

Spotlight on....Analyzing LWVO v Brunner
By Linda D. Lalley, LWVO Lawsuit Negotiator and Immediate Past President

On June 15, 2009, the League of Women Voters of Ohio (LWVO) and the Secretary of State of Ohio (SoS) agreed to settle their election reform lawsuit, LWVO v Brunner. Much has changed in the four years between the day LWVO filed the lawsuit and the day we settled it. Newer members may not know the history leading to the filing; longer time members may have forgotten that history. Following are answers to lawsuit FAQs (frequently asked questions):

- 1. Why did LWVO bring suit?
- 2. Why did LWVO continue the lawsuit when there were relatively few problems statewide in November 2008?
- 3. What is the cost of the settlement to Ohioans?
- 4. Why does the settlement exclude the statewide registration database?
- 5. Why is the settlement in effect for only six years?
- 6. Does the settlement mean we won't have long lines at the polls?
- 7. How will the lawsuit settlement be enforced?

1. Why did LWVO bring suit?

The sight of Oberlin and Kenyon College students waiting in line eight hours to vote on November 2, 2004 fascinated national television. In fact, an estimated 28% of Ohio voters had significant trouble voting in the presidential election of 2004, earning us the infamous mantle of "poster child of bad elections." Incensed by a lack of administrative oversight for 30 years by office-holders empowered by law to manage elections, LWVO, along with LWV-Toledo/Lucas County and twelve individuals, filed a lawsuit in July 2005 to force occupants of the offices of governor and Secretary of State (Bob Taft and Ken Blackwell, respectively, at that time) to protect Ohio voters' Fourteenth Amendment rights.

2. Why did LWVO continue the lawsuit when there were relatively few problems statewide in November 2008?

Each SoS over the years has had a different attitude about the extent of his or her oversight of county election administration. Without the lawsuit settlement, there was no guarantee the next SoS would have continued the reforms put in place by Secretary Brunner. These reforms could not simply be achieved by new laws. The election practices overseen statewide by the Secretary are the result of directives, advisories, and memoranda at a level of detail too meticulous for prudent legislation. In fact, many of the improvements in the 2008 election were the same reforms discussed in the settlement negotiations.

3. What is the cost of the settlement to Ohioans?

While a fair, open and honest election does cost money, the settlement should actually pave the way for cost savings to the state as a whole. Under prior SoSs, each of our 88 counties, including those with almost no financial resources, had been left to develop their own poll-worker training materials leading to wide variation across the state; implement the complicated Help America Vote Act with little clear guidance; and hazard their own guess as to how many voters would show up to vote in a hot election. This was not only a recipe for disaster in counties whose previous directors left poor records for their successors, but also a very expensive pattern of duplicated effort all over the state. The settlement ensures that processes to share best practices among county BOEs will continue.

4. Why does the settlement exclude the statewide registration database?

Secretary Brunner is currently examining and refining the processes by which voter information is compared with information in the Bureau of Motor Vehicle and Social Security Administration databases. The settlement mandates that she file status reports in federal court on the progress of improving the registration database. LWVO will be following the progress closely.

5. Why is the settlement in effect for only six years?

The timeframe chosen is long enough to stabilize and solidify good election administration, but short enough to recognize the probable introduction of new election technology requiring different procedures from those now in place. The settlement agreement binds the state's chief elections official during the next six years - whether that person is the Secretary of State, an independently appointed election administrator or other chief elections official.

6. Does the settlement mean we won't have long lines at the polls?

The settlement agreement requires the SoS to determine by August 30, 2009 whether a statewide maximum wait time can be established. Many factors affect the lines at the polls, including the number of polling places, the number, training and management of poll workers, the layout of the polling place, the number of voting machines and quantities of supplies, and the number of candidates and issues on the ballot. The election planning and poll worker sections of the agreement address all but the number of candidates and issues on the ballot. The settlement ensures the SoS will implement *statewide* best practices designed to reduce long lines.

7. How will the lawsuit settlement be enforced?

The Federal District Court in Toledo has continuing jurisdiction to enforce the settlement order through January 11, 2015. If LWVO feels the defendants are not complying with the terms of the settlement agreement, we may file a complaint with Chief Judge James C. Carr any time until that date. LWVO is developing a plan to monitor compliance with

the many provisions of the settlement agreement. We will be requesting the involvement of interested League members and coalition partners, so continue to watch future LWVO communications as that plan firms up.

The sustained efforts of many League members and supporters over the years produced this important victory for voting rights in Ohio. This is the power of the League, and we have channeled it into our imPACT program for political reform - election reform, campaign finance reform, redistricting, judicial independence and accountability. Thank you for all your work and support that brought us to where we are today. This includes not only the specific work on the lawsuit, but the election monitoring, poll worker volunteering, elections advocacy and stature in your communities that gave the League our body of evidence, our knowledge and our credibility resulting in this significant achievement. And thank you for your future work and support that will help us achieve further reforms.

About the League of Women Voters of Ohio

The League of Women Voters of Ohio is located in Columbus, Ohio and has 33 local affiliate organizations around the state. The mission of the League of Women Voters is to encourage informed and active participation in government and to influence public policy through education and advocacy. For more information, go to www.lwvohio.org