

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
NEW YORK STATE BOARD OF )  
ELECTIONS; PETER S. KOSINSKI )  
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. )  
\_\_\_\_\_ )

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

**DECLARATION OF  
BRIAN F. HEFFERNAN**

**BRIAN F. HEFFERNAN**, for his declaration, pursuant to 28 U.S.C. § 1746, says:

1. I represent the plaintiff United States of America herein. I have read the United States' Motion to Enforce the June 2, 2006 Remedial Order and Memorandum in Support Thereof, and know the contents thereof, and state that the same is true to my knowledge.

2. Exhibit A to the United States' Memorandum contains a copy of Electionline Report, Voting Systems 2007 (updated 9/18/07), which can be found at <http://www.electionline.org/Default.aspx?tabid=1099>.

3. Exhibit B to the United States' Memorandum contains copies (excluding attachments) of the November 9, 2006, December 8, 2006, January 5, 2007, June 27, 2006 and August 3, 2006 Status Reports from the New York State Board of Elections to the U.S. Department of Justice, prepared pursuant to this Court's June 2, 2006 Remedial Order.

4. Exhibit C to the United States' Memorandum contains the text of the Certification Lab Bid Notice as it appeared in the New York State Contract Reporter on March 19, 2007, as

related to the United States by correspondence from Counsel for the New York State Board of Elections on March 20, 2007.

5. Exhibit D to the United States' Memorandum is a copy of an October 12, 2006 letter of the New York State Board of Elections, which was attached to the October 13, 2006 Status Report from the New York State Board of Elections to the U.S. Department of Justice, prepared pursuant to this Court's June 2, 2006 Remedial Order.

6. Exhibit E to the United States' Memorandum is a copy of an April 13, 2007 email from the New York State Board of Elections to voting machine vendors, which can be found at [http://www.wheresthepaper.org/NYSBOE\\_VendorMsgReMicrosoft\\_041307.pdf](http://www.wheresthepaper.org/NYSBOE_VendorMsgReMicrosoft_041307.pdf).

7. Exhibit F to the United States' Memorandum contains copies of position papers of voting systems vendors with regard to New York State's voting systems source code escrow requirements, provided to the United States by counsel for the New York State Board of Elections.

8. Exhibit G is a copy of correspondence dated September 27, 2007 to the Department of Justice, with attached September 14 and September 21, 2007 letters to the New York State Board of Elections, received by fax on September 27, 2007.

9. Exhibit H is a copy of Voting Matters II: No Time To Waste, A Report from the New York State Attorney General's Office, February 7, 2005, which can be found at [http://www.oag.state.ny.us/press/reports/voting\\_matters\\_2005.pdf](http://www.oag.state.ny.us/press/reports/voting_matters_2005.pdf).

10. Exhibit I is a copy of the Minutes of the August 16, 2007 New York State Board of Elections Meeting, found on the Board website at <http://www.elections.state.ny.us/NYSBOE/News/MeetingMinutes/Approved08162007minutes.pdf>.

11. Exhibit J is a copy of the Minutes of the May 22, 2006 New York State Board of Elections Meeting, found on the Board website at <http://www.elections.state.ny.us/NYSBOE/News/MeetingMinutes/Approved05222006minutes.pdf>.

12. Exhibits K and L are true copies of Orders entered July 21 and August 8, 2006 in United States v. State of Alabama, et al., Case No. 2:06-cv-392-WKW (M.D. Ala.).

I declare under penalty of perjury that the foregoing is true and correct.

/s/

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BRIAN F. HEFFERNAN

Executed November 5, 2007.