

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Lucas County Republican Party
10 S. Superior
Toledo, OH 43604

Plaintiffs

vs.

Jeffrey Simpson
2319 Deerpath
Toledo OH 43614

and

Paul Hoag
8301 Pilliod
Holland, OH 43528

Defendants

Case No.

Judge:

VERIFIED COMPLAINT WITH
REQUEST FOR INJUNCTIVE
AND DECLARATORY RELIEF

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Through its Attorneys, Plaintiff Lucas County Republican Party, for its Complaint herein alleges upon knowledge and otherwise upon information and belief, as follows:

INTRODUCTION

1. This action has been filed by the Lucas County Republican Party ("LCRP") to stop the violation of its legal rights by Defendants whose illegal acts have resulted in the confusion of perhaps thousands of individuals arising from the infringement of the Lucas County Republican Party's trademark rights and violations of Ohio election law.
2. The LCRP has scheduled a nationally famous speaker, Karl Rove, to appear at a fundraiser in Toledo on January 21, 2010¹.
3. The defendants are causing irreparable harm to the LCRP through their intentionally confusing acts which are directed in bad faith at passing themselves off as the LCRP, disrupting the Rove event, causing breaches of the peace and violence, and disrupting the business and reputation of the LCRP.
4. Plaintiff seeks preservation of the status quo to prevent the irreparable harm, and the opportunity to hold each illegal co-conspirator responsible for their illegal actions through injunctive relief, the award of damages, costs, and attorneys' fees as authorized by the Lanham Act and Ohio Law.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §1331 (Federal Question), 15 USC §1121 and 28 USC §1338 (Trademark Disputes), 15 USC §1116 (Injunctive Relief), and 28 USC §2201-02 (Federal Declaratory Judgment Act).
6. This Court has supplemental jurisdiction over the additional causes of action pursuant to 28 USC §1367, as claims so related to other issues in the action that they form part of the same case or controversy.
7. This Court has personal jurisdiction over the Defendants as they reside within this court's geographical jurisdiction territory.
8. Venue is proper in the United States District Court for the Northern District of Ohio, Western Division under 28 U.S.C. §1391(b).

THE PARTIES

¹ See <http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20091219/NEWS09/912190348/-1/RSS>

9. Plaintiff, Lucas County Republican Party, ("LCRP") is a political association duly organized and existing under the laws of the State of Ohio and has its principal place of business at 10 S. Superior St., Toledo, Ohio 43604, Lucas County, Ohio.
10. Defendant, Jeffrey Simpson., is an individual and his residence is in Lucas County, Ohio.
11. Defendant Paul Hoag is an individual and his residence is in Lucas County, Ohio.
12. Defendants Doe 1 through 10 are individuals who have acted as agents, in concert with, as conspirators with, or as joint tortfeasors with, the other defendants or individually to bring about the injuries complained of herein.

FACTUAL BACKGROUND

13. Plaintiff LCRP is the owner trademark LUCAS COUNTY REPUBLICAN PARTY. The Lucas County Republican Party mark has been used in commerce by Plaintiff or its predecessor in interest since at least as early as 1960.
14. Since its inception, the LCRP has served the purpose of recruiting, promoting and electing qualified Republicans for public office and raising money to accomplish these goals. It has done so to further the cause of good government; and to educate the electorate about the issues of the day (Exhibit A attached to TRO memorandum)
15. The Central Committee is the controlling committee of the LCRP and its members form an Executive Committee having powers enumerated by the LCRP Bylaws ("Bylaws"). The Central Committee and the Executive Committee are "organized" every two years, within six to 15 days after the Board of Elections' declares the results of a primary election held in even-numbered years.
16. The process by which a committee must "organize" is mandated by R.C. 3517.04 through 3517.06 and the bylaws and requires that the newly elected precinct committeeman vote at an organizational meeting to elect the central committee officers that include Chairman, Vice-Chairman, Secretary, and Treasurer and Executive Committee Chairman.
17. During the most recent organizational meeting, held on June 14, 2008, Jon Stainbrook was elected Chairman and Hans Schnapp was elected Secretary of the Executive Committee and

Meghan Gallagher was elected Chairman and Mark Nowak was elected Secretary of the Central Committee and a list of the organized central committee and a list of the organized executive committee was filed with the Secretary of State and the Lucas County Board of Elections pursuant to the requirements of 3517.06.(Exhibit C attached to TRO memorandum)

18. Since the June 14, 2008 organizational meeting, the organized committees have met multiple times to conduct party business.
19. A regular central committee meeting was held on Monday December 21, 2009 at 10 S. Superior, Toledo, OH 43604, at the offices of the LCRP.
20. Pursuant to the Bylaws VI (C), the Secretary shall take and transcribe the minutes of all meetings, shall conduct all correspondence on behalf of the Committee, shall notify members of the time and place of all meetings in accordance with the requirements of R.C. Chapter 3517 and these bylaws, and shall perform other duties as directed by the Chairman.
21. On December 15, 2009, the central committee Secretary mailed a meeting notice containing an agenda of the orders of business to be conducted at the December 21, 2009 Central Committee meeting, thus giving members the Central Committee a minimum of 5 days notice as required in the bylaws V(E).
22. On December 21, 2009, a meeting of the LCRP Central Committee was held in accordance with the Bylaws, and Chairman of the central committee Chairman Meghan Gallagher presided over the meeting in accordance with bylaws Section VI(A)(1) .
23. The only orders of business conducted at the meeting were those included on the meeting notice.(Exhibit G attached to TRO memorandum)
24. Upon information and belief the defendants organized numerous people to attend the December 21, 2009 meeting who were not duly elected or appointed members of the central committee. Many of these people were drunk and disorderly and necessitated the appearance of the Toledo Fire Department and numerous Toledo Police to keep the peace and prevent violence at the meeting².
25. Given the large number of people attending the meeting, the Chairman of the central

² See <http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20091222/NEWS16/912220368/-1/RSS>

committee consistent with her duty to preside over all meetings, opened the space on the second floor to accommodate the extra people. Article VI (A)(1) of the Bylaws states that the Chairman shall preside at all meetings of the Central Committee.

26. Chairman Gallagher and Kelly Bensman stood at the bottom of the stairs to make sure that people admitted to the meeting were in fact central committee members that were allowed to vote at the meeting. Prior to going up stairs each person gave their name to Chairman Gallagher and Kelly Bensman.
27. While central committeeman Anthony Boellner was checking in with Gallagher and Bensman, he called the fire department and asked that they come to the building because he felt a fire or safety code was being violated.
28. Gallagher and Bensman continued to check central committee members in when the fire department arrived and informed Chairman Stainbrook, Gallagher and Bensman that no meeting was allowed to be conducted until the fire department was able to perform an inspection of the building. Gallagher and Bensman proceeded to check other members in while the inspection was being conducted.
29. After all members were checked in, Gallagher and Bensman waited for the fire department to complete the inspection.
30. When the fire inspector gave the go ahead to have the meeting, Gallagher proceeded to immediately commence the meeting and called it to order. Defendant Simpson agrees that Gallagher commenced the meeting³.
31. Chairman Gallagher next asked for the approval of the agenda as it was printed and mailed to members. With an overwhelming say of "aye," she accepted the agenda and proceeded.
32. The first order of business was the discussion of volunteer opportunities for the 2010 races.
33. Chairman Stainbrook announced the LCRP Lincoln Day Dinner and affirmed that Karl Rove had agreed to appear at this fundraiser.
34. Following the announcement, Mr. Chris Myers stated there was a motion on the floor for a change in the agenda.

3 In an apparently staged interview Simpson stated Gallagher commenced the meeting lawfully. see <http://www.youtube.com/watch?v=Y5pg225we3M>

35. Chairman Gallagher stated to Myers that the agenda had previously been approved and she continued to the next order of business, the petition issue for 2010 Central Committee races.
36. There was a discussion regarding the petition vs. declaration of candidacy issue and the issue went to the floor for a vote.
37. The vote in favor of the petition passed with a vote of "aye".
38. Chairman Gallagher then proceeded to state that if there was no other business, she moved to adjourn the meeting.
39. The "ayes" had it, and the meeting was adjourned.
40. Following the close of the meeting, Chairman Gallagher and other committee members left the floor.
41. Shortly after the meeting, Defendants Simpson and Hoag filed numerous sham documents with the Lucas County Board of Elections ("BOE").
42. Exhibit F (attached to TRO memorandum) is a fraudulent list of LCRP Executive Committee Officers filed with the BOE and signed by Simpson. Pursuant to R.C. 3517.06, the list is supposed to be filed after the "organizational" meeting, and it is to be filed only by the Secretary of the committee. It does not list a secretary. Simpson knew the requirements of the law or should have known them since he is an attorney. Instead of complying with the law, he scratched out the word "secretary" printed on the form and wrote over it "Chairman" thus falsely representing to the BOE that he was the Chairman and had some kind of authority under the law to file the paperwork.
43. Jeffrey Simpson is currently not on the central committee or the executive committee as he moved to a different district and therefore his seat is vacant.
44. Simpson also filed with the BOE Exhibit F (attached to TRO memorandum), which is a fraudulent list of Republican Executive Committee Members. Again Simpson simply ignored the law by scratching out the word "secretary" and writing over it the word Chairman and then fraudulently represented he was the chairman by signing in that capacity. His signature represented that the list provided the names and addresses of individuals who were "chosen at the *organizational* meeting held on December 21, 2009" (emphasis added).
45. R.C. 3517.03 provides that all the members of the central committee shall be elected for

terms of either two or four years, as determined by party rules, by direct vote at the primary held in an even-numbered year (2008 and 2010).

46. R.C. 3517.05 provides that a county committee shall serve until the sixth day after the date of the declaration of the results by the board of elections of the primary election in that county. At that point in time, the party must have an organizational meeting as provided for in R.C. 3517.04 and in the Bylaws.

47. R.C. 3517.04 provides:

...In the case of a county central committee, the meeting shall be held not earlier than six nor later than fifteen days following the declaration of the results by the board of elections of the election of members of county central committees in that county. Notice of any meeting held pursuant to this section, giving the place and time, shall be sent to each member-elect by the retiring secretary of the committee by mail and a copy of the notice shall be posted in the office of the secretary of state or board of elections, as the case may be, at least five days prior to any such meeting. The meeting shall be called to order by the retiring chairman or secretary or if there is no such officer, or if such officer is absent, then by a member of such committee designated by the secretary of state in the case of the state committees, and by a member of the board of elections of the same political party, designated by the board, in the case of county committees. A temporary chairman and secretary shall be chosen and the committee shall proceed to organize by the election of a chairman, vice-chairman, treasurer, secretary, and such other officers as the rules provide.

48. Simpson's signature represented that the list was the names and addresses of individuals who were "chosen at the *organizational* meeting held on December 21, 2009" (emphasis added) was false, because pursuant to R.C. 3517.04, an organizational meeting could not have been held on that date, notice required by the statute was not provided, and the meeting was not called to order by the proper individual.

49. Exhibit E (attached to TRO memorandum) is a fraudulent list of LCRP Central Committee Officers filed with the BOE and signed by Hoag. Pursuant to R.C. 3517.06, the list is supposed to be filed after the "organizational" meeting and it is to be filed by the Secretary of the central committee. It does not list a secretary presumably because they did not elect one. Hoag knew the requirements of the law or should have known them before attempting to file a legal document with the BOE. Instead of complying with the law, he scratched out

the word "secretary" printed on the form and wrote over it "Chairman" thus falsely representing to the BOE that he was the Chairman.

50. Hoag also filed with the BOE Exhibit E (attached to TRO memorandum) which is a fraudulent⁴ list of Republican Central Committee Members. Again, Hoag simply ignored the requirements of the law by scratching out the word "secretary" and writing over it the word Chairman and then fraudulently represented he was the chairman by signing in that capacity. His signature represented that the list was the names and addresses of individuals who were "chosen at the *organizational* meeting held on December 21, 2009"(emphasis added).
51. Hoag's signature representing that the list was the names and addresses of individuals who were "chosen at the *organizational* meeting held on December 21, 2009"(emphasis added) was false because pursuant to R.C. 3517.04 and organizational meeting could not have been held on that date, notice required by the statute was not provided, and the meeting was not called to order by the proper individual.
52. Patrick Kriner and Lynn Olman are members of the Central Committee and Members of the BOE. Kriner is also a member of the Executive Committee.
53. Kriner and Olman refused to step down from their positions at the BOE when the new party chairman, Jon Stainbrook was elected by a majority vote of the Central Committee. As a result, they were advised by Chairman Stainbrook that they would not be recommended to the BOE for another term. Kriner and Olman are understandably upset about the prospect of losing their health insurance benefits and PERS retirement benefits and therefore have conspired with others to frustrate Stainbrook's governance of the party going so far as to use their positions at the BOE for personal gain by attempting to exert control over and cover up the fraudulent filings of Hoag and Simpson.
54. Kriner is involved in litigation with the LCRP for violation of the Ohio Open Meeting laws. In that action (Case No. CI 200906190 Lucas County Common Pleas Court), it is alleged that the LCRP recently discovered documents which indicate that Kriner was elected to the BOE at a meeting which he participated in and which violated the Ohio Open Meeting Act

⁴ 3599.42 provides that [a] violation of any provision of Title XXXV of the Revised Code constitutes a prima-facie case of fraud within the purview of such title.

and thus his appointment to the BOE is void ab initio. He knows his time on the BOE is coming to an end and has now used his political position once again for personal gain by now attempting to exert control over the fraudulent filings of Hoag and Simpson.

55. Upon information and belief Olman and Kriner recruited people to go to the December 21, 2009 meeting so as to disrupt the LCRP business.
56. After Hoag and Simpson had filed the fraudulent documents with the BOE, Olman and Kriner, using their positions at the BOE, took immediate action in an attempt to preserve their board positions. They issued a Notice of a BOE meeting (Exhibit H attached to TRO memorandum) scheduled for Saturday December 26, 2009 where they would certify the fraudulent filings to the state central committee and ask the state central committee to resolve the alleged dispute between the factions. They did so knowing that the BOE had no legal authority to intervene in the meeting.
57. Counsel for the LCRP immediately sent a letter to the BOE (Exhibit I attached to TRO memorandum) informing them of their illegal actions.
58. In less than 6 hours after receiving the letter, the BOE issued a Notice that the meeting set for Saturday was cancelled with no explanation.
59. At this point in time, Hoag, Simpson, Kriner, Olman and the rest of the BOE knew that the BOE's authority to refer any dispute to the state central committee under R.C. 3517.05 only applied to "organized groups" arising from "organizational meetings" and that there was no valid meeting or legitimate filings made. They are further aware that any organizational meeting can only occur with valid notice and be called to order by the retiring chairperson.
60. When questioned about the reason for the board meeting, the Board of Elections, Simpson, Hoag, and others are purposefully misrepresenting the law so their actions give the appearance of being lawful.
61. Defendants Hoag and Simpson did not submit any request to the BOE to initiate action on its part. Instead Kriner and Olman initiated the BOE response.
62. Upon information and belief, the BOE sent notice for a special meeting to certify Simpson's and Hoag's documents pursuant to R.C. 3517.05 within a half an hour after they filed them.
63. Hoag and Simpson, implicitly acknowledging the fraudulent nature of their filings to the

BOE, are now attempting to further create confusion by calling another illegitimate meeting set for January 7, 2010. They presumably have now read the proper statutes as they are now avoiding comments to the Toledo Blade.

64. Hoag and Simpson know that Ohio law requires that when an "organized" group claims to take over a party that certain committee officers must be elected and documents must first be filed with the BOE by the secretary. They know they did not do this.
65. Hoag and Simpson know that Ohio law requires that the BOE then "certify" these documents and pass them on to the Ohio State Republican Party Central Committee. They are certainly aware this has not yet happened.
66. Hoag and Simpson know that Ohio law requires that for their group of people to become a new county Republican Party they must be recognized by the Ohio State Republican Party Central Committee. Hoag and Simpson are cognizant this has not happened.
67. Despite their knowledge that they are not the LCRP, Hoag and Simpson continue to make false assertions in the press, in emails, and on websites that they are the LCRP. This disrupts the peace, causes public confusion and injures the LCRP in its reputation and further destroys the good will the LCRP has acquired.
68. Hoag and Simpson have no authority to call farce meetings and advise LCRP members to attend, or confuse the public with respect to the LCRP marks, and their actions are deliberately aimed at disrupting the LCRP business affairs, reputation, and good will continue to cause irreparable harm making injunctive relief immediately appropriate.

FIRST CLAIM FOR RELIEF
False Designation of Origin
(15 U.S.C. § 1125(a))

69. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
70. Hoag, Simpson, and Does 1 through 10 have set up the email account LCRPChairman@gmail.com and used it in a manner so as to confuse the public as to whether or not they are communicating with the LCRP. (Complaint Exhibit A)

71. Simpson has started a Facebook page and falsely represents that he is Chairman of the LCRP and provides his contact information as the LCRP's e-mail address, street address, phone number, and website (Exhibit K attached to TRO memorandum)
72. Simpson has attempted to get the keys for the LCRP offices by asking a female Toledo Police Officer and Chairman Gallagher and falsely claiming to be the chairman of the LCRP.
73. Simpson has stated to media outlets that he is evaluating legal options to take possession of the LCRP headquarters building located at 10 S. Superior.(Complaint Exhibit B)
74. Simpson, Hoag, and other Defendants have are using the Party's post office box as a return address for their meeting notice as seen in Exhibit J (attached to TRO memorandum).
75. Simpson, Hoag, and other Defendants have issued numerous press releases to the media and have conducted interviews in the Toledo Blade, The Toledo Free Press, TV stations, blogs, and websites where they falsely claim Jon Stainbrook and Meghan Gallagher have been removed as Chairman of the respective LCRP executive committee and central committees. Simpson and Hoag have made and continue to make false claims that they have been elected as Chairman of the respective LCRP executive committee and central committees. (Complaint Exhibit A)
76. The police were called to the December 21, 2009 meeting after a person was grabbed and pushed by one of the Defendant's supporters.
77. Upon information and belief, Paul Hoag has contacted donors, telling them the Karl Rove fundraising event will be canceled.
78. Defendants have mailed notices to the central committee and executive committee members using the LCRP's post office box address to provide a fraudulent notice contacting the members of the Central and Executive Committees to get them to attend a farce meeting on January 7, 2010. (Exhibit J attached to TRO memorandum). The executive committee meeting notice indicates that the Defendants plan to attempt to provide a recommendation to the Secretary of State for Lynn Olman's vacant Board seat.
79. Kristi Kennelly started a Facebook internet page that purports to be that of the LCRP and

falsely promotes Jeff Simpson as LCRP Chairman, and is facilitating notice of the January 7, 2010 fraudulent meeting of the LCRP executive and central committees (Exhibit L attached to TRO memorandum).

80. Maggie Thurber interviewed Simpson on a talk radio show during which he informed the audience that he and Hoag were elected Chairman of the respective Executive and Central Committees. Thurber posted on her blog a completely inaccurate and contrived account of the events that happened at the LCRP meeting. Thurber also posted the Press Release Defendant's issued in the Plaintiff's name to make their sham appear legitimate. (Exhibit R attached to TRO memorandum)
81. In an email Beau Harvey states that he is confused about who is the rightful Chairman of the Lucas County Republican Party (Exhibit Q attached to TRO memorandum)
82. Mark Sass indicated in an email that he believes Stainbrook is not the Chairman.(Exhibit P attached to TRO memorandum)
83. Binkley was distributing press releases to all of the state central committee members and county chairman across the state congratulating the newly elected LCRP chairman, recounting his version of what happened. These emails claimed there was a new LCRP leadership.
84. Lynn Olman and Patrick Kriner, both Republican Board members and central committee members have worked in concert with Jeff Simpson and Paul Hoag to facilitate these illegal and illegitimate acts.
85. Consumers believe that the Defendants are the Plaintiff or affiliated with it.
86. Some members of the public have now come to associate the LCRP mark with the Defendant and mistakenly believe the Plaintiff to be the infringer when it uses the mark.
87. The infringing acts of Defendants have damaged, and will damage, the good will and reputation of the LCRP and will destroy the LCRP mark.
88. Shortly after the December 21, 2009 meeting Hoag and Simpson began representing to the press and citizens via email that they were the chairpersons of the LCRP Executive and Central Committees. They also began soliciting the sale of tickets for Karl Rove, which they are not authorized to do. Upon information and belief they intend to deprive the LCRP

of any funds collected in this manner.

89. Simpson is distributing press release on behalf of LCRP and a copy of the one they sent to media.(Complaint Exhibit A)
90. The LCRP owns the marks Lucas County Republican Party and Lucas County GOP through their exclusive use of these terms for over 50 years.
91. Simpson, Hoag and Does 1 through 10 have knowingly, purposefully and in bad faith have used the LCRP marks or trade name, or counterfeit, reproduction, copies or colorable imitation thereof, on or in connection with goods or services that they promote, distribute, import, manufacture, provide and sell, in connection with Hoag and Simpson.
92. Simpson, Hoag and Does 1 through 10 have used in interstate commerce a word, term, name, symbol, device, combination thereof, or a false designation of origin, which is likely to cause confusion, mislead or to cause mistake, or to deceive customers, purchasers, advertisers and members of the general public as to the origin, source, affiliation, sponsorship, connection, or association of their products or services with the LCRP's products or services provided under the LCRP marks, or as to the origin, sponsorship, or approval of their goods, services, or commercial activities.
93. The acts of Simpson, Hoag and Does 1 through 10 constitute false or misleading descriptions and false designations of origin in violation of § 43(a) of the Lanham Act.
94. The LCRP is being damaged by these acts. That is, members of the public may make donations to or purchase services from Defendants. Defendants harm to the goodwill and reputation of the LCRP is irreparable. Furthermore the defendants will no doubt cause embarrassment and violence at the scheduled Karl Rove fundraising event.
95. By reason of the actions of the Defendants, the LCRP has suffered damage to its valuable commercial name, trade name, and/or mark such damage to be produced at trial. Moreover, unless the defendants are restrained from further infringement the LCRP will continue to be damaged. In addition, the defendants have been unjustly enriched at the expense of defendants and have profited unjustly in an amount to be proven at trial.
96. The LCRP have no adequate remedy at law that will adequately compensate it for the irreparable harm that it will suffer if the conduct of the defendants is allowed to continue.

97. The Defendants have obtained gains, profits and advantages as a result of its infringing use of the LCRP mark. LCRP has suffered monetary damages as a result of the Defendants' acts.
98. These acts constitute a violation of Section 43 of The Lanham Act, 15 U.S.C. §1125(a).
99. The actions of the Defendants render this case exceptional within the meaning of 15 U.S.C. §1117(a).
100. As a direct and proximate result of the actions of Defendants, Plaintiff has been damaged in an amount to be proven at trial and is entitled to recovery of Defendants' profits, of actual damages and punitive damages. Plaintiff further seeks injunctive relief as well as attorneys fees and the costs of this action.

SECOND CLAIM FOR RELIEF

Common Law Passing Off

101. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
102. The LCRP was the first person in Ohio, the United States and elsewhere, to adopt the LCRP mark or any name or mark similar thereto in association with the provision of any product or service.
103. As a result of the LCRP's continued commercial use, in inter-state commerce in connection with its organization and its services, the LCRP mark has become widely known and identified in the public mind as the source of products and services to which this mark is applied.
104. The defendants, with intentional disregard for the LCRP's rights, continue to use The LCRP's name and mark or counterfeit and imitation thereof, in connection with the services and products that they promote, distribute, import, manufacture, provide and sell and continue to use the LCRP's name and mark as the name of their organization.
105. The defendants have used the domain name LCRP as an identifier in connection with their organization in such manner that is likely to create confusion in the mind of the public as to the source, origin, or identity of their organization and products or has created instances of actual confusion and thus beyond a likelihood of confusion.

106. The LCRP's prior use of the LCRP mark entitles it to use this mark to the exclusion of all others who wish to adopt it or a confusingly similar mark.
107. The LCRP is entitled to exclude all subsequent uses of its mark or confusingly similar marks from the territory from which it has used this mark, or within the probable zone of expansion of its business.
108. The acts of the defendants constitute willful infringement of the LCRP's exclusive rights in the LCRP mark in violation of the common law.
109. By reason of the actions of the defendants, the LCRP has suffered damage to its valuable commercial name, trade name, and/or mark, such damage to be proved at trial. Moreover, unless the defendants are restrained from further infringement of the LCRP's name and mark, the LCRP will continue to be damaged. In addition, the defendants have been unjustly enriched at the expense of the LCRP and have profited unjustly in an amount to be proven at trial.
110. The LCRP has no adequate remedy at law that will adequately compensate it for the irreparable harm that it will suffer if the conduct of the defendants is allowed to continue.

THIRD CLAIM FOR RELIEF

Ohio Unauthorized Use of Trademark

111. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
112. Lucas County Republican Party is a "trademark," "service mark" and "mark" pursuant to R.C 1329.54 (A), (B), and (C).
113. LRCRP is a "person" pursuant to R.C. § 1329.54 (D).
114. Defendant used the Lucas County Republican Party trademark pursuant to R.C. § 1329.54(G), (H) and (I), by placing it on all advertisements, websites, emails, and so on with the bona fide intention of reserving rights to the mark by using the mark as a name for their organization to distinguish it from other organization,
115. Defendants have used a colorable imitation of the LCRP mark by advertising, distributing press releases, and placing posting on the internet with the name LCRP without the permission of the LCRP, in connection with the offering of goods or services, on or in

- connection with which such use is likely to cause confusion or mistake as to deceive as to the source of origin of such goods or service, in violation of R.C. § 1329.65(A) and (B).
116. The defendants have violated R.C. § 1329.65 with knowledge that LCRP would cause confusion or mistake or deceive.

FOURTH CLAIM FOR RELIEF

Civil Conspiracy

117. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
118. The actions of Defendants resulted in the formation of a malicious combination of two or more persons to injure another in person or property, in a way not competent for one alone, resulting in actual damages.
119. As a direct and proximate result of this illegal conspiracy Plaintiffs have been injured in an amount to be shown at trial.

FIFTH CLAIM FOR RELIEF

Contributory Infringement

120. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
121. Hoag and Simpson intentionally induced Does 1-10 to infringe the LCRP trademark and they did in fact use LCRP as a false designation.
122. By reason of the actions of Defendants, the LCRP has suffered damage to its valuable commercial name, trade name, and/or mark, such damage to be proved at trial. Moreover, unless Defendants are restrained from further infringement of the LCRP's name and mark, the LCRP will continue to be damaged. In addition, the defendants have been unjustly enriched at the expense of the LCRP and have profited unjustly in an amount to be proven at trial.
123. The LCRP has no adequate remedy at law that will adequately compensate it for the irreparable harm that it will suffer if the conduct of the defendants is allowed to continue.

SIXTH CLAIM FOR RELIEF

Vicarious Infringement

124. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
125. Defendants Doe 1 through 10 have acted as agents, or fiduciaries to Simpson and Hoag.
126. Defendants Doe 1 through 10 have continually, jointly and severally have been publishing, mailing, phone-calling, press-releasing, and internet-posting numerous infringing statements done with the actual authority granted to them by Defendants Simpson and Hoag.
127. Alternatively these acts were committed with apparent authority.
128. Because Defendants Doe 1 through 10 committed infringing acts against Plaintiff's marks while acting as agents for Simpson and Hoag and they are liable for the acts of Defendants Doe 1 through 10.

SEVENTH CLAIM FOR RELIEF

Tortious Interference with Business Relations and Prospective Business Relations

129. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
130. The LCRP has a prospective business relationships with a vast number of prospective purchasers of tickets to the Karl Rove fundraising Lincoln Day Dinner.
131. The LCRP has existing business relationships with its landlord, with guest speaker Karl Rove, and with other individuals and businesses.
132. The Defendant's have knowledge of these existing and prospective relationships.
133. The Defendants Doe 1 through 10 and Hoag and Simpson have intentionally preventing the formation of untold number of business relationships by their intentional, willful and malicious infringement of Plaintiff mark and by falsely claiming to be the provider of tickets to the fund raising event resulting in substantial and irreparable damages.
134. As a direct result of Defendant's acts, the Plaintiffs have been irreparably harmed and have no adequate remedy at law.
135. Absent injunctive relief, the Plaintiffs will be harmed in its reputation and be deprived of future opportunities and future business relationships as well as suffer economic harm.

136. As a direct result of Defendant's acts, Plaintiffs are entitled to recover actual damages and punitive damages and disgorgement of all revenues obtained through Defendant's improper acts.

EIGHTH CLAIM FOR RELIEF

Deceptive Trade Practices Act

137. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
138. LUCAS COUNTY REPUBLICAN PARTY is a "mark", "service mark", "trademark" and "trade name" pursuant to R.C. § 4165.01 (C), (E), (F), and (G).
139. The Defendants are "persons" pursuant to R.C. § 4165.01 (D).
140. The Defendants' use of the LCRP marks causes a likelihood of confusion among the public as to the source, sponsorship, approval, or certification of its goods or services.
141. The Defendants' use of the LCRP marks is a deceptive representation as to the source or origin of its services.
142. The Defendants' use of the LCRP marks causes a likelihood of confusion or misunderstanding among internet users as to affiliation, connection, or association with, or certification by the Plaintiff.
143. The Defendant's use of the LCRP marks tends to create a false impression sufficient to warrant injunctive relief under Ohio Deceptive Trade Practices Act. R.C. § 4165.02.
144. As a direct and proximate result of the actions of the defendants, Plaintiff has been damaged in an amount to be proven at trial, and is entitled to recovery of actual damages and punitive damages for the injury done to its property and reputation. Plaintiff further seeks a preliminary and permanent injunction stopping the Defendant from using the LCRP marks, and attorneys fees and the costs of this action.

NINTH CLAIM FOR RELIEF

DECLARATORY RELIEF

145. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
146. Simpson and Hoag have sent out a notice indicating that they intend to hold a meeting on January 7, 2010. The agenda indicates that they intend on electing secretaries, and

treasurers for both committees, a vice chairman for the Central Committee, along with several other issues. (Exhibit J attached to TRO memorandum).

147. R.C. 3517.04 states that the “Notice of any meeting held pursuant to this section, giving the place and time, shall be sent to each member-elect by the retiring secretary of the committee by mail and a copy of the notice shall be posted in the office of the secretary of state or board of elections, as the case may be, at least five days prior to any such meeting.”
148. The meeting is unlawful because the notice was not given in accordance with the R.C. 3517.04 or the bylaws of the Lucas County Republican Party. This meeting is also illegitimate because they cannot notice a meeting since they are not the legitimate central committee with a secretary to send out the meeting notice and call a meeting.
149. Upon information and belief they will attempt to elect or re-elect a chairman, officers, and other committeeman and they will not have enough people or the proper people to do so.
150. There currently exists a genuine controversy between Plaintiffs and Defendants with respect to the legitimacy of the meeting and whether or not Defendants have violated multiple provisions of Title XXXV of the Ohio Revised Code.
151. This controversy is justiciable in character.
152. The facts described herein show that this is a situation where speedy relief is necessary to preserve the rights of the parties.
153. Based upon the foregoing Plaintiff requires that this court declare the rights of the parties and issue an order enjoining Simpson and Hoag and all those persons in active concert or participation with them from attempting to hold a meeting with the incorrect central committee members, holding this meeting, sending the results obtained therefrom as to the status of officers to the BOE, and from submitting another false list of committee members and executives to the BOE.

TENTH CLAIM FOR RELIEF
APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

154. Plaintiffs reallege and incorporate herein by reference all proceeding paragraphs hereinabove together with the referenced Exhibits.
155. The defendants have acted in a manner and will continue to cause irreparable harm to the

Plaintiff in its reputation and in its good will associated with its marks, and their acts will further confuse the public.

156. Based upon the specific facts provided by the attached declarations, and in the verified complaint Plaintiff has clearly shown it is entitled to a Temporary restraining Order without notice under Fed. R. Civ. P. 65(b) because immediate and irreparable injury, loss, or damage will result to it before Simpson and Hoag can be heard in opposition. Furthermore the Plaintiff's attorney has filed a separate certification (attached) in writing stating the efforts, which have been made to give the notice and the reasons supporting his claim that notice should not be required.
157. Alternatively the Plaintiff is entitled to a Temporary restraining Order with notice under Fed. R. Civ. P. 65(a) because said notice has been provided as set forth in counsel's certification.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands entry of a judgment against Defendants as follows:

A Declaratory Judgement as further set forth in Plaintiff's Memorandum in Support of TRO including a declaration that as a matter of Ohio statutory law that the Defendants may not initiate any proceedings with the Lucas County Board of Election without a properly appointed or elected secretary.

A Declaratory Judgment that the Defendants proposed January 7, 2010 meeting is illegal because the notice was insufficient under Ohio Law and it will not be composed of an accurate set of central committee members.

That Defendants, their officers, agents, servants, employees, and attorneys and all those persons in active concert or participation with it be forthwith preliminary and thereafter permanently enjoined and restrained from:

- 1) Holding the meeting that the Defendants have scheduled January 7, 2010; and
- 2) Using or continuing to use the trademark LCRP or any confusingly similar designation alone or in combination with other words, as a trademark, trade name component or otherwise, to market, advertise or identify Defendants' association or related services; and
- 3) Using or continuing to use the LCRP mark or any variation thereof on the Internet (either in the text of a website, as a domain name, or as a key word, search word, metatag, or any part of the description of the site in any submission for registra-

tion of any Internet site with a search engine or index) in connection with any goods or services not directly authorized by LCRP; and

- 4) Unfairly competing with Plaintiff in any manner whatsoever; and
- 5) Causing likelihood of confusion, injury to business reputation, or dilution of the distinctiveness of Plaintiff's symbols, labels, or forms of advertisement; and
- 6) Aiding, abetting, contributing to, or otherwise assisting anyone from infringing upon LCRP trademarks; and
- 7) Effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b).

That Defendants be directed to file with this Court and serve on Plaintiff within thirty days after the service of an injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendants has complied with the injunction.

That Defendants be required to deliver up and destroy all devices, literature, advertising and other material bearing the infringing designation.

That Defendants be required to account for all gains, profits, and advantages derived from its acts of infringement and for his other violations of law.

That Plaintiff be awarded Defendants' trademark infringement profits after an accounting.

That Plaintiff be awarded from Defendants three times their profits from infringing sales of Carl Rove Event Tickets after an accounting pursuant to 15 U.S.C§1125(a) and §1117 and such amounts required to conduct reparative advertising as may be needed.

That Plaintiff be entitled to disgorge Defendants of all revenues obtained during the infringing period, as a direct result of its unjust enrichment or misappropriation

That all gains, profits, and advantages derived by Defendants from its acts of infringement and other violations of law be deemed to be in constructive trust for the benefit of Plaintiff.

That Plaintiffs recover costs of this suit.

That the Plaintiff recover all actual, incidental, expectational damages in amounts to be shown at trial together with prejudgment interest.

That Plaintiff recover, as a result of Defendants' malice, punitive damages in sufficient amount to deter Defendants from replicating its egregious conduct.

That Plaintiff be awarded reasonable attorney fees and investigative fees.

Ordering that, pursuant to 11 U.S.C. §523(a)(6), Defendants be prohibited from a discharge under 11 U.S.C. §727 for malicious, willful, and fraudulent conduct that injures the LCRP.

That this Court will retain jurisdiction of this action for the purpose of enabling LCRP to apply to the Court at any time for such further orders and interpretation or execution of any order entered in this action, for the modification of any such order, for the enforcement or compliance therewith and for the punishment of any violations thereof.

That Plaintiff have such other and further relief as the Court may deem just.

DATED: January 7, 2010

Respectfully Submitted,

/s/Anthony DeGidio

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing First Amended Complaint was filed electronically this 7th day of January 2010. Parties may access this filing throughout the Court's system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system or via electronic or U.S. Mail.

/s/ anthony degidio
Anthony J. DeGidio,

VERIFICATION

I, Jon Stainbrook, declare as follows:

1. I am the Chairman of the Lucas County Republican Party Executive Committee.
2. I have personal knowledge of Lucas County Republican Party Executive Committee and Central Committee meetings and was present at the meeting held on December 21, 2009. I am aware of the events set out in the foregoing Complaint, and if called upon to testify I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this Complaint concerning the Lucas County Republican Party are true to the best of of my knowledge information and belief.

Executed on January 6, 2010.

/s/Jon Stainbrook
Jon Stainbrook
Chairman
Lucas County Republican Party