

IN THE SECOND JUDICIAL CIRCUIT COURT  
IN AND FOR LEON COUNTY, FLORIDA

CHRISTINE JENNINGS, nominee of the  
Democratic Party for Representative in Congress  
from the State of Florida's Thirteenth Congressional  
District,

Plaintiff,

v.

Case No.: 2006-CA-2973

ELECTIONS CANVASSING COMMISSION OF  
THE STATE OF FLORIDA, consisting of Governor Jeb  
Bush, Chief Financial officer Tom Gallagher, and State  
Senator Daniel Webster; SARASOTA COUNTY  
CANVASSING BOARD, consisting of Supervisor of  
Elections Kathy Dent, Judge Phyllis Galen, and  
Commissioner Paul Mercier; KATHY DENT, as  
SARASOTA COUNTY SUPERVISOR OF ELECTIONS;  
SUE M. COBB, as SECRETARY OF STATE OF THE  
STATE OF FLORIDA; DAWN K. ROBERTS, as  
DIRECTOR OF THE DIVISION OF ELECTIONS OF  
THE STATE OF FLORIDA; and VERN BUCHANAN,  
as Nominee of the Republican Party for Representative  
in Congress from the State of Florida's Thirteenth  
Congressional District,

Defendants.

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**AFFIDAVIT OF DAVID DRURY**

STATE OF FLORIDA

COUNTY OF LEON

1. My name is David Drury. I am employed by the Florida Division of Elections as the Chief of the Bureau of Voting Systems Certification. I have a Bachelor's degree in Mechanical Engineering from the University of Kentucky and an MBA from the University of Cincinnati. I have held this position since 2004.

2. One of my duties is to certify electronic voting systems as set forth in Fla. Stat. § 101.5605.

3. In that capacity, the Department of State has certified the iVotronic voting system manufactured by Electronic Systems and Software, Inc. (ES&S) for use by Florida Supervisors of Elections. Sarasota County uses the ES&S system that includes the iVotronic machines.

4. I am familiar with the operation of the iVotronic device. My bureau is in possession of the sample iVotronic machines used in Sarasota County as well as the program codes/software requested by the plaintiff in this case. That software is confidential and exempt from public disclosure. Fla. State. § 119.071(1)(f).

5. The voting machines at issue in paragraph 13 of the plaintiff's Request for Production of Documents and for Inspection of Tangible Things are highly sensitive of pieces of technology that contain the electronic records of the Sarasota County 2006 general election results. As of this moment, they are stored in a warehouse in Sarasota County in the care, custody and control of the Sarasota County Supervisor of Elections, as required by law. Those machines as used in the 2006 general election remain programmed exactly in the manner they were programmed for election day and are in the same condition that they were in at the conclusion of the recount procedure. Any operation of these machines for testing purposes changes the machines and renders them inherently suspect for subsequent audit or forensic purposes. Although the machines will make a record of any activity taken once power is applied, the machines will never again be in the same condition that they were in on election day and after the recount procedures once testing moves forward as requested by plaintiff.

6. The value of any machine in any subsequent audit, or for truth finding purposes with respect to the events of election day, will be compromised if the plaintiff's motion is granted. All the machinery related to the election conducted in Sarasota County must remain in the safekeeping of the Supervisor of Elections in the interest of objectivity of any tests that may be conducted on these machines for any purposes. This is particularly true regarding the

plaintiff's demand that they take control over, physically open, remove and inspect the internal components of machines. If such an event takes place while these machines are under the physical control of one party to this litigation, that machine will be forever compromised for the purposes of any factual inquiry related to the result of the 2006 general election in Sarasota County.

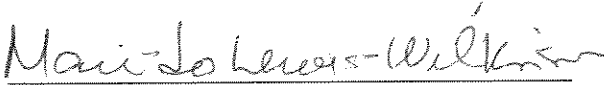
Dated this 21 day of November, 2006.

  
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DAVID DRURY

SWORN TO OR AFFIRMED AND SUBSCRIBED BEFORE ME this 21<sup>st</sup> day of

November, 2006, by DAVID DRURY, who is personally known to me or who has produced \_\_\_\_\_

FL Driver License as identification. # D660-176-52-202-0

  
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Notary Public, State of Florida

