

Your Vote!

A Voter Action Update

March 2009

Volume 1, Issue 3

Voter Action Courts Victory in Pennsylvania

Voter Action won another major court victory in its ongoing challenge to the continued use of electronic voting systems in Pennsylvania. On December 16, 2008, the Pennsylvania Supreme Court issued a ruling allowing the case to proceed toward trial. The state's highest court, in a one-sentence order, denied the Pennsylvania Secretary of State's petition seeking permission to appeal a lower court ruling decided in the voters' favor.

In April 2007, the Commonwealth Court of Pennsylvania had ruled that voters have a right under the Pennsylvania 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. Following that ruling, Pennsylvania Secretary of State Pedro Cortés filed his petition before the Pennsylvania Supreme Court and further proceedings in the case, *Banfield v. Cortés*, had been suspended pending the outcome of the petition. The order issued by the state's highest court gives a green light for the voters to pursue their claims.

We will now be entering a full

discovery phase in this case, which could include third-party subpoenas on US voting systems companies seeking information

on what the companies have known about reliability and security problems with their electronic voting machines. This case has the potential to serve as an

important vehicle in exposing new evidence demonstrating the dangers associated with the continued use of DRE systems present in twenty-four states.



Colorado Moves to a Statewide Paper Ballot System

On February 17, 2009, the Colorado Election Reform Commission voted to recommend that Colorado shift to a statewide system of voter-marked paper ballots for its elections starting in 2014. This recommendation for a paper ballot mandate reflects the overwhelming evi-

dence across the country that electronic voting machines are unreliable and insecure for the counting and recording of votes.

Voter Action is proud of its role in launching the critical lawsuit which led to this vote. In June 2006, a group of Colorado voters, with the support of Voter

Action, filed a lawsuit in Denver District Court challenging the Colorado Secretary of State's certification of certain electronic voting systems (DREs) and seeking a court order to prevent the use of such systems in Colorado elections (*Conroy v. Dennis*). Story continued on pg. 2

To view the press release announcing the Pennsylvania Supreme Court's decision, [Click Here](#)

Colorado Moves to a Statewide Paper Ballot System (cont. from pg.1)

The lawsuit alleged that the use of DRE systems in Colorado violated the plaintiffs' fundamental right to vote under the Colorado Constitution and that the systems contained illegal interpreted code prohibited by Colorado law.

In September 2006, the Denver District Court ordered the Colorado Secretary of State to enact meaningful security standards for electronic voting machines and to retest the four systems certified by the Secretary of State before authorizing their use in any future elections. Judge Lawrence Manzanares

said the Secretary of State's office failed to develop minimum security standards, as required by state law, and did an "abysmal" job of documenting the testing during the certification process. In February 2008, the Secretary of State, after initially decertifying two systems based on new testing, reversed himself and announced that he was recertifying the electronic voting machines for use in Colorado's elections.

These developments led the Colorado legislature to pass a law last year establishing the Election Reform Commission

charged with reviewing all voting systems in the state and making recommendations for any changes. The Commission includes Voter Action's legal partner Paul Hultin of the Colorado law firm of Wheeler Trigg Kennedy, who served as lead counsel in the *Conroy v. Dennis* case.

The Colorado Election Reform Commission's recommendation that Colorado shift to a statewide system of voter-marked paper ballots represents a major step forward for the election integrity movement in Colorado and across the country.

**Read More
About the
Article Here:**

[Judge Bartle's
permanent
injunction order](#)

[The complaint, filed
against the Secretary
of the Commonwealth
of Pennsylvania](#)

[Press release
announcing court
victory](#)

[The court's 25-page
ruling](#)

Permanent Injunction in Emergency Paper Ballots Case

On January 28, 2009, Federal Judge Harvey Bartle III, the chief judge for the US District Court for the Eastern District of Pennsylvania, issued a permanent injunction applying the standard for the distribution of emergency paper ballots in Pennsylvania as articulated in his October 2008 ruling.

As previously reported, on October 23, 2008, Voter Action, along with the Public Interest Law Center of Philadelphia and the New York law firm of Emery Celli Brinckerhoff & Abady, filed a federal lawsuit in Philadelphia on behalf of a coalition of civil rights groups and individual voters seeking emergency paper ballots for Pennsylvania voters when 50% or more electronic voting machines break down in any precinct in the state. (Prior to the court filing, we had helped to lead an advocacy campaign to press the Secretary of the Commonwealth of Pennsylvania to adopt such a standard, which he re-

fused to do.) Our clients included the NAACP State Conference of Pennsylvania, the Election Reform Network (a local election integrity group), and individual voters who had reported to the MYVOTE1 hotline (866-MYVOTE1) about long lines and machine breakdowns during the April 2008 primary election in Pennsylvania.

Following an eight hour evidentiary hearing on October 28, 2008, Judge Bartle ruled in favor of our clients. The ruling serves as important court precedent for the constitutional principle that the burden of long lines in an election can amount to a deprivation of the fundamental right to vote. Judge Bartle's issuance of a permanent injunction in this case ensures that this safeguard of emergency paper ballots will remain in place for Pennsylvania voters in future elections.

Voter Action Challenges a New Threat to Election Integrity: Internet Voting

Voter Action is helping to lead a growing coalition of organizations and individuals challenging a new push in the states for the introduction of Internet voting. In an attempt to accommodate military and overseas voters, some election officials, as well as some Members of Congress, are beginning to press for Internet voting, despite significant concerns among computer scientists across the country that on-line voting would be extremely insecure and would not allow for any meaningful audits or recounts. Washington State presents an important test case in this fight.

Washington Secretary of State Sam Reed is actively pushing to implement a pilot program of Internet voting for military and overseas voters. Reed's proposal, presented in bills in the Washington House of Representatives and Washington State Senate, would

allow military and overseas voters to cast their votes on a website from their own laptops, which would mark



the first such voting system in the country.

On February 18, 2009, Voter Action issued a statement opposing this initiative and citing the dangers associated with Internet voting. The statement, which can be found [here](#), also focused on an alternative way to improve the voting system for military and overseas voters that does not compromise the integrity of our elections. Military and overseas voters, we argue, could apply electronically

for a paper ballot which they could print from a government website. This would expedite access to such ballots and would address the problem military and overseas voters face when their ballots do not arrive on time in the mail. While such voters would still need to return their ballots via the mail, the concerns around reliability, security, and ballot secrecy associated with Internet voting would not be presented.

Voter Action intends to actively oppose such attempts to move toward Internet voting and, where necessary, to initiate litigation challenging the reliability and security of such a voting system. We also intend to work to establish viable and secure alternatives for military and overseas voters.

For an update on Washington State internet voting legislation, [Click Here](#)

Want to Stay Updated on Internet Voting? Join the Voter Action E-mail List!

Visit our website at

www.voteraction.org

Click on the 'Stay Informed' button and submit the form to receive action alerts and updates on election integrity issues