

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; :
WORKING FAMILIES PARTY, as a political party :
and representative of its members; VIVIAN BOSIER, :
ANITA BURSON and SHEILA DUNCAN, :

Plaintiffs, :

- against - :

No. 10-cv-02950 (FB)

**PLAINTIFFS' FIRST
REQUEST
FOR THE PRODUCTION OF
DOCUMENTS**

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. :

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Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Civil Rule 26.3 of the Local Rules of the United States District Court for the Eastern District of New York (“EDNY Local Rules”), Plaintiffs NAACP New York State Conference, the National Coalition

on Black Civic Participation, Families United for Racial and Economic Equality, the Working Families Party, Vivian Bosier, Anita Burson and Sheila Duncan (collectively “Plaintiffs”) hereby serve the following Requests for Production of Documents (“Document Requests” or “Requests”) on Defendants the New York State Board of Elections, James A. Walsh, Douglas A. Kellner, Evelyn J. Aquila, Gregory P. Peterson, Todd D. Valentine, Robert A. Brehm, the New York City Board of Elections, 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 (collectively “Defendants”). Plaintiffs demand that Defendants produce for inspection and copying the documents specified below at the law offices of Jenner & Block LLP, 919 Third Avenue, 37th Floor, New York, New York, 10022, within 30 days after service of these Document Requests unless the court orders otherwise. The documents requested must be copied and supplied to Jenner & Block LLP at the time of service of the response to these Requests.

DEFINITIONS

1. These requests incorporate all definitions set forth in EDNY Local Rule 26.3(c) & (d).
2. “Relating to,” “related,” “concerning,” “regarding,” “reflect” and “reflecting” shall broadly mean and include: referring to, relevant to, constituting, depicting, showing, describing, identifying, indicating, summarizing, analyzing, explaining, evaluating, appraising, evidencing, justifying, supporting, contradicting, establishing, repeating, attempting to establish the existence or nonexistence of or attempting to establish the truth or falsity thereof.
3. “Overvote” shall mean the casting of more than the maximum permitted number of votes in a given electoral contest.

4. “Configuration file” shall mean files that configure the initial settings for the Election Systems and Software (“ES&S”) DS200 and Dominion Voting Systems Corporation (“Dominion”) ImageCast.

5. “Source code” shall mean the form of software used for making modifications to the DS200 and ImageCast, including all modules it contains, plus any associated interface definition files, scripts used to control compilation and installation of the executable code.

6. “State Board” shall mean the New York State Board of Elections.

7. “City Board” shall mean the New York City Board of Elections.

INSTRUCTIONS

1. The documents responsive to the Requests shall be produced as they are kept in the usual course of business, and shall be organized and labeled to correspond to the Request to which they are responsive. If a document or other thing is responsive to more than one Request, it shall be labeled to correspond to the Request to which it is first responsive.

2. Electronic mail and other data or information stored or maintained on computer or other media (including databases) should be produced on CD-ROM or other standard computer readable media, in their native formats as they currently exist on your storage media and devices.

3. If any document is not produced on the basis of a claim of privilege or for any other reason, identify the document with particularity, including the author(s), any recipient(s), any other individual or entity to whom the document has been shown or transmitted, any other individual or entity with whom the document has been discussed, the number of pages, attachments, and appendices, the date of the document, a description of the subject matter sufficient to form the basis of a claimed privilege and to identify uniquely the document, and a short statement of the nature of the claimed privilege or reason for withholding production.

4. If a document responsive to a Request has been destroyed, it should be identified as follows: (i) preparer and addressor; (ii) addressee; (iii) each recipient and each person to whom it was distributed or shown; (iv) date prepared; (v) date transmitted; (vi) date received; (vii) description of contents and subject matter; (viii) date of destruction; (ix) manner of destruction; (x) name, title and address of the person who directed that the document be destroyed and the person who destroyed the document; (xi) the reason for the document's destruction; (xii) the names of persons having knowledge of the destruction; and (xiii) a full description of the efforts made to locate the document.

5. When any request calls for the production of any portion of any document, the entire document containing any such portion must be produced.

6. If any of the requested documents cannot be disclosed or produced in full, produce the documents to the extent possible, and specify your reasons for your inability to disclose or produce the remainder, stating whatever information, knowledge or belief you have concerning the undisclosed or unproduced portions.

7. Each request that seeks documents concerning communications to, from, or within a governmental, business or corporate entity, is hereby designated to demand, and should be construed to include, all communications by and between representatives, officers, directors employees or agents of the governmental, business or corporate entity.

8. These Requests are continuing in nature. If, after responding, you obtain or become aware of any further documents that are responsive to these Requests, supplementary production is required.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Precinct-level data for each precinct in New York State regarding the results of the 2004 presidential primary and general elections, the 2006 senatorial primary and general elections, the 2008 presidential and senatorial primary and general elections, and, as soon as it becomes available, the upcoming 2010 primary and general election results in statewide races, including such data necessary to show:

- a. the total numbers of overvotes cast in each contest;
- b. the respective numbers of overvotes cast by absentee or affidavit ballot and by in-person election-day voting on voting machines; and
- c. the total numbers of votes cast in each contest.

2. All documentation of communications, including, but not limited to, those communications within the City Board or the State Board, those between personnel of those two entities, and those between personnel of one of those entities and a third party, regarding:

- a. the procedure for handling overvotes during past election cycles; and
- b. the procedure for handling overvotes on the DS200 and ImageCast voting machines, including whether overvoted ballots are retained or automatically returned to voters and the message displayed to the voter when an overvote is detected.

3. All documentation of communications between personnel of the State Board or of the City Board on the one hand, and either Dominion or ES&S, on the other, including, but not limited to, any communications, reports, correspondence, or recorded representations regarding:

- a. the procedure for handling overvotes on the DS200 or ImageCast;

b. the procedure for making alterations to configuration files and/or source code of the DS200 and ImageCast necessary to change the overvote message presented to voters or to have the machines return overvoted ballots, including computer manuals, user guides, and operating procedures, as well as documents or communications regarding the nature or expense of each of these changes; and

c. the manufacturer's instruction manual(s) or guide(s) and manufacturer's warranties for the DS200 or ImageCast.

4. All documents, including documentation of communications, related to changes made to the configuration files and/or source code of the DS200 or ImageCast between September 1, 2009 and the present, including, but not limited to, documents or communications related to the process or proposed process for authorizing, approving or certifying those changes.

5. All documents, including documentation of communications, related to usability studies of the DS200 or ImageCast, including, but not limited to, those prepared by the American Institutes for Research ("AIR") and documentation of communications between AIR and personnel of the City Board or State Board reflecting the results of any voting system usability studies conducted by AIR.

6. Any documents related to a configuration file programming error, identified prior to the November 2009 election, in New York State Congressional District 23.

7. All documents prepared for New York poll workers, or individuals responsible for training poll workers, in connection with the administration of elections to be conducted using the DS200 or ImageCast voting machines, including training manuals, schedules, supervisor lists, FAQs, and guidelines.

8. All documents, including documentation of communications, concerning the training of New York poll workers, or individuals responsible for training poll workers, reflecting changes in instructions, directions, guidelines or training materials given to poll workers during the two months prior to the 2004 presidential primary and general elections, the 2006 senatorial primary and general elections, and the 2008 presidential and senatorial primary and general elections.

9. All documents concerning analyses prepared following the November 2009 general election regarding the pilot program using the DS200 and ImageCast optical-scan voting machines.

10. Any documents, including documentation of communications, regarding length of poll lines and voter waiting times at polling places, including, but not limited to, those related to increased waiting times due to voter errors, and those related to the ramifications of increased waiting times (e.g., discouraged prospective voters choosing not to wait in line to vote).

11. All documents, including documentation of communications, regarding the testing or public demonstrations of the ES&S DS200 or Dominion ImageCast optical-scan voting machines.

12. All operator or user training materials for the DS200 and ImageCast voting machines, including materials provided to local boards of elections for set-up, configuration or programming of the DS200 and ImageCast voting machines.

13. "Shapefiles," or geospatial vector data files, for every voting precinct in New York State, reflecting the configuration of voting precincts for the 2004 primary and general

elections, the 2006 primary and general elections, the 2008 primary and general elections, and, as soon as they become available, the upcoming 2010 primary and general elections.

Dated: New York, New York
August 4, 2010

By: _____ /s/ Jeremy M. Creelan

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