrakis at his law office after they were scanned and on that day had a 20-30 minute conversation with Co-Counsel for the plaintiffs in *King Lincoln, et al*, Clifford Arnebeck Jr. reviewing the recount fraud I witnessed in Coshocton County. Mr. Arnebeck examined said documents at that time.
14. On August 16, 2006 I submitted a request for investigation of the events surrounding the 2004 Presidential Vote Recount in Coshocton County to the Coshocton County Prosecutor.
15. On August 19, 2006, at the direction of the Coshocton County Prosecutor, I filed a duplicate of the paperwork filed with the Coshocton County Prosecutor as a police report with the Coshocton County Sheriff's Office (complaint#0106002634)
16. On March 26, 2007 I submitted the copies of the police report and all exhibits to Eleanor Speelman of the Ohio Secretary of State's office.
17. On October 4, 2007, after learning that the Secretary of State lost the previously submitted file, I re-submitted copies of the report and exhibits directly to

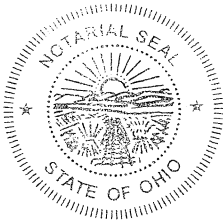
Secretary of State Jennifer Brunner, David Farrell, Deputy Assistant Secretary and Director of Elections and the Office of Marc Dann, then Attorney General.
18. I am currently the Green Party candidate for Ohio Senate District 20 in the November 2008 General Election.

Dated August 7, 2008



Timothy Kettler
29674 Township Road 30
Warsaw, Ohio 43844

Sworn and subscribed to me in my presence by Timothy Kettler on this 7th day of August 2008, in the county of Coshocton, state of Ohio



JESSICA N. ARNOLD
Notary Public, State of Ohio
My Commission Expires

6/8/09

Jessie Arnold
Notary

I, Marian Lupo, do solemnly swear:

1. I graduated from Brooklyn Law School *summa cum laude*, where I served as editor-in-chief of the law review.
2. I served as a law clerk for the Hon. Jacob Mishler, United States District Court, Eastern District of New York.
3. I served as a law clerk for the Hon. Robert J. Krupansky, United States Court of Appeals for the Sixth Circuit.
4. I taught Advanced Legal Research and Writing and Legal Research and Writing I at Cleveland-Marshall College of Law.
5. I was admitted to the New York State bar by the Appellate Division of the Supreme Court of the State of New York, in and for the Second Judicial Department; my license had been in retirement status for 14 years.
6. I hold an M.A. and a Ph.D. from The Ohio State University; one of my areas of scholarship is Disability Studies.
7. I have also been a member of The Ohio State University's Moritz College of Law Center for Interdisciplinary Law and Policy Studies.
8. I have published extensively in my field, and I have held several positions of leadership within my profession, including service on the national Modern Language Association's Committee on Disability Issues in the Profession.
9. I have presented my research extensively, including a paper on 42 U.S.C § 1982 immunity at Capital University Law School; on Disability Studies at multiple local and national conferences; and on the Ohio Election Protection Coalition at a national conference held in Washington, D.C.
10. I have received numerous awards, fellowships, and grants as a teacher and scholar; most recently, a grant to attend the Ford Foundation international conference on the human rights of people with disabilities in Nairobi, Kenya and to study disability in Kenya.
11. Mr. Clifford Arnebeck contacted me and asked me to help conduct research for the *King-Lincoln* case; my understanding is that he contacted me because several attorneys, including the Center for Constitutional Rights, had withdrawn from the case; I agreed to help because of the above relevant research and experience.

12. I explained to Mr. Arnebeck that my license was in retirement status, that I was not a member of the Ohio Bar, and that I could not sign papers, appear in court, nor accept reimbursement for my research.

13. Mr. Arnebeck later suggested that I be reimbursed in a paralegal capacity. I did not agree to this offer, did not sign a contract to work as a paralegal, did not submit any hours to be reimbursed on any basis, and was never reimbursed for my research. Further, I did not use his office to conduct research.

14. I did not attend a conference in chambers, and I did not authorize Mr. Arnebeck to represent me to one of the law clerks as he did.

15. I did not participate in an attorney-client meeting with one of the individual plaintiffs in this case and one of the associations in this case; Mr. Arnebeck is referring to a meeting one of my former students invited me to attend. I invited Mr. Arnebeck to that meeting. To the best of my knowledge, that meeting was open to the public.

16. I brought to the attention of Robert Fitrakis specific issues relating to Mr. Arnebeck that arose in the course of my research by speaking with Mr. Fitrakis personally several times in his office at Columbus State Community College.

17. Mr. Fitrakis requested that I file the Memorandum in Opposition to the Motion to Dismiss on his behalf because he was teaching the day it was due; he further asked me to contact his wife for the information I would need to access the electronic filing system on his behalf.

18. I spoke with Mr. Arnebeck and communicated the above information to him.

19. At the invitation of Mr. Arnebeck and Mr. Fitrakis, I did attend a meeting with Mr. Tom Winters and Mr. Brian Laliberte in the Ohio Attorney General's office. Mr. Eckhart also attended this meeting.

20. Immediately after that meeting, I informed all Plaintiffs' counsel to this case, in person, of the substance of the subject matter contained in the attached memorandum.

22. I also explain in this memorandum that I could not continue to conduct research, and I have not conducted any research since the date of this memorandum.

21. The attached memorandum is a true copy of the memorandum I sent to Mr. Arnebeck by e-mail, copied to Mr. Fitrakis and Mr. Eckhart, on 2/7/07.

22. I have had no communication with Mr. Arnebeck following my refusal to conduct any further research.

23. I have spoken with Mr. Fitrakis since then only once, not long after the above memorandum, when he called me to tell me that Mr. Arnebeck was threatening to sue me for defamation.

24. I did not found the OEJC, and I do not serve as counsel to Paddy Shaffer.

Marian Lupo
Marian Lupo
310 S. Eureka Avenue
Columbus, Ohio 43204

Witness my hand and official seal

Loretta Deems-Notary



LORETTA DEEMS
Notary Public
In and for the State of Ohio
My Commission Expires 10-11-09