

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

League of Women Voters of Ohio,)	Case No. 3:05CV7309
et. al.,)	
)	Hon. James G. Carr
Plaintiffs,)	
)	
and)	<u>ORDER</u>
)	
Jeanne White,)	
)	
Intervenor-Plaintiff,)	
v.)	
)	
J. Kenneth Blackwell, Secretary of)	
State of Ohio, et. al.,)	
)	
Defendants.)	
)	
)	
)	

Upon consideration of Intervenor -Plaintiff’s motion to lift the discovery stay and for a preservation order, any opposition thereto, and the entire case herein, and upon finding that (1) the destruction or alteration of evidence or other information relevant to this litigation or the 2004 Presidential election in Ohio will cause irreparable harm by irretrievably losing information necessary to Intervenor -Plaintiff’s case; and (2) discovery and a preservation order will not unduly burden a party as preservation of election records is already required by 42 U.S.C. §1971 and O.R.C. §3505.31.

For the foregoing reasons, it is this ___ day of February 2006

ORDERED that Intervenor-Plaintiff’s motion to lift the discovery stay is GRANTED: and it is further

ORDERED that discovery resume as to all parties, and it is further

ORDERED that Defendants take all necessary steps to ensure preservation of all equipment and records (in whatever form or medium, such as paper and electronic and including any software, program and the like) relating to the use of Direct Recording Electronic (DRE) voting machines, and optical scan (OPSCAN) voting machines, in the presidential election of November 2, 2004 and the recount including but not limited to:

- (i) all Direct Recording Electronic voting machines (DREs) used in connection with the November 2, 2004, election and the recount;
- (ii) all *internal* memory and memory devices of any sort whatsoever from those DREs (including but not limited to so-called “non-volatile” or “flash” internal memory);
- (iii) all *external* memory and memory devices of any sort whatsoever (including but not limited to “smart cards,” PCMCIA cards or Personal Electronic Ballots “PEB”s);
- (iv) all computers, devices, or other equipment of any sort whatsoever used to tabulate the votes recorded on the DREs;
- (v) a complete record of which DREs were present at each polling place (including serial numbers or other identifying information concerning each DRE and any logs or other records kept with respect to each machine);
- (vi) all software used to program the DREs and computers or other devices or equipment used to tabulate the votes recorded on the DREs, including but not limited to any “master” copies of the DRE or tabulating software maintained by the state or precinct;
- (vii) all paper records or documents used by the precinct staff or voters at each polling place;
- (viii) all punch card machines and voter units are preserved, in their present condition and in a secure location;
- (ix) all computers, devices, or other equipment of any sort whatsoever used to tabulate the votes recorded on the punch card machines;
- (x) all optical scan machines;
- (xi) all computers, devices, or other equipment of any sort whatsoever used to tabulate the votes recorded on the optical scan machines; and
- (xii) all ballots.

and it is further ORDERED, that this Order of Preservation shall continue until to and through the conclusion of this litigation and any resulting relief afforded Intervenor-Plaintiff and Plaintiffs unless further extended by the Court; and it is further

ORDERED that Defendants shall ensure that no person shall be provided access in any way to any of the items specified in (i) – (xii) absent further order of this Court.

Dated: February ____, 2006

UNITED STATES DISTRICT COURT
JUDGE JAMES G. CARR