

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF NEW YORK

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CONSERVATIVE PARTY OF NEW
YORK STATE and WORKING FAMILIES
PARTY,

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 Co-Executive Directors of the New York State
Board of Elections,

Defendants.

Civil Action No:
10-cv-6923 (JSR)

**DECLARATION OF JOHN
POULOS IN OPPOSITION
TO PLAINTIFFS' MOTION
FOR A PRELIMINARY
INJUNCTION**

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JOHN POULOS, declares as follows:

1. I am the President of Dominion Voting System Corporation (hereinafter referred to as "Dominion"), and in such capacity am familiar with the facts and circumstances of the within proceeding. I have a degree in Electrical Engineering from the University of Toronto. I have 13 years' experience in the hardware/software industry. I have held the position of President with Dominion for 8 years, and am very familiar with all of Dominion's engineering efforts as it pertains to election equipment. As such, I am fully familiar with the Image Cast voting machines currently being used in the State of New York and which will be used in the upcoming election scheduled for November 2, 2010.
2. I submit this affidavit on behalf of defendants in opposition to plaintiffs'

motion for a preliminary injunction for an order enjoining the Board's practice, in accordance with Election Law §9-112(4), of crediting a "double vote" for a single candidate to the candidate's party line which appears first on the ballot. For the reasons set forth herein, the motion should be denied in its entirety.

3. The Dominion Voting Systems Corp.'s Image Cast Voting Machine has two presentations - - an optical scanner voting system with an integrated ballot marking device and an optical scanner voting system without an integrated ballot marking device.

4. The Image Cast Voting Machines have been programmed to count a "double vote" for a candidate by recording the vote on the first ballot line that the voter casts his vote for that candidate.

5. I am advised that plaintiffs are asking the Court to have the Image Cast voting machine systems reprogrammed before the upcoming election so that the machine issues a warning to a voter who submits a ballot with a double vote and provides the voter with an opportunity to correct the ballot.

6. To achieve this change it would require the voting machines to be reprogrammed.

7. Changes to the system which will treat the votes cast on a double vote ballot different from votes cast on an overvote ballot, along with corresponding voter alerts or messages, would require software/firmware changes. Changes to a program's source code create the possibility that the change will cause unanticipated problems. The following is a brief explanation of the steps that would need to be followed at Dominion to change the software/firmware to implement the requested revisions:

- a. The issue would first need to be clearly defined with specifications from the New York State Board of Elections with a request for a quote;

- b. An analysis would have to be conducted for the new source code as to how to architect the changes to be written to the voting system and understand the impact that the said changes would have on the system from a function, user and certification point of view. This process alone would likely take several weeks;
 - c. Once the scope of work was approved by the New York State Board of Elections, the changes would need to be implemented to the underlying source code. This will require a minimum of several weeks of effort and perhaps months of effort depending on the scope of the changes.
 - d. After the changes were made Dominion would have to conduct extensive in-house quality assurance testing before the software/firmware and source code can be released to the Board of Election. This process would take several more weeks and potentially require further adjustments to the above mentioned changes.
8. Depending upon the extent of the changes required, and the impact to the software and/or firmware this entire process is anticipated to take approximately six months to deliver the revised product to the Board of Elections, who would then have to conduct their own testing and have an independent lab conduct testing to assure the accuracy to the voting systems.
9. In light of the above, it is my opinion that it would be impossible to implement the changes that plaintiffs are seeking with respect to the handling of double vote ballots in the short time remaining before the election is to occur.

I swear under penalty of perjury that the foregoing is true and correct.

/s/ John Poulos
JOHN POULOS

Dated: Toronto, Ontario
October 7, 2010