

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE. *ex Rel.* Traci Johnson :  
2448 Pearsonway :  
Hilliard, Ohio 43026 :

Case No. 10-0657

Relator, :

Original Action in Mandamus

vs :

Expedited Election Case Under  
S.Ct. Prac. R. 10.9

HON. JENNIFER BRUNNER :  
OHIO SECRETARY OF STATE :  
180 East Broad Street :  
Columbus, Ohio 43015 :

and :

FRANKLIN COUNTY BOARD :  
OF ELECTIONS :  
250 East Broad Street :  
Columbus, Ohio 43015 :

Respondent's cont., :

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COMPLAINT FOR WRIT MANDAMUS

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Traci Johnson  
2448 Pearsonway  
Hilliard, Ohio 43026  
(614) 921-8722  
info@johnsonforussenate.com

Richard Cordray (0038034)  
OHIO ATTORNEY GENERAL  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43015  
(614) 466-4320  
(614) 466-5087 Fax  
Counsel for Respondent Ohio  
Secretary of State

FILED  
APR 13 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

Ronald J. O'Brien (0026965)  
FRANKLIN COUNTY  
PROSECUTING ATTORNEY  
373 South High Street, 14th Floor  
Columbus, Ohio 43015  
(614) 462-3555  
(614) 462-6193 Fax  
Counsel for Respondent Franklin  
County Board of Elections

LUCAS COUNTY BOARD  
OF ELECTIONS  
One Government Center  
Suite 300  
Toledo, OH 43604

HAMILTON COUNTY BOARD  
OF ELECTIONS  
824 Broadway  
Cincinnati, Ohio 45202-134

SUMMIT COUNTY BOARD  
OF ELECTIONS  
470 Grant Street  
Akron, Ohio 44311

LORAIN COUNTY BOARD  
OF ELECTIONS  
1985 North Ridge Rd., East  
Lorain, OH 44055

CUYAHOGA COUNTY BOARD  
OF ELECTIONS  
2925 Euclid Avenue  
Cleveland, Ohio 44115

Respondents.

Julia Bates  
LUCAS COUNTY  
PROSECUTING ATTORNEY  
Adams and Erie Streets  
Toledo, OH 43604  
Ph: (419) 213-4700  
Fx: (419) 213-4595

John Deters  
HAMILTON COUNTY  
PROSECUTING ATTORNEY  
230 E. Ninth Street  
Suite 4000  
Cincinnati, Ohio 45202  
Phone: (513) 946-3000  
Fax: (513) 946-3100

Sherri Bevan Walsh  
SUMMIT COUNTY  
PROSECUTING ATTORNEY  
53 University Ave.  
Akron, OH 44308-1680  
330-643-2800 phone  
330-643-2137 fax

Dennis Will  
LORAIN COUNTY  
PROSECUTING ATTORNEY  
200 West Erie Avenue  
Second Floor  
Lorain, Ohio 44052  
(440) 204-2230

Bill Mason  
CUYAHOGA COUNTY  
PROSECUTING ATTORNEY  
Justice Center Bld. Floor 8th and 9th  
1200 Ontario Street, Cleveland, OH-44113  
Phone: 216.443.7800  
Fax: 216.698.2270

Now comes Relator Traci Johnson, on relation to the State of Ohio, and for her Complaint for Writ of Mandamus against Respondents Ohio Secretary of State Jennifer Brunner and the Franklin Lucas, Hamilton, Summit, Lorain and Cuyahoga County Boards of Elections, states as follows:

### **INTRODUCTION**

1. This is an original action for a writ of mandamus to compel the Secretary of State to certify Relator Traci Johnson as a candidate for the Democratic Party's nomination for election to the office of the United States Senate and to instruct the 88 county boards of elections to place her name on to the ballot for the upcoming Democratic Party Primary Election.

### **JURISDICTION**

2. This court has original jurisdiction over this action pursuant to Article IV, Section 2(B)(1), et seq. of the Ohio Constitution.

### **PARTIES**

3. Relator Traci Johnson is a qualified elector residing in Franklin County who desires to be a candidate for the Democratic Party nomination for election to the office of the United States Senate.

4. Respondent Jennifer Brunner is the Ohio Secretary of State, chief elections officer of the State of Ohio and candidate for the Democratic Party nomination for election to the office of the United States Senate.

5. Respondents, Franklin, Lucas, Hamilton, Summit, Lorain and Cuyahoga County Board of Elections are the 6 out of 17 Board of Elections that received part petitions from the Secretary of State and was tasked to verify signatures for Traci Johnson pursuant to instruction found in Directive 2010-20. A true and accurate copy of the Directive 2010-20 is attached as Exhibit I and made a part hereof.

## ALLEGATIONS

6. R. C. Chapter 3513 sets forth the requirements for ballot access for persons desiring to become a candidate for a party nomination. In non-presidential primary years, such persons must file a declaration of candidacy and petition on or before the seventy-fifth day before the day of the primary election. The requirements for the form and content of the declaration and petition are found in R.C. 3513.07.

7. To qualify as a candidate for the Democratic nomination for election to the office of United States Senate, Ms. Johnson needed to file, on or before February 18, 2010, a Declaration of Candidacy and Petition containing the signatures of at least 1,000 electors who are members of the Democratic Party.

8. The Ohio Secretary of State publishes Form No. 2-B, entitled "Declaration of Candidacy: Party Primary Election," for use by persons desiring to become a candidate for a party nomination.

9. On February 18, 2008, Ms. Johnson personally filed her Declaration of Candidacy and Candidate Petition (on Form No. 2-B) with the Secretary of State (hereafter referred to as the "Petition" or "Part Petition")

10. At the time of this filing, the Secretary of State's office issued Ms. Johnson a Receipt # 669136 indicating and acknowledging that she had filed approximately 2100 signatures. The receipt is dated as being received on February 18, 2010. The original petition was time stamped at 12:05pm and accompanied by the dated receipt. A true and accurate copy of the receipt is attached as Exhibit 2 and made a part hereof.

11. On March 5, 2010, the Secretary's office sent a letter, which Ms. Johnson received on March 10 via regular mail, stating that the Secretary was not certifying her candidacy due to a

lack of sufficient valid signatures. The letter informed Ms. Johnson that she had 834 valid signatures and that her name would not appear on the Democratic Party's ballot at the May 4, 2010 Primary Election. A true and accurate copy of the letter is attached as Exhibit 3 and made a part hereof.

12. On March 11, 2010, Ms. Johnson campaign began to validate the close to 1024 invalid signatures on the "Part Petitions" for 17 counties boards of elections. Then discovered, on March 5, 2010, the secretary of state issued Directive 2010-42 to the county boards of elections. The directive contained the form of the primary-election ballots for the major and minor political parties, but Johnson's name did not appear on the form as a candidate for the primary election. By letter dated the same day that the directive was issued; the secretary of state notified Johnson that she was not certifying her candidacy, because of a lack of sufficient valid signatures on his petition. The Secretary determined that Johnson had submitted 834 signatures, which was 166 signatures less than the 1000 valid signatures required for her name to be placed on the primary-election ballot.

13. On March 24, 2010, Ms. Johnson contacted the Secretary's office, requesting to have a second review of her part petitions, calling into question approx. 170 errors identified.. Encouraged by the March 10, 2010, invitation by the Secretary to Mr. Steve Christopher (STATE *ex rel.* STEVE CHRISTOPHER) "I'm surprised that he hasn't just called or come to our- office to try to resolve what he claims are discrepancies ..... We would be more than happy to work through this issue with him, if he would ask us." Ms. Johnson called the Secretary's office expecting the same invitation. Instead was transferred to Brian Shinn, Elections Attorney for the Secretary of State. She was denied the above assistance and referred to the Ohio Supreme Court.

14. Upon review of the checked petitions and work logs, the Secretary claims that Ms. Johnson is 166 signatures short of the required 1000 valid signatures. Upon review of the part petitions checked by the 6 Board of Elections (listed above in 5.), it is clear that the Boards did not follow the Law and Directive 2010-20 with regard to 170 or more signatures of the 1024

signatures that were invalidated by the 6 County Boards of Elections (listed above in 5.). A copy of the work log is attached as Exhibit 4 and made a part hereof.

15. Upon review of the checked part petitions, it became clear, Boards of Elections used different standards to validate part petitions. What is valid and acceptable in one county is invalid and disqualified in another county. Disproportionate resources in the counties add to the unconstitutional legitimacy of the validation process. Refusing to certify Ms. Johnson's nominating petitions is an unconstitutional infringement of her right to ballot access and the right of a voter to vote for a candidate of their choice as guaranteed by the First and Fourteenth Amendments of the Constitution of the United States of America.

16. Upon review of the checked part petitions, it became clear that the 6 Board of Elections did not follow the Law and the Directive 2010-20 with regard to validating signatures on Ms. Johnson's part petitions. Noting the different standards use to evaluate petition by the boards of election and rejecting valid signatures that would justify Ms. Johnson's placement on the Ballot.

17. Prior to April 9, 2010, Ms. Johnson was verifying petitions, seeking ballot access options which included working with Boards of Elections across 17 counties, contacting the Secretary and Governor to rectify the mistake absent litigation. The 6 board of elections responded that they would need to be contacted or be provided a directive from the Secretary of State and a directive could be received absence litigation. Ms. Johnson contacted the Secretary repeatedly March 24, 2010 and April 9, 2010 (copy of email in exhibit 5) to confirm information and to seek additional recourse. On April 9, 2010 she was transferred to Brian Shinn, Elections Attorney for the Secretary of State who said in so many words, give up and go away. The Secretary is Ms. Johnson opponent in this US Senate race. Ms. Johnson diligently sought legal counsel due to the lack of above assistance. Due to the amount time (May 4<sup>th</sup> primary election) in which to find a positive resolution, these mistakes could not expeditiously be resolved. Ms Johnson has requested assistance from the Secretary - her opponent and the Governor in letters dated April 8, 2010. A true and accurate copy attached of email and letters as Exhibit 5 and made

a part hereof.

18. Since April 13, the 6 Board of Elections and Secretary has refused to conduct a second review of Ms. Johnson's part petitions in compliance with Directive 2010-20.

### **CLAIM FOR WRIT OF MANDAMUS**

19. Relator restates the allegations in paragraphs I through 18 as if fully restated herein.

20. Relator's Petition satisfies the requirements of R.C. 3513.05 and other applicable provisions of Ohio election law. Notwithstanding the invalidation of some signatures, the Petition, which Relator filed with the Secretary of State on February 18, 2010, contains a sufficient number of valid signatures of electors who are qualified to sign the declaration of candidacy party primary petition for statewide candidates of the Democratic Party.

21. Accordingly, the Secretary has a clear legal duty to certify Relator as a candidate for the Democratic Party nomination for election to the office of US Senator the same office the Secretary herself is seeking this election as Ms. Johnson's opponent. Also to instruct the county boards of election to place her name on the ballot for the Democratic Party Primary election on May 4, 2010.

22. The alternative, the Secretary has a clear legal duty to send all of the part petitions that Relator filed with her office on February 18, 2010, to the county boards of elections for verification and, upon being informed by the boards of elections that Relator's Petition contains 1,000 or more valid signatures, to certify Relator's candidacy and instruct the county boards of elections to place her name on the Democratic Primary ballot.

23. The Secretary and the County Board of Elections abused their discretion and acted in clear disregard of the law by not following Directive 2010-20 with regard to Ms. Johnson's part petition. This then led to the Secretary not issuing verification on and not certifying, Ms. Johnson candidacy for the Democratic Party nomination for election to the office of United States Senate.

24. Relator has a clear legal right to be certified as a candidate and to have her name placed on the ballot for the Democratic Party primary. In the alternative, Relator has a clear legal right to have the Boards of Elections follow Directive 2010-20 with regard to verifying signatures on part petitions.

25. Relator has no other adequate remedy at law.

WHEREFORE, Relator prays for judgment against Respondents and that the Court:

A. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter in controversy in order that such declarations shall have the force and effect of final judgment and that the Court retain jurisdiction of this matter for the purpose of enforcing the Court's Orders;

B. Issue a Peremptory and/or Permanent Writ of Mandamus directing the Secretary of State to certify Relator as a candidate for the Democratic Party's nomination for election to the office of United States Senate and to instruct the county boards of election to place her name on the Democratic Party Primary ballot for May 4, 2010, or general thereafter.

or

C. In the alternative, issues a Peremptory and/or Permanent Writ of Mandamus directing the Boards of Elections to conduct a second review of her part petition which Relator filed on February 18, 2010, in conformity with Directive 2010-20 and, further, upon hearing from the boards that Relator submitted 1858 signatures, to certify Relator as a candidate for the Democratic party nomination for election to the office of the United States Senate; for the primary or general election.

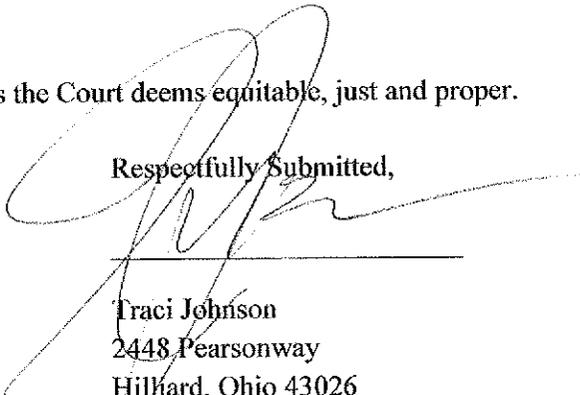
or

D. Issue a Peremptory and/or Permanent Writ and/or an Alternative Writ of Mandamus directing the Secretary of State to allow Relator as a candidate for the Democratic Party's nomination for election to the office of United States Senate to re-do petition process in the counties that provide more access resources and options.

E. Issue an Alternative Writ staying the Secretary's decision not to certify Relator as a candidate and, further, directing the Secretary to instruct the county boards of elections to place Relator's name on the Democratic Party Primary ballot pending the Court's resolution of Relator's mandamus claim;

F. Grant such other and further relief, as the Court deems equitable, just and proper.

Respectfully Submitted,

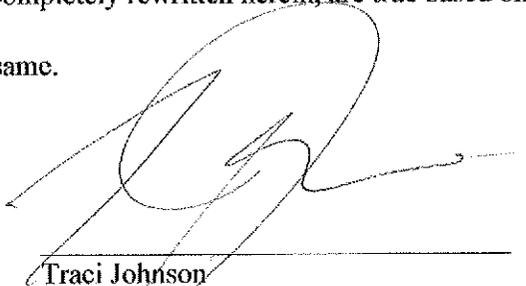


Traci Johnson  
2448 Pearsonway  
Hilliard, Ohio 43026  
(614)921-8722  
info@johnsonforussenate.com

**AFFIDAVIT**

STATE OF OHIO                    )  
  )        ss:  
(COUNTY OF FRANKLIN        )

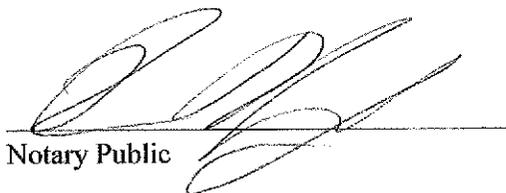
I, Traci Johnson, being first duly sworn according to law, depose and state that I have read the foregoing complaint for Writ of Mandamus and the statements contained in the Complaint, which are incorporated and made, as part of this Affidavit as if completely rewritten herein, are true based on my personal knowledge and I am competent to testify to same.

  
Traci Johnson

Sworn to and subscribe to in my presence 15<sup>th</sup> this day of April, 2010.



BERNARD HARRIS JR.  
Notary Public, State of Ohio  
My Commission Expires Mar. 12, 2013

  
Notary Public

**PRAECIPE TO CLERK**

Please serve the foregoing Complaint for Writ of Mandamus on the Respondents named herein as follows:

HON. JENNIFER BRUNNER  
OHIO SECRETARY OF STATE  
180 East Broad Street  
Columbus, Ohio 43015

HAMILTON COUNTY BOARD  
OF ELECTIONS  
824 Broadway  
Cincinnati, Ohio 45202-134

And

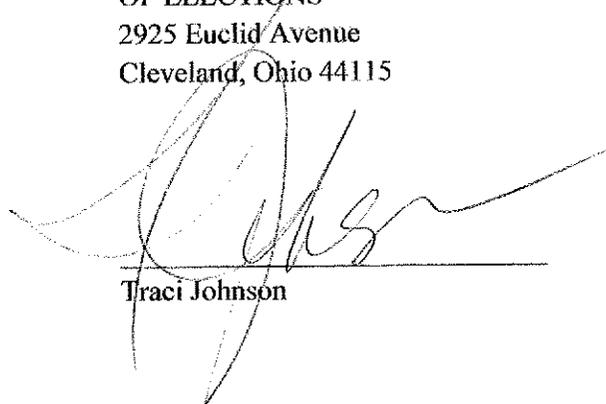
FRANKLIN COUNTY BOARD  
OF ELECTIONS  
250 East Broad Street  
Columbus, Ohio 43015

SUMMIT COUNTY BOARD  
OF ELECTIONS  
470 Grant Street  
Akron, Ohio 44311

LUCAS COUNTY BOARD  
OF ELECTIONS  
One Government Center  
Suite 300  
Toledo, OH 43604

LORAIN COUNTY BOARD  
OF ELECTIONS  
1985 North Ridge Rd., East  
Lorain, OH 44055

CUYAHOGA COUNTY BOARD  
OF ELECTIONS  
2925 Euclid Avenue  
Cleveland, Ohio 44115



Traci Johnson

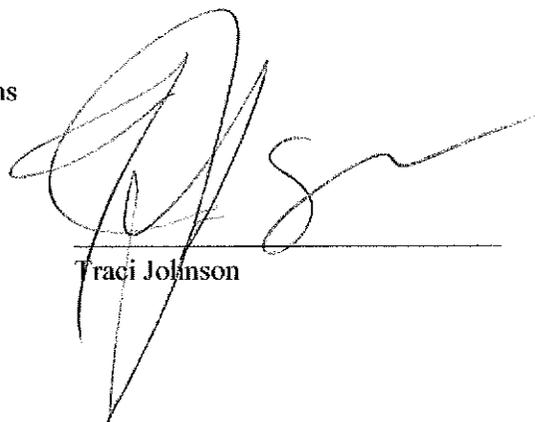
**CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing document was sent by fax to the following on

this 15 day of April 2010:

Richard Cordray (0038034)  
OHIO ATTORNEY GENERAL  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43015  
(614) 466-4320  
(614) 466-5087 Fax  
Counsel for Respondent Ohio Secretary of State

Ronald J. O'Brien (0026965)  
FRANKLIN COUNTY PROSECUTING ATTORNEY  
373 South High Street, 14th Floor  
Columbus, Ohio 43015  
(614) 462-3555  
(614) 462-6193 Fax  
Counsel for Respondent Franklin County Board of Elections



Traci Johnson



**JENNIFER BRUNNER**  
**OHIO SECRETARY OF STATE**

160 EAST BROAD STREET, 16TH FLOOR  
COLUMBUS, OHIO 43215 USA  
TEL: 1-877-767-6446 FAX: 1-614-644-0649  
WWW.SOS.STATE.OH.US

**DIRECTIVE 2010-20**

February 22, 2010

To: ALL COUNTY BOARDS OF ELECTIONS

Re: **Petition of Traci Johnson for U.S. Senate**

Enclosed for your review and verification is Traci Johnson's declaration of candidacy and petition for statewide office of U.S. Senate that was filed in the Secretary of State's office on **February 18, 2010**. The facts of qualification for signers and circulators of the part petitions are determined **as of the date the petition was filed** in the Secretary of State's office, that is: **February 18, 2010**. Please note that this differs from the standard used for the state issue part petitions you recently examined, for which those qualifications were determined based on the date a part petition was examined by the board, not the date the petition was filed.

You must examine the petitions according to the requirements of R.C. 3513.05 (requirements of declarations of candidacy), R.C. 3501.38 (rules governing petitions), R.C. 3501.011 (definition of "signature"), and the enclosed instructions. Your board must certify the validity and sufficiency of the petition papers by **March 1, 2010**. All petition papers and certification forms must be returned to this office by **March 3, 2010**, via a method that provides a record of sending, tracking while in transit, and receipt upon delivery. (Examples: Certified U.S. Mail, UPS, FedEx.) You also may return them in person.

When examining each part-petition, please remember that:

- o A **signer** of the subject declaration of candidacy must be a qualified elector whose qualifying voting address is located in the State of Ohio and must be affiliated with the **Democratic Party** (see below for more details on this issue).
- o A federal court has ruled unconstitutional the provision of R.C. 3503.06(A) that required a circulator of a declaration of candidacy or nominating petition to be a resident of Ohio. Consequently, a **circulator** of the subject declaration of candidacy is not required to be a qualified elector of Ohio. However, if the circulator is a qualified elector of Ohio, the circulator must be affiliated with the **Democratic Party**, *unless* the circulator is the candidate named in the petition's declaration of candidacy and is exempted by R.C. 3513.191(C)(4) from the party affiliation rule contained in the seventh paragraph of R.C. 3513.05.

For purposes of **signing** or **circulating** a petition of candidacy for major political party nomination or election under R.C. 3513.05, an elector is considered to be a member of a political party of the candidate if the signer or circulator *either*:

- o Voted in that party's primary election within the preceding two calendar years (2008-2009), or
- o Did not vote in any other party's primary election within the preceding two calendar years (2008-2009).

EXHIBIT  
1

We remind you that, although R.C. 3501.38(C) provides that a *signer's* address on a petition must match the signer's address on file with the board of elections, no such requirement extends to the addresses of *candidates* or *circulators*. (While this does not seem to be what would be the spirit of the law, it is the letter of the law, and until changed by the state legislature, we must follow this result.) This is because state law merely requires that a candidate for U.S. Senate must be a qualified elector of the State of Ohio. Consequently, there is no basis in law for invalidating a part petition solely because the address of the candidate and/or circulator on that part petition differs from the address on file with a board of elections.

If you receive one or more part petition papers signed by a circulator who is an Ohio elector from another county, please contact that county's board of elections to confirm the circulator's registration and party affiliation.

If you have any questions concerning the petition or any part petition, please call the Elections Division at 614-466-2585. We appreciate your cooperation.

Sincerely,



Jennifer Brummer

Enclosure

**Ohio Secretary of State's Instructions  
to County Boards of Elections regarding  
Examination of 2010 State MAJOR Political Party Candidate Petitions  
(Revised Code Chapters 3501, 3503, and 3513)**

## **CIRCULATORS**

### **A. Qualifications**

A federal court has ruled unconstitutional the provision of R.C. 3503.06(A) that required a circulator of a declaration of candidacy or nominating petition to be an elector or resident of Ohio. (See Advisory 2009-04 ). However, under R.C. 3513.07, circulators of candidate petitions must list the circulator's permanent address. However, unlike signers of petitions, there is no basis in law for invalidating a part-petition if the address of a circulator who is an Ohio elector differs from the address on file with a board of elections.

Ohio Attorney General Opinion 2010-002 (issued January 15, 2010) interpreted R.C. 2961.01(B) and R.C. 2967.16(C) to conclude that persons who were convicted of felony offenses prior to May 2, 2006 are eligible to circulate petitions in Ohio. Additionally, persons who were convicted of felony offenses on or after May 2, 2006, who have served their entire sentence without any post-release control sanctions, who have been granted final release by the Ohio or another state's Adult Parole Authority, or who have completed their period of any community control sanctions (probation) may also circulate petitions in Ohio. You may seek the assistance of your county prosecutor and/or clerk of courts to determine whether a circulator who was convicted of a felony offense after May 2, 2006 is eligible to circulate a petition. Additionally, if you determine that a person who was convicted of a felony offense after May 2, 2006 is not eligible to circulate a petition, please report this information to the Elections Division of the Secretary of State's office. This will assist other boards of elections in determining the qualifications of circulators in their counties.

While circulators of any declaration of candidacy for a partisan candidate are not required to be Ohio electors, if the circulator is an Ohio elector he/she must be affiliated with the political party of the candidate named on that declaration of candidacy or be unaffiliated, *unless* the circulator is the candidate named in that petition and is exempted by R.C. 3513.191(C)(4) from the party affiliation rule contained in the seventh paragraph of R.C. 3513.05. For purposes of circulating a declaration of candidacy, an elector is considered affiliated with a political party of the candidate if the circulator *either*:

1. Voted in that party's primary election within the preceding two calendar years (2008 or 2009), or
2. Did not vote in any other party's primary election within the preceding two calendar years.

### **B. Circulator's Statement**

Each part petition must contain a circulator's statement that is completed as required by law. The circulator's statement must include the following information:

1. The number of signatures witnessed by that circulator,
2. The signature of the circulator,
3. The circulator's permanent residence address (does **not** have to be an address in Ohio), and
4. The name *and* address -- e.g., street name and number, city, and state; or post office box number, city, and state; or street name and number, and zip code; or post office box number and zip code -- of the employer of the circulator who has employed the circulator to circulate the part petition, but only if the circulator is being employed to circulate the petition. **In the absence of inconsistencies on or between the circulator statements on part petitions circulated by the same individual or a protest filed regarding part petitions circulated by paid circulators, the board must accept the information contained in the part petition as it appears on its face.**

When the number of signatures on a part petition appears to differ from the number entered in the circulator's statement, the board must examine that part petition to determine the nature of the

inconsistency. If the **number of signatures reported** as being witnessed by the circulator in the circulator's statement is:

- **Equal to or greater than** the total number of signatures not crossed out on the part petition, do not reject the part petition because of the inconsistent signature numbers.

*Example:* The circulator's statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.

- **Less than** the total number of uncrossed out signatures submitted on the part petition, reject the *entire* part petition.

*Example:* The circulator's statement indicates 20 signatures witnessed, but there are 22 signatures on the petition, none of which were crossed out prior to the petition being filed.

## **SIGNERS**

### **A. Generally**

Signers of a declaration of candidacy or nominating petition must satisfy the requirements of R.C. 3501.38, which are set forth below:

1. Only electors qualified to vote on the candidacy or issue which is the subject of the petition shall sign a petition. Each signer shall be a registered elector pursuant to R.C. 3503.11. **The facts of qualification shall be determined as of the date when the petition is filed with the Secretary of State.**
2. Signatures shall be affixed in ink. Each signer may also print the signer's name, so as to clearly identify the signer's signature.
3. Each signer shall place on the petition after the signer's name the date of signing and the location of the signer's voting residence, including the street and number if in a municipal corporation or the rural route number, post office address, or township if outside a municipal corporation. The voting address given on the petition shall be the address appearing in the registration records at the board of elections.
4. Except as otherwise provided in R.C. 3501.382 (attorney in fact), no individual shall sign or write any name other than his or her own name on any petition, and no individual may authorize another to sign for the him or her. If a petition contains the signature of an elector two or more times, only the first signature shall be counted.

It is acceptable for a signer to allow another person to complete the date of signing and the location of the signer's voting residence on the petition. However, one individual may not sign another person's name to a petition without having first been designated that person's attorney in fact in accordance with the specific provisions of R.C. 3501.382. If a person who has not been designated the attorney in fact signs another person's name to a petition, that signature must be rejected by the board of elections. If it is determined the circulator **knowingly allowed** a person who has not been designated the attorney in fact to sign another person's name to a petition, then the *entire* part-petition must be invalidated, because the circulator's statement is untrue (the circulator did not in fact witness the signing of all electors' signatures on the part petition, because the power of attorney signature is invalid as the signature of the elector in question). (R.C. 3501.38(F))

### **B. Qualifications**

Each person who signs a petition must be:

1. A qualified elector of Ohio,
2. Registered to vote at the address provided on the petition as of the date the petition paper is filed with the Secretary of State's office (R.C. 3501.38 (A)), and
3. Affiliated with the political party of the candidate named on that declaration of candidacy. For purposes of signing a declaration of candidacy, an elector is considered affiliated with a political

party of the candidate if the circulator *either*:

- a. Voted in that party's primary election within the preceding two calendar years (2008 or 2009),
- or
- b. Did not vote in any other party's primary election within the preceding two calendar years.

### C. Signatures

Except as provided in R.C. 3501.382 (elector's name signed by an attorney in fact appointed specifically for this purpose – see boxed text below), each elector's signature must be the original signature of that voter and must be written in ink. (R.C. 3501.38(B))

**Authority to Appoint an Attorney in Fact – R.C. 3501.382:**

A registered elector, who, by reason of disability, is unable to physically sign his or her name to a petition, may authorize a qualified individual as an attorney in fact to sign that elector's name to a petition, in accordance with the specific procedures required by that statute.

#### 1. One county per part petition:

Each part petition should contain signatures of electors of only one county. If any part petition contains signatures from more than one county, the Secretary of State determines the county from which the majority of signatures came, and only signatures from that county are to be checked for validity and counted; signatures from any other county are invalid. (R.C. 3513.05) When certifying the number of signatures for each part petition, please include the out-of-county signatures in the list of invalid signatures for a petition that you are certifying as valid.

#### 2. Signature requirements:

- a. To be declared valid, a signature on a part petition must match the signature on file with the board of elections. A board should not invalidate a signature because an elector signed using a derivative of his/her first name, if the board can confirm the identity of the elector. For identification purposes, the elector may print his/her name on the petition *in addition to* signing in cursive his/her name to the petition. A printed signature alone, with no cursive signature, is allowed only if the elector's signature on file with the board is also printed. (R.C. 3501.011, 3501.38)
- b. The signature must be written in ink. (R.C.3501.38(B))
- c. The petition must contain the location of the elector's voting residence, which must:
  - Include the house number and street name or RFD, and the appropriate city, village, or township. A post office box does NOT qualify as an elector's residence address.
  - Be the same address as the elector's voting residence address on file with the board. As noted previously, the address on the petition paper must be the same address on file as of the date the petition was filed with the Secretary of State's office. If an elector's address written on the petition differs from that on file with the board, then the board must invalidate the signature.

**Note: Boards of elections must process all new, valid voter registrations and changes of names and/or address to existing registrations before determining the validity of the signatures on the part petitions.)**

- The petition should indicate the county in which the elector's address is located, but an elector's signature will not be invalidated if election officials can determine the proper county from other information provided on the petition paper. The elector's ward and precinct are **not** required.

### 3. Dates

R.C. 3501.38(C) requires that each signature be followed by the date it was affixed to the petition paper. Do **not** invalidate a signature solely because its date is out of sequence with other signatures.

### 4. Illegible Signature

A signature is illegible only if *both* the signature and address are unreadable, such that it is impossible for board personnel to check the signature against a voter registration record.

### 5. Restrictions on signing the name of another person

- a. Although a person having an elector's standard power of attorney cannot sign the elector's name to a petition, a qualified person who has been appointed as an elector's *attorney in fact* under R.C. 3501.382 may sign that elector's name to the petition paper in the elector's presence and at the elector's direction. You must compare the name signed on the petition by the attorney in fact to the document evidencing the attorney in fact status on file with the board of elections.
- b. In each case where a person, other than a duly-authorized attorney in fact under R.C. 3501.382, signs a name other than his or her own to a petition, the signature must be rejected by the board. If it is determined the circulator **knowingly allowed** a person who has not been designated the attorney in fact to sign another person's name to a petition, then the *entire* part petition must be invalidated, because the circulator's statement is untrue. (R.C. 3501.38(F)).
- c. An elector's "non-signature information" – e.g., the elector's address, county, or the date of signing – may be added by a person other than the elector, with the elector's permission.

### 6. Circulators signing part petitions that he/she circulated

Please note that if a circulator signed a part petition that he/she circulated, then only the circulator's signature is invalid as a signer of the petition.

### 7. Ditto marks

Ditto marks may be used to indicate duplicate information (e.g., date, address or county).

### 8. Marking valid signatures:

- a. If a signature is **valid**, please place a red check mark in the margin to the left of the signature on the petition paper.
- b. If a signature is **invalid**, please indicate why it is invalid, using the appropriate code symbol contained in these instructions (see below).
- c. No one may sign a petition more than once. Please place an identifying mark or insert a computer code on the elector's registration record to ensure that the elector's signature is not counted toward the same petition more than once.
- d. It may be prudent for you to create a database list of the petition signers (both valid and invalid signatures), creating the following fields:
  - Last name
  - First name and middle initial
  - Street address (house number and street name)
  - City, village or township
  - Date of signing

## CERTIFICATION

After the board staff has examined all the parts of the candidate's petition circulated in your county, you must certify your findings to the Secretary of State using the enclosed certification form.

Please return the original completed certification form and part petitions to this office by a trackable method; e.g., in person or by certified U.S. Mail, U.S. Post Office Express Mail, UPS, or Fed EX. Please return the

documents **no later than March 3, 2010**, to:

Ohio Secretary of State  
Elections Division  
180 E Broad St - 15<sup>th</sup> Floor  
Columbus OH 43215

Once all certification forms have been transmitted by boards of elections, the Secretary of State will determine the validity and sufficiency of the petition and notify the candidate or his/her committee.

## CODE SYMBOLS FOR VALIDATING SIGNATURES ON PETITIONS

Each signature must be individually examined. If a signature is valid, please place a red check mark at the left margin beside it. After checking an entire part petition, please **write** on the right side of the front page of each part petition **both the number of valid signers and the initials** of the board employee who checked the part petition under the number.

If a signature is not valid, please indicate the problem with it by using the following lettered codes or, if no lettered code applies, an explanatory notation:

- CIR Circulator signed as an elector the part petition he or she was circulating. (This invalidates the circulator's signature as a signer, but not the entire part petition.)
- DUP "Duplication." The person has signed more than one part petition or twice on the same part petition.
- ILL "Illegible" applies only if both the signature and address are unreadable, so that it is impossible to check the signature against a voter registration record.
- NA "No address." The signer failed to provide a complete address. This means house number and street name or RFD, and the appropriate city, village, or township. Failure to provide the name of the county of residence does not invalidate the signature if board officials can determine the county from the other information given. Ward and precinct information is not required. Ditto marks are acceptable if they refer to an address for the elector that appears in the board of elections' records.
- ND "No Date." The petition does not indicate the date on which the signature was affixed. (However, acceptable are: month-date-year, month-date, date out of sequence with other signers' dates, ditto marks.)
- NG  
PS "Not Genuine." The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, compared to the signature on file with the board of elections as of the date the board checks the petition.
- NR "Not Registered." The signer is not registered to vote. Each person who signs a part petition must be a qualified elector **as of the date the petition was filed with the Secretary of State's office.**
- NRA "Not Registered Address." The address provided on the part petition is not the address on file with the board of elections **as of the date the petition was filed with the Secretary of State's office.**
- OC "Other County." The signer is a resident of some other county. **Do not cross out signature or address; instead, place "OC" code at left margin.**
- P "Pencil." The signature was written using a pencil.
- WP  
op "Wrong Party." The signer or circulator, based on his or her 2008 or 2009 primary voting history, is affiliated with a political party different than the candidate. (An unaffiliated and/or unregistered individual may circulate the petition).

If the number of signatures on a part-petition is **more than** the number indicated by the circulator, **the entire part petition is invalid.**

When invalidating an entire part petition, please indicate the reason for rejection on the front of that part petition and separate it from any valid part petition. **Do not invalidate a part petition for the sole reason that it does not contain any valid signatures; it is a valid part petition, but it contains no ("zero") valid signatures.**

**REPORTING FORM  
STATEWIDE CANDIDATE PETITION**

**Candidate:**            **Traci Johnson**  
**Office Sought:**      **U.S. Senate**  
**Political Party:**      **Democratic**

On behalf of the Board of Elections of \_\_\_\_\_ County, I  
hereby certify that we have examined the enclosed part-petitions. The number of valid  
and invalid signatures on the part-petitions of **Traci Johnson, Democratic**  
candidate for the office of **U.S. Senate**, are as follows:

	<b>PETITIONS</b>	<b>SIGNATURES</b>
1. Number of valid part petitions .....	_____	_____
Number of <b>valid</b> signatures .....	_____	_____
Number of <b>invalid</b> signatures .....	_____	_____
2. Number of invalid part petitions .....	_____	_____
Number of signatures on invalid part petitions .....	_____	_____
3. <b>Total</b> number of <b>part petitions</b> received (valid and invalid) .....	_____	_____
4. <b>Total</b> number of <b>signatures</b> on part petitions (valid and invalid) .....	_____	_____

Director's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Please keep a copy of this completed form for your files.**

RECEIPT

DATE	Feb. 18, 2010	No.	669136
RECEIVED FROM	Traci Johnson		\$150.00
	one hundred and fifty		DOLLARS
<input type="radio"/> FOR RENT	filing fee us senate		
<input checked="" type="radio"/> FOR			
ACCOUNT		<input type="radio"/> CASH	FROM 2,100 signatures TO <span style="border: 1px solid black; padding: 2px;">EXHIBIT 2</span>
PAYMENT		<input type="radio"/> MONEY ORDER	
BAL. DUE		<input checked="" type="radio"/> CHECK	
		<input type="radio"/> CREDIT CARD	
		BY	<i>Bruce E. Sh...</i>

1182



**JENNIFER BRUNNER**  
**OHIO SECRETARY OF STATE**

180 EAST BROAD STREET, 16TH FLOOR  
COLUMBUS, OHIO 43215 USA  
TEL: 1-877-767-6446 FAX: 1-614-644-0649  
[WWW.OSSE.STATE.OH.US](http://WWW.OSSE.STATE.OH.US)

March 5, 2010

Traci Johnson  
2448 Pearson Way  
Hilliard, OH 43026

Re: Declaration of candidacy and petition

Dear Ms. Johnson:

On February 18, 2010, you filed a declaration of candidacy and petition with the Ohio Secretary of State's office seeking the Democratic Party's nomination for the office of United States Senator at the May 4, 2010 Primary Election.

I regret to inform you that your candidacy was not certified due to a lack of sufficient valid signatures. Ohio law requires at least 1000 valid signatures from Ohio electors who are affiliated with the same political party as the candidate or who are unaffiliated. You only submitted 834 valid signatures with your declaration of candidacy and petition. This means that your name will not appear on the Democratic Party's ballot at the May 4, 2010 Primary Election.

You may contact Brian E. Shinn, Assistant General Counsel and Chief Elections Counsel, at 614-466-2585, if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael Rankin".

Michael Rankin  
Assistant Secretary of State

EXHIBIT  
3

## Traci Johnson

Democratic Candidate for US Senate

Received by the Secretary of State 02/18/2010

Sent to the Boards of Elections 02/26/2010

	Number of Part Petitions Sent	Number of Valid Part Petitions	Number of Valid Signatures	Number of Invalid Signatures	Number of Invalid Part Petitions	Number of Signatures on Invalid Part Petitions	Number of Signatures Sent
Adams	0	0	0	0	0	0	0
Allen	0	0	0	0	0	0	0
Ashland	0	0	0	0	0	0	0
Ashtabula	0	0	0	0	0	0	0
Athens	1	1	1	1	0	0	2
Auglaize	0	0	0	0	0	0	0
Belmont	1	1	0	1	0	0	1
Brown	0	0	0	0	0	0	0
Butler	0	0	0	0	0	0	0
Carroll	0	0	0	0	0	0	0
Champaign	0	0	0	0	0	0	0
Clark	1	1	4	1	0	0	5
Clermont	0	0	0	0	0	0	0
Clinton	0	0	0	0	0	0	0
Columbiana	0	0	0	0	0	0	0
Coshocton	0	0	0	0	0	0	0
Crawford	0	0	0	0	0	0	0
Cuyahoga	2	2	8	21	0	0	29
Darke	0	0	0	0	0	0	0
Defiance	0	0	0	0	0	0	0
Delaware	3	3	5	3	0	0	8
Erie	0	0	0	0	0	0	0
Fairfield	4	4	6	3	0	0	9
Fayette	0	0	0	0	0	0	0
Franklin	67	65	565	624	2	44	1233
Fulton	0	0	0	0	0	0	0
Gallia	0	0	0	0	0	0	0
Geauga	0	0	0	0	0	0	0
Greene	0	0	0	0	0	0	0
Guernsey	0	0	0	0	0	0	0
Hamilton	1	1	5	13	0	0	18
Hancock	0	0	0	0	0	0	0
Hardin	0	0	0	0	0	0	0
Harrison	0	0	0	0	0	0	0

EXHIBIT  
4

# Traci Johnson

Democratic Candidate for US Senate

Received by the Secretary of State 02/18/2010

Sent to the Boards of Elections 02/26/2010

	Number of Part Petitions Sent	Number of Valid Part Petitions	Number of Valid Signatures	Number of Invalid Signatures	Number of Invalid Part Petitions	Number of Signatures on Invalid Part Petitions	Number of Signatures Sent
Henry	0	0	0	0	0	0	0
Highland	0	0	0	0	0	0	0
Hocking	0	0	0	0	0	0	0
Holmes	0	0	0	0	0	0	0
Huron	0	0	0	0	0	0	0
Jackson	0	0	0	0	0	0	0
Jefferson	0	0	0	0	0	0	0
Knox	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Lawrence	0	0	0	0	0	0	0
Licking	5	5	6	2	0	0	8
Logan	0	0	0	0	0	0	0
Lorain	2	2	20	9	0	0	29
Lucas	20	20	179	230	0	0	409
Madison	0	0	0	0	0	0	0
Mahoning	1	1	1	1	0	0	2
Marion	0	0	0	0	0	0	0
Medina	0	0	0	0	0	0	0
Meigs	0	0	0	0	0	0	0
Mercer	0	0	0	0	0	0	0
Miami	0	0	0	0	0	0	0
Monroe	0	0	0	0	0	0	0
Montgomery	2	2	2	1	0	0	3
Morgan	0	0	0	0	0	0	0
Morrow	0	0	0	0	0	0	0
Muskingum	0	0	0	0	0	0	0
Noble	0	0	0	0	0	0	0
Ottawa	0	0	0	0	0	0	0
Paulding	0	0	0	0	0	0	0
Perry	0	0	0	0	0	0	0
Pickaway	0	0	0	0	0	0	0
Pike	0	0	0	0	0	0	0
Portage	0	0	0	0	0	0	0
Preble	0	0	0	0	0	0	0

## Traci Johnson

Democratic Candidate for US Senate

Received by the Secretary of State 02/18/2010

Sent to the Boards of Elections 02/26/2010

	Number of Part Petitions Sent	Number of Valid Part Petitions	Number of Valid Signatures	Number of Invalid Signatures	Number of Invalid Part Petitions	Number of Signatures on Invalid Part Petitions	Number of Signatures Sent
Putnam	0	0	0	0	0	0	0
Richland	0	0	0	0	0	0	0
Ross	1	1	1	0	0	0	1
Sandusky	0	0	0	0	0	0	0
Scioto	0	0	0	0	0	0	0
Seneca	0	0	0	0	0	0	0
Shelby	0	0	0	0	0	0	0
Stark	1	1	1	0	0	0	1
Summit	5	5	29	70	0	0	99
Trumbull	0	0	0	0	0	0	0
Tuscarawas	0	0	0	0	0	0	0
Union	1	1	1	0	0	0	1
Van Wert	0	0	0	0	0	0	0
Vinton	0	0	0	0	0	0	0
Warren	0	0	0	0	0	0	0
Washington	0	0	0	0	0	0	0
Wayne	0	0	0	0	0	0	0
Williams	0	0	0	0	0	0	0
Wood	0	0	0	0	0	0	0
Wyandot	0	0	0	0	0	0	0
<b>Grand Total</b>	<b>118</b>	<b>116</b>	<b>834</b>	<b>980</b>	<b>2</b>	<b>44</b>	<b>1,858</b>

Required number of valid signatures: 1,000

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**Subject:** RE: Petitions Issues and per our conversation on Friday  
**From:** "Shinn, Brian" <bshinn@sos.state.oh.us>  
**Date:** Mon, Apr 12, 2010 8:04 am  
**To:** <info@johnsonforussenate.com>

Ms. Johnson,

I apologize if you believe that I was rude when we spoke on Friday. That certainly was not my intention.

My suggestion to you on Friday, just as it was when we spoke on March 25, was that you should consult with an attorney of your choice to determine what your rights are and whether you should initiate a court action, as Robert Owens did.

Best wishes,

Brian Shinn

**From:** info@johnsonforussenate.com [mailto:info@johnsonforussenate.com]  
**Sent:** Monday, April 12, 2010 9:43 AM  
**To:** Shinn, Brian  
**Subject:** Petitions Issues and per our conversation on Friday

Good morning, how are you doing? I am sending this email in reference to our conversations on March 24 and Friday, April 9, 2010. I contacted you in an attempt to understand the appeals process to have my signatures re-examined after we had discovered enough mistakes to appear on the May 4<sup>th</sup> primary ballot. In March you informed me that there was no appeal process to utilize and you suggested that we find recourse with the Ohio Supreme Court. On Friday, April 9, 2010, I contacted you to determine if the Ohio Secretary State Office would release my petitions to the Boards of Elections so that they could re-examine the petitions or if there were other options I could utilize to correct the petition mistakes. Your response was very disturbing to me: you were rude and told me in so many words that pursuing this issue can cause impropriety to the elections process, it too late, voting has started, let it go!

My rights have been violated by this office, mistakes have been made on my petitions and no attempts have been made by this office to assist in the resolution. I have done what was requested according to the instructions provided and I should be on the May 4<sup>th</sup> Primary Ballot. I am asking the SOS to do what is right. So I don't appreciate being treated like I did something wrong.

TJ Johnson

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4/14/2010 1:33 PM



**TRACI (TJ) JOHNSON**  
Candidate for  
**UNITED STATES SENATE**  
**OHIO**

April 8, 2010

Ohio Secretary of State  
Honorable Jennifer Brunner  
180 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43215

Re: Declaration of candidacy and petition

Honorable Jennifer Brunner:

This letter is being sent to you in response to your letter dated, March 5, 2010 and subsequent conversations with your office regarding the validity of the petition signatures. When the petitions were re-examined we discovered several mistakes by the Boards of Elections. It however, has been determined that I have enough signatures to appear on the May 4<sup>th</sup> primary ballot.

There were countless mistakes made by the Boards of Elections which should be reviewed; limited amount of time provided to challenge discrepancies before the primary election and policies and procedures that adversely work against candidates in this process. Regardless of time, we must search for the truth and correct these mistakes. I am requesting that these issues be resolved and/or sign a directive allowing me Ballot Access for the May 4<sup>th</sup> Primary.

I understand that this request may be out of the ordinary, but it doesn't seem right to: prevent a legitimate candidate from appearing on the Ballot; disenfranchise voters by limiting their choice of candidates; ignoring the voice of the people who signed the petition to get me on the ballot and for your office not to provide me other options or assistance is just wrong. Every person has the right to have an effective, free, fair, open and honest political process. I am asking for the same rights and privileges afford to every other person of this State. My rights have been violated, so I am appealing to your moral conscientious - to do what is right. As the Chief Elections Officer for the State of Ohio you have the authority to look into these matters expeditiously and place me on the May 4<sup>th</sup> primary ballot. Feel free to contact me should you need additional information.

Sincerely,

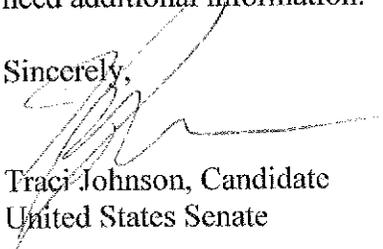
  
Traci Johnson, Candidate  
United States Senate

EXHIBIT  
5



**TRACI (TJ) JOHNSON**  
Candidate for  
**UNITED STATES SENATE**  
**OHIO**

April 8, 2010

Governor's Office  
Riffe Center, 30th Floor  
77 South High Street  
Columbus, OH 43215-6108

Re: Declaration of candidacy and petition

Honorable Governor Ted Strickland,

This letter is being sent to you in response to a letter dated, March 5, 2010 and subsequent conversations with the Ohio Secretary of State's Office (SOS) regarding the validity of my petition signatures. When the petitions were re-examined we discovered several mistakes by the Boards of Elections. It however, has been determined that I have enough signatures to appear on the May 4<sup>th</sup> primary ballot.

There were countless mistakes made by the Boards of Elections which should be reviewed; limited amount of time provided to challenge discrepancies before the primary election and no appropriate or fair appeals process for those who cannot afford to sue. Regardless of time, we must search for the truth and correct these mistakes. I am requesting that these issues be resolved and/or the SOS sign a directive allowing me Ballot Access for the May 4<sup>th</sup> Primary.

As the Governor, I am asking that you look into this matter for resolution because it doesn't seem right to: prevent a legitimate candidate from appearing on the Ballot; disenfranchise voters by limiting their choice of candidates; ignoring the voice of the people who signed the petition to get me on the ballot and for SOS not to provide me other options or assistance is just wrong. Every person has the right to have an effective, free, fair, open and honest political process. I am asking for the same rights and privileges afford to every other person of this State. My rights have been violated, so I am asking for your assistance in search of the truth. As the Chief Elections Officer for the State of Ohio, the SOS has the authority to look into these matters expeditiously and place me on the May 4<sup>th</sup> primary ballot. Feel free to contact me should you need additional information.

Sincerely,

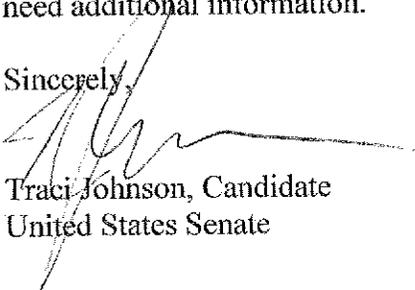
  
Traci Johnson, Candidate  
United States Senate

EXHIBIT  
5