

# Ohio Electoral Fight Becomes ‘Biggest Deal Since Selma’ as GOP Stonewalls

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COLUMBUS — As Republican officials stonewall subpoenas and subvert the recount process, Rev. Jesse Jackson has pronounced Ohio’s vote fraud fiasco “the biggest deal since Selma” and has called for a national rally at “the scene of the crime” in Columbus January 3.

Another major national demonstration will follow in Washington on January 6, as Congress evaluates the Electoral College. Should at least one US Representative and one Senator challenge the electors’ votes, a Constitutional crisis could ensue.

Meanwhile, volunteer attorneys have poured into Columbus from around the US to help investigate the bitterly contested presidential vote that has allegedly given George W. Bush Ohio’s electoral votes and thus a second term. A lawsuit filed at the Ohio Supreme Court charges that a fair vote count would give the state and the presidency to John Kerry rather than Bush.

On December 21, notice of depositions were sent to President George Bush, Vice President Dick Cheney, Karl Rove and Ohio Secretary of State J. Kenneth Blackwell to appear and give testimony regarding the legal challenge of Ohio’s elections results in the case Moss v Bush et al.

But Republican Blackwell’s attorney at the Secretary of State’s office told the attorneys issuing the notice of deposition and subpoena that Blackwell will not testify under oath. The Republican-controlled Attorney General’s office has labeled any attempt to put Blackwell under oath, “harassment.” Blackwell supervised the November 2 vote in Ohio at the same time he served as co-chair of the state’s Bush-Cheney campaign.

However, some counties like Clarmont have agreed to cooperate with the attorneys in the election challenge. On December 22, a team of attorneys descended upon the Clarmont County Board of Elections between 8:30-10:30am to pour over election day records.

In a December 21 conference call with activists from the around the US, Jackson said he has urged Senators Kerry (D-MA) and Hillary Clinton (D-NY) to stand with US Representatives who intend to challenge the Electoral College’s expected approval of George W. Bush for a second term. A challenge by US Representatives in 2000 failed because no Senators would join their motion.

Jackson says this year will be different, urging election protection activists to stay focused over the holiday season. “We can’t let [the Republicans] get away with this, he told the conference call. “Do not underestimate the outrage of the people. We are a legitimate force for democracy, here and around the world.”

“We will count every vote,” he said, and make sure “every vote counts.”

Rep. John Conyers (D-MI) and other members of the Congressional Black Caucus have strongly questioned Bush’s purported victory, pointing out that more than half the votes cast in Ohio and the nation were recorded on electronic voting machines owned by Republicans, with no audit trail.

Conyers recently conducted hearings at Columbus City Hall to take testimony from Ohioans who were deprived their right to vote. Another public hearing in Mahoning Valley, at the Warren Heights and Trumbull Library, documented “thousands of complaints of voting irregularities” that helped throw the vote count to Bush. Election observers have testified under oath that more than a dozen voting machines in Mahoning County regularly switched Kerry votes to Bush votes while voters watched in amazement. Some 580 more absentee voters were certified than were identified by election board officials. As in Franklin and other counties, there were also strategic machine shortages in largely Democratic precincts. The November vote, said one observer, was “the crime of the century.”

As dozens of volunteer attorneys pour into the state to help with the recount, Blackwell’s stonewall has prompted widespread suspicion about what the Republicans are hiding.

On Monday the expanded legal team issued subpoenas to top election officials in 10 counties where vote-count fraud is suspected.

The rapid filing of subpoenas, the first step in interviewing people under oath, provoked the shrill rejection from Blackwell. Though Blackwell is a state constitutional officer, his business office is in a private building, where protesters — including former California Congressman Dan Hamburg—have been arrested without apparent provocation.

“They huffed and they puffed, trying to bully people around,” said attorney Peter Pectarsky, a key member of the election challenge legal team. “Now we’re fighting over discovery. We served 10 depositions. The attorney general blew a gasket. They filed a motion to stop it. We will file our response.”

This past Friday, attorneys refiled their election challenge suit, a day after state Supreme Court dismissed it on a technicality. The challengers are trying to get a meaningful recount before the January 6 Congressional vote, while Blackwell’s GOP has done all it can to stall.

The election challenge lawsuit claims that statewide vote patterns reveal vote count fraud on a scale that incorrectly awarded the state’s majority – and the presidency – to George Bush. They are using the litigation process to document that fraud.

“Maybe this (the explanation of the Ohio vote) is much closer to the surface than anybody thinks,” said Pete Pectarsky, a lead challenge attorney. “It doesn’t add up. If everything was above board, why are they hiding everything? They could bury people in the details. Okay, look at these records. Look at those.”

The election challenge suit was filed Dec. 17. Blackwell, the Bush-Cheney campaign, and Ohio’s Republican electors have 10 days to respond. Then, according to court procedural rules, each side has 20 days to do discovery – or additional evidence gathering, with those bringing the suit going first. With January 6 being the date Congress accepts the Electoral College vote, and January 20 being the inauguration, the GOP seems determined to make

the recount drag on as long as possible.

“We have stuff that points to big numbers,” Pectarsky said, referring to votes that should have been counted for John Kerry. “What we need now is (someone saying) ‘We did it. Here’s how. Don’t take my word. Here’s the evidence.’”

Tuesday, December 22 is the starting point for Pectarsky’s negotiations with election officials from 10 counties as to when they can be deposed. They will be asked a wide range of questions to uncover answers explaining the presence of what are, at the least, voting irregularities.

In the Miami County town of Concord, certified returns show that all but 10 registered voters cast ballots on Election Day. But the election challenge team has already identified more than 10 registered Concord citizens who did not vote, an incongruity that points to election fraud.

In Trumbull County, citizens using electronic machines saw their vote for Kerry register as a vote for Bush. Additional hearings in Trumbull and other counties are adding to the litany of fraud and theft.

In the meantime, among the attorneys who have come at their own expense to join Ohio’s presidential election challenge:

Bonnie McFadden, formerly a deputy public defender, law professor from both the University of New Guinea and the University of Hawaii, and director of the Cambodia Defenders Project in Phnom Penh, Cambodia, currently resides in Maui. Bonnie believes that Conyers’ Committee hearings have provided clear evidence of illegal election practices. “Democracy cannot survive without honest elections. The Ohio election fraud lawsuits are about saving our democratic form of government. There is nothing more important than that.”

Karen Peterson, an attorney who worked for more than a decade in legal services specializing in public benefits, consumer and family law and was a professor at both Cornell and the University of Minnesota law schools, is volunteering in Ohio because she believes that it is critically important that election irregularities are exposed to the light of day. “We will lose our democracy unless we are willing to fight for it. If we allow voter suppression and dirty tricks to go uncovered and unpunished, we should not be surprised if these tactics become more virulent in future elections.”

Lillian Ritt, formerly a research attorney working for the San Diego Superior Court and the 4th DCA Division 1 for more than twenty years, and part of the team researching election law for Al Gore, is in Ohio because she believes voting is critical to our democracy. “Voting has to be done openly and without any possibility of machine error and/or tampering. The problems in Ohio threaten this world, not just the United States. If they are not solved, then I consider this to be another stolen election by Bush without the courage of the Ukraine people.”

Steve Chaffin, an attorney in Ohio for twenty-four years, has worked in many ways to provide for those who have needed legal assistance and not been able to afford it. He has worked with those who are facing rising costs of health care and other quality of life issues. His interests and work have been to help those who are disenfranchised. Steve’s latest focus is on election and political issues. Volunteering for this legal battle is just one more way in

which he is helping our country.

Judy McCann, a civil rights attorney from Santa Rosa, California, left for Ohio with one day's notice promising her children she would be home for Christmas, even if it meant she would be on a plane back to help in Ohio on December, 26th. Judy expressed her concern for the integrity of the voting process. She spent Election Day in Florida monitoring the vote, learning first hand that our votes may be cast but not accurately counted. Judy has been asked by the legal team to take depositions and to travel to counties to collect the evidence of voting irregularities.

Melanie Braithwaite, an attorney in Columbus, Ohio, wants to volunteer for this election contest because of her concern for her children and grandchildren. "To me free expression and exchange of ideas, and the right to vote in free and fair elections are paramount moral and civic values to be protected at all costs. If it costs me some time and inconvenience to volunteer in this effort, then so be it. It is the price I pay to be an American citizen. I personally witnessed a moral outrage on election day. I am peculiarly in a position to take this one on, as I have personally nothing left to lose."

As the team of election protection attorneys grows alongside the grassroots demand for a fair vote count in Ohio and around the nation, the likelihood of an unprecedented Constitutional confrontation beginning January 6 continues to escalate.

**Bob Fitrakis, Steve Rosenfeld and Harvey Wasserman are co-authors of the upcoming OHIO'S STOLEN ELECTION: VOICES OF THE DISENFRANCHISED, 2004, to be published in January. Fitrakis is a co-counsel in the Moss case. Support for this project is welcome through [www.freepress.org](http://www.freepress.org) or by sending a check to The "Columbus Institute for Contemporary Journalism", 1240 Bryden Rd., Columbus, Ohio 43205.**

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