

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

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NAACP NEW YORK STATE CONFERENCE, as an :  
organization and representative of its members, :  
NATIONAL COALITION ON BLACK CIVIC :  
PARTICIPATION, as an organization and representative :  
of its members; FAMILIES UNITED FOR RACIAL :  
AND ECONOMIC EQUALITY, as an organization and :  
representative of its members; VIVIAN BOSIER, :  
ANITA BURSON and SHEILA DUNCAN, :

Plaintiffs, :

- against - :

NEW YORK STATE BOARD OF ELECTIONS; :  
JAMES A. WALSH, DOUGLAS A. KELLNER, :  
EVELYN J. AQUILA, and GREGORY P. PETERSON, :  
in their official capacities as Commissioners of the New :  
York State Board of Elections; TODD D. :  
VALENTINE and ROBERT A. BREHM, in their official :  
capacities as Executive Directors of the New York State :  
Board of Elections; NEW YORK CITY BOARD OF :  
ELECTIONS; and JOSE MIGUEL ARAUJO, NAOMI :  
BARRERA, JULIE DENT, NANCY MOTTOLA- :  
SCHACHER, JUAN CARLOS POLANCO, MICHAEL :  
J. RYAN, J.P. SIPP, GREGORY C. SOUMAS, JUDITH :  
D. STUPP, and FREDERIC M. UMANE, in their official :  
capacities as Commissioners of the New York City :  
Board of Elections, :

Defendants. :

No. 10-cv-2950 (FB) (RML)

[PROPOSED] ORDER

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Pursuant to its supervisory authority over the various county Boards of Elections (“County Boards”) across New York State and statutory responsibility for the conduct of elections, as well as its control over the documents set forth below within the meaning of Federal Rule of Civil Procedure 34, Defendant New York State Board of Elections (the “State Board”) is hereby ordered to obtain from the County Boards the following information for both the primary election of September 14, 2010 and the general election of November 2, 2010:

1. Data showing (a) the total number of votes cast in each contest and (b) the number of overvotes in each contest (i.e., the number of times a voter cast a ballot on which s/he voted for more than the permitted number of candidates for a given office), distinguishing between votes cast on the optical-scan voting machines and those cast via absentee or affidavit ballot, in each precinct, election district or assembly district, whichever is the smallest geographic subdivision for which the optical-scan voting machines record votes. To the extent that these data are not available to the County Boards, the State Board shall require them to provide instead all electronic ballot images captured by the optical-scan voting machines within their respective counties.

2. Data showing voters' responses to the overvote message displayed by the optical-scan voting machines (i.e., when confronted with the overvote message, how many voters chose to cast their ballots at that time and how many chose instead to have their ballot returned to them for correction) in each precinct, election district or assembly district, whichever is the smallest geographic subdivision for which the optical-scan voting machines record votes. To the extent that these data are not available to the County Boards, the State Board shall require them to provide instead the log from each of the optical-scan voting machines in the county that records the history of its use on election day.

After receiving this information from the County Boards, the New York State Board of Elections shall produce it to Plaintiffs in response to Plaintiffs' First Request for the Production of Documents by January 18, 2011.

**SO ORDERED**

Date: \_\_\_\_\_  
Brooklyn, New York

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Magistrate Judge Robert M. Levy  
U.S. District Court for the Eastern District  
of New York