



Michael J. Novack
Clerk of the Court

State of New York
Supreme Court, Appellate Division
Third Judicial Department
P.O. Box 7288, Capitol Station
Albany, NY 12224-0288

(518) 471-4777
fax (518) 471-4750
<http://www.nycourts.gov/ad3>

FACSIMILE TRANSMITTAL SHEET

CONFIDENTIALITY NOTICE

This transmission is intended for the named recipient(s) only, and may be confidential or privileged. If you have received this transmission in error, please do not disclose its contents to anyone, and telephone this office during regular business hours for instructions. Thank you.

Date: February 7, 2008

Number of Pages including Cover Sheet: 2

TO: Allison Carr, Esq.

FROM: Motions

Action To Be Taken:

Deliver Immediately:	<input checked="" type="checkbox"/>
As Requested:	<input type="checkbox"/>
For your Information:	<input checked="" type="checkbox"/>
Please Approve & Call:	<input type="checkbox"/>
Other Action to be Taken:	<input type="checkbox"/>

Comments:

Matter of Liberty Election Systems, LLC v NYS Board of Elections et al., and Douglas A. Kellner, et al.

In Case of problem with transmission, please contact:

Mary Ellen Haase

518.471.4722

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 7, 2008

Case # 504120

**In the Matter of LIBERTY ELECTION
SYSTEMS, LLC,**

Respondent,

v

**NEW YORK STATE BOARD OF
ELECTIONS et al.,**

Respondents,

and

DOUGLAS A. KELLNER et al.,

Appellants.

**DECISION AND ORDER
ON MOTION**

Motion by respondents Douglas A. Kellner and Evelyn J. Aquila, pursuant to CPLR 5704 (a), to vacate portion of order to show cause dated February 6, 2008 or, in the alternative, pursuant to CPLR 5519 (c), for stay pending appeal.

Motion by petitioner, pursuant to CPLR 5519 (c), to vacate automatic stay claimed by respondents Douglas A. Kellner and Evelyn J. Aquila.

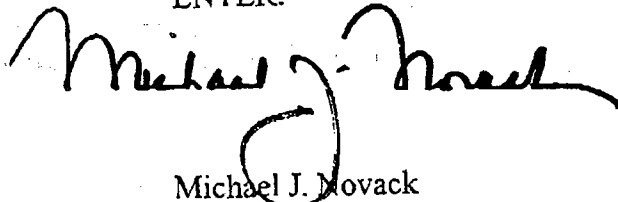
Upon the papers filed in support of the motions and the papers filed in opposition thereto, it is

ORDERED that the motion by respondents Douglas A. Kellner and Evelyn J. Aquila is denied, without costs, and it is further

ORDERED that the motion by petitioner is denied, without costs, as unnecessary.

CARDONA, P.J., SPAIN, ROSE, LAHTINEN and KANE, JJ., concur.

ENTER:



Michael J. Movack
Clerk of the Court