

MEDIA ALERT!

DECISION HANDED DOWN LATE THIS AFTERNOON

FOR IMMEDIATE RELEASE

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Court Recognizes Pennsylvania Voters' Right to Reliable, Secure Voting Machines

“Great Victory” in Challenge to Use of Systems in 56 Counties Statewide

PHILADELPHIA – A Pennsylvania court held late today that voters have a right under the commonwealth’s constitution to reliable and secure voting systems and can challenge the use of electronic voting machines “that provide no way for Electors to know whether their votes will be recognized” through voter verification or independent audit.

The ruling by the Commonwealth Court allows the continuation of a suit filed last year by 26 individual Pennsylvania voters against the Secretary of State that challenged the certification of Direct Electronic Voting systems (DREs) used in 56 counties across the state.

“This is a great victory for Pennsylvania voters,” said Mary Kohart, a partner at Drinker Biddle & Reath LLP, one of the lawyers representing the group of voters. The case, which ultimately seeks the decertification of the DREs, was also brought by the Public Interest Law Center of Philadelphia (PILCOP) and Chester County attorney Marian K. Schneider.

The 4-3 decision was sharply critical of the Pennsylvania Secretary of State’s actions in certifying the DREs. Judge Rochelle Friedman, who authored the majority opinion, noted the certification was the result of “deficient examination criteria” which “do not approximate those that are customary in the information technology industry for systems that require a high level of security.”

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COURT RECOGNIZES RIGHT TO RELIABLE, SECURE VOTING MACHINES

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“Because Electors have no way of knowing whether their votes will be honestly counted by DREs that are not reliable or secure and that provide no means for vote verification or vote audit,” the voters sufficiently raised a violation of the Pennsylvania constitution in their suit, the court declared.

“Across the country, both state legislatures and Congress are realizing that DRE voting systems cannot be trusted,” said Michael Churchill, a lawyer with PILCOP. “More and more states are requiring optical scan paper ballots that voters mark directly or through a ballot-marking device.”

Procedurally, the court’s decision overruled the Secretary of State’s 16 preliminary objections against the voter’s August 2006 complaint. The objections claimed that the voters had no legal right to proceed with their case and no legal right to obtain the relief that they sought.

In the voters’ complaint, they alleged that the DREs failed during elections in Pennsylvania and in other states by losing votes, registering votes for one candidate when the voter was attempting to vote for another candidate; causing high “undervote” rates; failing to register votes when the ballot contained only one question; counting votes twice; failing to print “zero tapes” to demonstrate that no lawful votes were stored on the machine prior to the election; printing “zero tapes” after votes had been cast; reporting phantom votes and other irregularities.

Schneider noted that last fall’s elections across the country showed the unreliability of the machines. “The 2006 elections demonstrated that DREs repeatedly failed by breaking down, switching votes, losing votes and not providing the security necessary for a functional democracy,” she said.

Holly Jacobson, co-director at Voter Action, noted that good alternatives exist to the unreliable electronic voting machines: “Paper balloting, with ballot marking devices for the disabled, is a more secure and accountable option, which is why states like Michigan and New Mexico and others, in addition to hundreds of counties around the country, switched in time for last November’s elections.”

Kohart noted that in light of today’s court ruling so clearly establishing the law, “We hope that the Secretary will think about a quick settlement of this case.”

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COURT RECOGNIZES RIGHT TO RELIABLE, SECURE VOTING MACHINES

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Drinker Biddle & Reath LLP, a full-service national law firm established in 1849, recently announced its combination with the more than 170 lawyers at Chicago-based Gardner Carton & Douglas. The merger, effective in January 2007, created a firm of more than 630 lawyers in 12 offices nationwide. For more information, please visit www.drinkerbiddle.com.

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