

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

<b>State ex rel. Skaggs, et al.</b>	:	
	:	
<b>Plaintiffs,</b>	:	
	:	<b>Case No. 2:08CV1077</b>
<b>v.</b>	:	
	:	<b>Judge Marbley</b>
<b>Jennifer Brunner,</b>	:	
<b>Secretary of State of Ohio,</b>	:	
	:	
<b>Defendant</b>	:	

**Notice of Filing in the Ohio Supreme Court**

Defendant Secretary of State Jennifer Brunner gives this Court and the parties notice that Plaintiffs have filed additional papers in this case in the Ohio Supreme Court. The Ohio Supreme Court has also issued an order as a result of that filing. A true and accurate copy is attached to this notice.

Respectfully submitted,

**NANCY H. ROGERS**  
**ATTORNEY GENERAL**

/s Richard N. Coglianesse  
Richard N. Coglianesse (0066830) Trial Attorney  
Damian W. Sikora (0075224)  
Aaron D. Epstein (0063286)  
Michael J. Schuler (0082390)  
Assistant Attorneys General  
Constitutional Offices  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215-3400  
aepstein@ag.state.oh.us  
(614) 466-2872 – phone  
(614) 728-7592 – fax

Attorneys for Defendant  
Jennifer Brunner  
Ohio Secretary of State

**CERTIFICATE OF SERVICE**

This is to certify a copy of the foregoing was served upon all counsel of record by means of the Court's electronic filing system on this 14<sup>th</sup> day of November, 2008.

/s Richard N. Coglianesse

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.  
DANA SKAGGS, et al.,

Relators,

vs.

JENNIFER L. BRUNNER  
SECRETARY OF THE STATE OF  
OHIO, et al.,

Respondents.

Case No. 08-2206

ORIGINAL ACTION IN  
MANDAMUS

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

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John W. Zeiger (0010707)  
Marion H. Little, Jr. (0042679)  
Christopher J. Hogan (0079829)  
ZEIGER, TIGGES & LITTLE LLP  
3500 Huntington Center  
41 South High Street  
Columbus, Ohio 43215  
(614) 365-9900  
(614) 365-7900  
zeiger@litohio.com

COUNSEL FOR RELATORS  
DANA SKAGGS AND KYLE FANNIN

IN THE SUPREME COURT OF OHIO

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

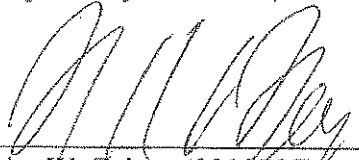
a temporary restraining order from the United States District Court or, if it remands the case as Relators are requesting, this Court, is necessary to protect the jurisdiction to assure a merits adjudication of Relators' claims.

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  
John W. Zeiger (0010707)  
Marion H. Little, Jr. (0042679)  
Christopher J. Hogan (0079829)  
ZEIGER, TIGGES & LITTLE LLP  
3500 Huntington Center  
41 South High Street  
Columbus, Ohio 43215  
(614) 365-9900  
(614) 365-7900

Counsel for Relators

**CERTIFICATE OF SERVICE**

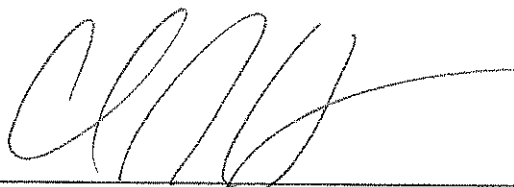
The undersigned hereby certifies that a copy of the foregoing has been served this 14<sup>th</sup> day of November, 2008, via email, upon the following:

Richard N. Coglianese, Esq.  
Assistant Attorney General  
Constitutional Offices  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, OH 43215-3400

Attorneys for Respondent Jennifer L  
Brunner  
Secretary of the State of Ohio

Patrick J. Piccininni, Esq.  
Assistant Prosecuting Attorney  
373 S. High Street, 13<sup>th</sup> Floor  
Columbus, OH 43215

Attorneys for Respondent  
Franklin County Board of Elections



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Christopher J. Hogan (0079829)

# The Supreme Court of Ohio

FILED

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CLERK OF COURT  
SUPREME COURT OF OHIO

State of Ohio ex rel Dana Skaggs et al.,

Case No. 2008-2206

v.

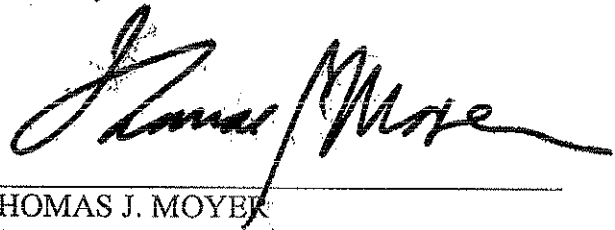
Jennifer L. Brunner, Secretary of the State  
Of Ohio, et al.

IN MANDAMUS

This cause originated in this Court on the filing of a complaint for a writ of mandamus. 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. According to information filed by relator with the Court on November 14, 2008, the matter is set for a hearing on a pending request for interim injunctive relief at 9:00 a.m. on Saturday, November 15, 2008, before Judge Algenon Marbley.

It is ordered by the Court that the Chief Justice may suspend application of any of the provisions of the Rules of Practice of the Supreme Court, including but not limited to, the filing requirements of S.Ct.Prac.R. XIV(1).

It is further ordered that counsel of record for the parties shall provide this Court with a copy of any ruling of Judge Marbley issued on November 15, 2008, regarding the request for injunctive relief or the remand of this matter promptly upon its issuance. A copy of the document shall be delivered to the Clerk's Office by e-mail.



THOMAS J. MOYER  
Chief Justice