

NEW YORK SUPREME COURT – ALBANY COUNTY

Art. 78 Part \_\_\_

Present: HONORABLE KIMBERLY A. O'CONNOR  
JUSTICE

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~~ELECTION SYSTEMS & SOFTWARE, INC.,~~

PREMIER ELECTION SOLUTIONS, INC

Petitioner,

Index No. ~~954708~~

923-01

For a Judgment Pursuant to the Provisions of Article 78  
of the New York Civil Practice Law and Rules

ORDER

- against -

NEW YORK STATE BOARD OF ELECTIONS, and  
NEIL W. KELLEHER, DOUGLAS A. KELLNER,  
HELENA MOSES DONAHUE, EVELYN J. AQUILA,  
as Commissioners of the New York State Board of  
Elections,

Respondents.

-----X  
**ORDERED**, that pursuant to Section 7805 of the New York Civil Practice Law and  
Rules pending the hearing of the petition filed in above-entitled proceeding:

(A) Respondents, their employees, and all persons acting in concert with them or on  
their behalf, are stayed from enforcing the decision appealed from in this proceeding as set forth  
in the January 29, 2008 letter, from the New York State Board of Elections Co-Executive  
Directors to the County Boards of Elections finding Petitioner's AutoMARK ballot marking  
device non-compliant with the New York Election Law ballot display provisions and the Sequoia

Image Cast the sole choice for purchase by county boards of elections, and pending the outcome  
of the litigation in this matter, the Petitioner's AutoMARK ballot  
marking device, as modified, is to<sup>1</sup> be included in the list of Ballot Marking  
Device systems that the County Boards of Elections may rank their  
selection for the February 8, 2008 submissions to the NYS office of General  
00370473

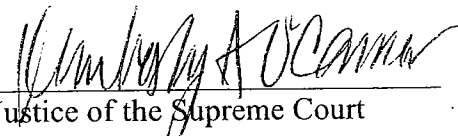
~~(B) New York State's county boards of election, and each of them, including the New York City Board of Elections, their officials, employees, and all persons acting in concert with them or on their behalf, are stayed from choosing a ballot marking device vendor until further order of this Court, and it is further~~

**ORDERED**, that Respondents shall forthwith furnish New York State's county boards of elections with a copy of this Order, and it is further

~~**ORDERED**, that Respondents shall take all actions necessary to extend the deadline for the county boards of elections to choose a ballot marking device vendor, which presently is set for February 8, 2008, until this Court shall decide the merits of the Verified Petition filed herein and direct the entry of Judgment upon said petition, and it is further~~

~~**ORDERED**, that respondents' answering papers, if any, shall be served upon petitioner by delivery to its attorneys, James E. Long & Associates, at their offices located at 668 Central Avenue, Albany, New York, 12206, and Davidoff Malito & Hutcher LLP, at their offices located at 605 Third Avenue, New York, New York 10158, on or before the \_\_\_ day of February, 2008.~~

ENTER :

  
Justice of the Supreme Court 2/8/08