Case No. 08-4322

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Ohio Republican Party, *et al.*,
Plaintiffs-Appellees,

v.

Jennifer Brunner,
Ohio Secretary of State,
Defendant-Appellant.

On Appeal from the United States District Court,
Southern District of Ohio
Case No. 2:08CV913

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE IN SUPPORT OF APPELLANT'S EMERGENCY MOTION TO STAY OR VACATE TEMPORARY RESTRAINING ORDER

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Amicus curiae the Brennan Center for Justice at NYU School of Law ("Brennan Center") hereby moves this Court for an order allowing the filing of an *amicus* brief in support of Appellant's emergency motion to stay or vacate the temporary restraining order.

Amicus believe that their brief will aid the Court in its determination of Appellant's pending motion, by providing additional context in support of Appellant's argument that the district court erred in concluding that HAVA requires a successful database "match" before a citizen's vote may be counted.

The Brennan Center is a nonpartisan institute dedicated to a vision of effective and inclusive democracy. Through its Voting Rights and Elections Project, the Brennan Center seeks to protect rights to equal electoral access and full political participation. The Brennan Center has extensively addressed issues relating to barriers that prevent citizens from registering and voting, and has participated as counsel or amicus in a number of federal and state cases involving voting and elections issues.

Of particular relevance here, the Brennan Center has extensively studied and litigated issues relating to the database matching procedure provided by the Help America Vote Act of 2002 ("HAVA"). The Brennan Center authored the only comprehensive study of the states' implementation of HAVA's data matching provisions, *see* Justin Levitt, Wendy R. Weiser & Ana Munoz, *Making the List:*

Database Matching and Verification Processes for Voter Registration (2006), *available at* http://tinyurl.com/66t6r8, and has advised the elections agencies and legislatures of numerous states on developing HAVA-compliant matching policies. In addition, the Brennan Center served as plaintiffs' counsel in the only two cases to have considered the argument Appellees present here — whether HAVA requires a successful database "match" of a voter's information before that voter's ballot may be counted — an argument squarely rejected in both cases. *See Wash. Assoc. of Churches v. Reed*, 492 F. Supp. 2d 1264 (W.D. Wash, 2006); *Fla. NAACP v. Browning*, 522 F.3d 1153 (11th Cir. 2008).

For good cause shown, the Brennan Center respectfully submits that the Court should grant the motion for leave to file the Amicus brief filed herewith.

Dated: October 13, 2008

Respectfully submitted,

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