UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-Plaintiffs,

-against-

Civil Action No.
06-cv-0263 (GLS)

NEW YORK STATE BOARD OF ELECTIONS, TODD D. VALENTINE and STANLEY L. ZALEN, Co-Executive Directors of the New York State Board of Elections, in their official capacities; and STATE OF NEW YORK,

-Defendants.

ORDER

On February 20, 2008, plaintiff United States filed a Letter Request alleging defendant State Board of Elections' non-compliance with the Supplemental Remedial Order dated January 16, 2008 (Docket No. 188). Following the filing of responses to the United States' Letter Request on February 21, 2008 (Docket Nos. 208, 210), and two amicus curiae letters submitted on behalf of the Election Commissioners' Association (ECA), this Court heard arguments on the record on February 22, 2008 at which all parties were heard.

Having carefully considered the filings of the parties in the matter and for the reasons the court stated on the record during the February 22, 2008 return, the court finds as follows:

That it is hereby ORDERED, ADJUDGED and DECREED that:

1. In accordance with the Supplemental Remedial Order of January 16, 2008, the State Board of Elections shall select for the Erie County Board of Elections the ES&S AutoMark as its ballot marking device.

Dated: February 26, 2008
Albany, New York

Gary L. Sharpe
U.S. District Judge