

**RESPONDENTS' BRIEF IN RESPONSE TO THE COURT'S
ORDER OF SEPTEMBER 24, 2009**

In *State ex rel. LetOhioVote.org v. Brunner*, No. 2009-1310, 2009-Ohio-4900, the Court held that all the video lottery terminal (“VLT”) provisions in Am.Sub.H.B.1 were subject to the referendum power, and it ordered that their effective date be stayed for 90 days. The Court then directed the parties here to brief the issue of whether it has jurisdiction to proceed in this case.

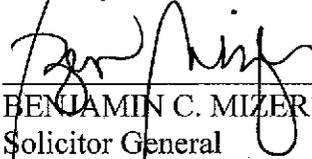
Relators have filed a complaint for declaratory judgment, invoking the Court’s jurisdiction under a provision in Am.Sub.H.B.1 that vested original, exclusive jurisdiction in this Court to adjudicate claims pertaining to VLTs. Compl. ¶ 13 (citing amended R.C. 3770.21(D)). That provision, like all the other VLT provisions in Am.Sub.H.B.1, is not in effect. Instead, the provision is stayed for 90 days. See *LetOhioVote.org*, 2009-Ohio-4900 at ¶ 54.

In light of the Court’s decision in *LetOhioVote.org*, Relators have “acknowledge[d] that at present, this court lacks subject-matter jurisdiction [over] the claims” in this case. (Relators’ Br. 2). Respondents agree. Given the Court’s decision to stay the effective date of amended R.C. 3770.21(D), the Court lacks jurisdiction over Relators’ declaratory judgment action at this time.

The Court should therefore dismiss Relators’ complaint for lack of jurisdiction.

Respectfully submitted,

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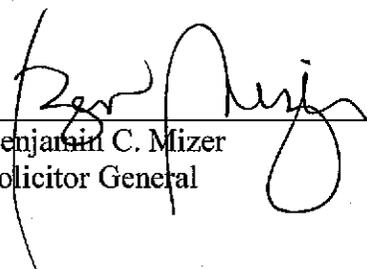
CERTIFICATE OF SERVICE

I certify that a copy of the above Respondents' Brief in Response to the Court's Order of September 24, 2009, was served by U.S. mail on this 9th day of October 2009 upon the following counsel:

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