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Date: September 13, 2006

From: Joshua B. Bolinger, Esq.

To: Ms. Jill Collier, Case Manager

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Telephone #

Original to follow by mail

Comments:

Re: Morrison, et. al. v. Colley, et al. / CA Case No. 06-4216

In accord with Robin Duncan's instructions, please find Plaintiffs-Appellants' Motion for Expedited Appeal, as well as Appearance of Counsel forms for myself and David R. Langdon, lead counsel in the referenced matter. Should you have questions, please do not hesitate to contact me. Thank you.

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CLIENT NAME:

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**IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

CASE NO. 06-4216

CHARLES R. MORRISON, DONALD E. ECKHART, and
ALEXANDER SMITH,

Plaintiffs-Appellants,

v.

MICHAEL F. COLLEY, CAROLYN C. PETREE, WILLIAM A. ANTHONY,
JR., KIMBERLY E. MARINELLO, and the FRANKLIN COUNTY BOARD OF
ELECTIONS,

Defendants-Appellees.

On Appeal from the United States District Court
for the Southern District of Ohio

EMERGENCY MOTION FOR EXPEDITED APPEAL

This case involves the critical and time-sensitive issue of whether a proposed candidate for election to Congress will be certified to the ballot at the upcoming election on November 7, 2006. Accordingly, and for the reasons discussed below, Plaintiffs respectfully move this Court for an Order expediting this appeal.

I. INTRODUCTION

Plaintiffs in this appeal seek reversal of the District Court's Opinion and Order denying Plaintiffs' motion for a permanent injunction, which motion sought an order enjoining Defendants-Appellees, the Franklin County Board of Elections, to certify Plaintiff Charles Morrison to the general election ballot as an independent candidate for Congress in the 15th congressional district. Plaintiffs assert that the Ohio statute applied by Defendants to deny ballot certification to Morrison (R.C. 3513.257, which sets forth the sole criteria for ballot certification of "independent candidates") is unconstitutionally vague and unjustifiably burdens ballot access, and thus its application by Defendants to deny ballot certification to Morrison violated Plaintiffs' First and Fourteenth Amendment rights to the freedom of speech and association, due process and equal protection of the laws.

Plaintiffs filed a timely Notice of Appeal on September 12, 2006, the same day the District Court's decision was issued.

II. DISCUSSION

Plaintiffs in filing this Motion aim solely to preserve the ability of Morrison—should he and his supporters find favor with this Court on the merits of their appeal—to appear as a candidate on the general election ballot on November 7, 2006. The urgency, however, stems not only from the fast-approaching general election on November 7, 2006, but from the requirement under Ohio law for

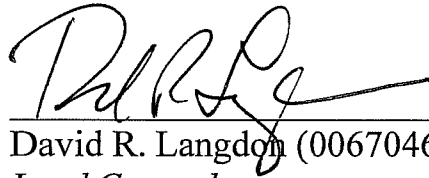
Defendants to have absentee ballots printed and ready for use 35 days prior to the general election, or October 3, 2006. See R.C. 3509.01; R.C. 3511.04. To comply with these statutory mandates and allow time for the ballots to be printed and made available for use, the Board of Elections must approve and finalize the absentee ballot proof (as received from their vendor) sufficiently in advance of the 35-day deadline. Ideally, the final absentee ballot proof should be ready for printing by Defendants' vendor not later than 5 to 7 days prior to the 35-day deadline, which in this case would be September 25 or 26, 2006.¹

Accordingly, Plaintiffs move the Court for an expedited briefing schedule pursuant to which the parties would file simultaneous briefs by September 18, 2006 (if not sooner), with reply briefs (if the Court desires to receive reply briefs) to be filed by September 20 (if not sooner), and to schedule oral argument immediately thereafter. Alternatively, Plaintiffs move the Court for an expedited briefing schedule that would allow the Court sufficient time to render a decision such that, if the Court rules in Plaintiffs' favor, Morrison would be able to appear on the ballot as a candidate on November 7, 2006.

¹ Defendants may suggest that they need more time than that, which would only reinforce the need for an expedited briefing schedule.

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Respectfully submitted,



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*Attorneys for Plaintiffs-Appellants
Charles R. Morrison, Donald E. Eckhart
and Alexander Smith*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Motion was served by facsimile and electronic mail, this 13th day of September, 2006, upon the following counsel of record:

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

APPEARANCE OF COUNSEL

IMPORTANT NOTICE:

Lead counsel must be designated if a party is represented by more than one attorney or law firm. While the Clerk's office will accept documents from any attorney who has entered an appearance and has been admitted to the Bar, only lead counsel will be on the court's service list. It is the responsibility of lead counsel to advise co-counsel of court deadlines, orders, notice of argument, decisions and any other case related activity.

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Client's Name:

Appellant
 Appellee

Petitioner
 Respondent

Amicus Curiae
 Intervenor

I am:

Lead Counsel
 Co-Counsel

Name: Admitted:
(Sixth Circuit admission date only)

Signature: 

Firm Name:

Business Address:

Suite: City/State/Zip:

Telephone Number: (Area Code) Fax:

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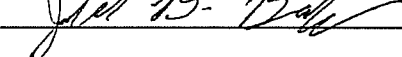
Petitioner
 Respondent

Amicus Curiae
 Intervenor

I am:

Lead Counsel
 Co-Counsel

Name: Admitted:
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Signature: 

Firm Name:

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