

The UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

CONGRESSMAN ROBERT WEXLER;  
COMMISSIONER ADDIE GREENE,  
COMMISSIONER, BURT AARONSON  
and TONY FRANSETTA,

Plaintiffs,

vs.

THERESA LEPORE, SUPERVISOR  
OF ELECTIONS FOR PALM BEACH  
COUNTY, FLORIDA; KAY CLEM,  
SUPERVISOR OF ELECTIONS FOR  
INDIAN RIVER COUNTY, FLORIDA,  
AND PRESIDENT OF THE FLORIDA  
ASSOCIATION OF SUPERVISORS OF  
ELECTION; GLENDA E. HOOD,  
SECRETARY OF STATE OF FLORIDA,

Defendants.

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**COMPLAINT**

This is an action pursuant to 42 U.S.C. §1983 and the 14<sup>th</sup> Amendment to the United States Constitution.

**PARTIES**

1. Plaintiff, ROBERT WEXLER, brings this action in his capacity as a voter who has voted in past elections in Palm Beach County and who intends to vote in this very next election cycle. He is the Congressman who represents the 19<sup>th</sup> Congressional District for Florida.

2. Plaintiff, ADDIE GREENE brings this action in dual capacity. First in her capacity as a voter who has voted in past elections in Palm Beach County and who

intends to vote in this very next election cycle. Second, she is a candidate for election herself in this election cycle for a seat on the Palm Beach County Commission and she has an opponent in such election. She is also a Palm Beach County Commissioner.

3. Plaintiff, BURT AARONSON brings this action in dual capacity. First, in his capacity as a voter who has voted in past elections in Palm Beach County and who intends to vote in this very next election cycle. Second, he is a candidate for election himself in this election cycle for a seat on the Palm Beach County Commission and he has an opponent in such election. He is also a Palm Beach County Commissioner.

4. Plaintiff, TONY FRANSETTA brings this action in his capacity as a voter who resides in Wellington, Palm Beach County, who voted in past elections in Wellington, Palm Beach County, including the election discussed in paragraph 30 below. He intends to vote in this very next election cycle.

5. The Defendant, GLENDA E. HOOD, is the Secretary of State of Florida. She is sued in her official capacity in connection with acts or omissions taken under color of state law. As Secretary of State, the Defendant HOOD is the chief election officer of the State of Florida and has a responsibility pursuant to the Florida statutory sections discussed hereafter for general supervision and administration of the election laws including those provisions pertinent to voting systems.

6. Defendant, THERESA LEPORE, is the county Supervisor of Elections for Palm Beach County. She is sued in her official capacity in connection with acts or omissions taken under color of state law including Palm Beach County. She is responsible pursuant to Florida Statutes discussed hereafter to implement, report, provide, devise local procedures, for the election system utilized in Palm Beach County.

7. Defendant, KAY CLEM, is the county Supervisor of Elections for Indian River County. She is also the President of the Florida Association of Supervisors of Elections and is thus sued both in her official capacity in connection with acts or omissions taken under color of state law and as a representative of the class of all county Supervisors of Election for all counties in the state of Florida. The county Supervisors of Election are responsible pursuant to the Florida statutory sections discussed hereafter to implement, report, provide, devise local procedures, for election systems in the respective counties in the State of Florida.

### **JURISDICTION**

8. This Court has jurisdiction. Pursuant to 28 U.S.C. §1331 and 1343; 42 U.S.C. §1983; and the Fourteenth Amendment to the United States Constitution.

9. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. § 2201 and 2202; and by Rules 57 and 65 of the Federal Rule of Civil Procedure.

### **VENUE**

10. Venue is proper in this Court under 28 U.S.C. §1391(b)(2), in that a substantial part of the events giving rise to the claim arose in this District. Further, Defendants LEPORE and CLEM reside in this District and the State Defendants may be found in this District.

### **FACTUAL AND LEGAL BACKGROUND**

11. The Presidential Election in 2000, was perhaps the most controversial election in the history of our Nation. A great deal of the controversy arose here in Palm Beach County.

12. Certainly, the 2000 Election controversy uncovered severe shortcomings in election procedures and systems both in Palm Beach County, as well as elsewhere in Florida.

13. Subsequent to the 2000 Election controversy, Governor Jeb Bush appointed a select task force on election procedures standards and technology. Such task force promulgated a report which identified and analyzed the problems and recommended solutions (Exhibit "A"). Thereafter, during the 2001 legislative session the Florida Legislature enacted both revisions to existing election law statutes as well as new election law statutes.

14. Including within such statutory enactment were statutes that define when and what types of re-counts were to take place in the event of close elections and election contests.

15. Florida Statute §102.141 states in pertinent part:

(4) The canvassing board shall submit unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than noon on the second day after any primary, general, special, or other election. Such returns shall include the canvass of all ballots as required by subsection (2).

(5) If the county canvassing board determines that the unofficial returns may contain a counting error in which the vote tabulation system failed to count votes that were properly marked in accordance with the instructions on the ballot, the county canvassing board shall:

(a) Correct the error and recount the affected ballots with the vote tabulation system; or

(b) Request that the Department of State verify the tabulation software. When the Department of State verifies such software, the department shall compare the software

used to tabulate the votes with the software filed with the department pursuant to s. [101.5607](#) and check the election parameters.

(6) If the unofficial returns reflect that a candidate for any office was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made.

(a) In counties with voting systems that use paper ballots, each canvassing board responsible for conducting a recount shall put each ballot through automatic tabulating equipment and determine whether the returns correctly reflect the votes cast. If any paper ballot is physically damaged so that it cannot be properly counted by the automatic tabulating equipment during the recount, a true duplicate shall be made of the damaged ballot pursuant to the procedures in s. [101.5614](#)(5). Immediately before the start of the recount and after completion of the count, a test of the tabulating equipment shall be conducted as provided in s. [101.5612](#). If the test indicates no error, the recount tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly. If an error is detected, the cause therefore shall be ascertained and corrected and the recount repeated, as necessary. The canvassing board shall immediately report the error, along with the cause of the error and the corrective measures being taken, to the Department of State. No later than 11 days after the election, the canvassing board shall file a separate incident report with the Department of State, detailing the resolution of the matter and identifying any measures that will avoid a future recurrence of the error.

(b) In counties with voting systems that do not use paper ballots, each canvassing board responsible for conducting a recount shall examine the counters on the precinct tabulators to ensure that the total of the returns on the precinct tabulators equals the overall election return. If there is a discrepancy between the overall election return and the counters of the precinct tabulators, the counters of the precinct tabulators shall be presumed correct and such votes shall be canvassed accordingly.

(c) The canvassing board shall submit a second set of unofficial returns to the Department of State for each federal, statewide, state, or multicounty office or ballot measure no later than noon on the third day after any election in which a recount was conducted pursuant to this subsection. If the canvassing board is unable to complete the recount prescribed in this subsection by the deadline, the second set of unofficial returns submitted by the canvassing board shall be identical to the initial unofficial returns and the submission shall also include a detailed explanation of why it was unable to timely complete the recount. However, the canvassing board shall complete the recount prescribed in this subsection, along with any manual recount prescribed in s. [102.166](#), and certify election returns in accordance with the requirements of this chapter.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system, which shall be uniform to the extent practicable....

(8) At the same time that the results of an election are certified to the Department of State, the county canvassing board shall file a report with the Division of Elections on the conduct of the election. The report shall contain information relating to any problems incurred as a result of equipment malfunctions either at the precinct level or at a counting location, any difficulties or unusual circumstances encountered by an election board or the canvassing board, and any other additional information which the canvassing board feels should be made a part of the official election record. Such reports shall be maintained on file in the Division of Elections and shall be available for public inspection. The division shall utilize the reports submitted by the canvassing boards to determine what problems may be likely to occur in other elections and disseminate such

information, along with possible solutions, to the supervisors of elections.

16. Florida Statute §102.166 says in pertinent part:

102.166 Manual recounts.

(1) If the second set of unofficial returns pursuant to s. [102.141](#) indicates that a candidate for any office was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, the board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure.

(2)(a) If the second set of unofficial returns pursuant to s. [102.141](#) indicates that a candidate for any office was defeated or eliminated by between one-quarter and one-half of a percent of the votes cast for such office, that a candidate for retention to judicial office was retained or not retained by between one-quarter and one-half of a percent of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by between one-quarter and one-half of a percent of the votes cast on such measure, any such candidate, the political party of such candidate, or any political committee that supports or opposes such ballot measure is entitled to a manual recount of the overvotes and undervotes cast in the entire geographic jurisdiction of such office or ballot measure, provided that a request for a manual recount is made by 5 p.m. on the third day after the election....

(c) Upon receipt of a proper and timely request, the Elections Canvassing Commission or county canvassing board shall immediately order a manual recount of overvotes and undervotes in all affected jurisdictions.

(3)(a) Any hardware or software used to identify and sort overvotes and undervotes for a given race or ballot measure

must be certified by the Department of State as part of the voting system pursuant to s. [101.015](#). Any such hardware or software must be capable of simultaneously counting votes. For certified voting systems, the department shall certify such hardware or software by July 1, 2002. If the department is unable to certify such hardware or software for a certified voting system by July 1, 2002, the department shall adopt rules prescribing procedures for identifying and sorting such overvotes and undervotes. The department's rules may provide for the temporary use of hardware or software whose sole function is identifying and sorting overvotes and undervotes.

(b) This subsection does not preclude the department from certifying hardware or software after July 1, 2002.

(c) Overvotes and undervotes shall be identified and sorted while recounting ballots pursuant to s. [102.141](#), if the hardware or software for this purpose has been certified or the department's rules so provide.

(4) Any manual recount shall be open to the public.

(5)(a) A vote for a candidate or ballot measure shall be counted if there is a clear indication on the ballot that the voter has made a definite choice.

(b) The Department of State shall adopt specific rules for each certified voting system prescribing what constitutes a "clear indication on the ballot that the voter has made a definite choice." The rules may not:

1. Exclusively provide that the voter must properly mark or designate his or her choice on the ballot; or
2. Contain a catchall provision that fails to identify specific standards, such as "any other mark or indication clearly indicating that the voter has made a definite choice."

(6) Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) Each duplicate ballot prepared pursuant to s. [101.5614](#)(5) or s. [102.141](#)(6) shall be compared with the original ballot to ensure the correctness of the duplicate.

(c) If a counting team is unable to determine whether the ballot contains a clear indication that the voter has made a definite choice, the ballot shall be presented to the county canvassing board for a determination.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

1. Security of ballots during the recount process;
2. Time and place of recounts;
3. Public observance of recounts;
4. Objections to ballot determinations;
5. Record of recount proceedings; and
6. Procedures relating to candidate and petitioner representatives.

17. The abovementioned various statutory revisions and new statutes require each of the Defendants to fulfill certain responsibilities, including, but not limited to:

a. The Defendant, Secretary of State, GLENDA E. HOOD (hereinafter "HOOD"), pursuant to Fla. Stat. §101.015, is responsible to adopt rules in order to establish minimum standards for new voting systems for provisional approval of hardware and software for use with such systems and to approve the voting systems prior to use throughout the State of Florida. Moreover, such statute requires the Defendant HOOD to continuously review the voting system's certification standards.

b. Pursuant to Fla. Stat. §101.5605, Defendant, Secretary of State, HOOD, is responsible to approve or disapprove any voting system, to maintain any report pertinent to such system, and further, to re-examine any system or any part thereof which had previously been approved for the purpose of updating the certification of the system.

c. Fla. Stat. §101.506 establishes minimum standards for voting systems to be utilized by the Defendant, Secretary of State, HOOD, pertinent to approval of electronic or electromechanic voting systems.

d. Pursuant to Fla. Stat. §101.015, the Defendants, THERESA LEPORE (hereinafter "LEPORE") Supervisor of Elections for Palm Beach County and KAY CLEM (hereinafter "CLEM") County Supervisor of Elections for Indian River, are required to establish written procedures to assure accuracy and security in Palm Beach and Indian River Counties, respectively, and further, in the event revisions are required to such security procedures, they are required to submit them to Co-Defendant, Secretary of State, HOOD, at least 45 days prior to election.

e. Pursuant to Fla. Stat. §101.5604 the county Supervisors of Elections, including Defendants LEPORE and CLEM, and each of them, have a responsibility to consult with and advise the respective Boards of County Commissioners pertinent to the voting systems to be provided for the voters in such counties.

f. Pursuant to Fla. Stat. §101.595, the Defendant LEPORE and CLEM have the responsibility to analyze and report to the Defendant HOOD the total number of overvotes and undervotes in the first race appearing on the ballot along with

likely reasons for such undervotes and overvotes, as well as any other information that may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion. Moreover, upon receiving such report pursuant to Fla. Stat. §101.595, the Defendant HOOD, was responsible for preparing a public report on the performance of each type of voting system, which was required to contain an identification of voting system design problems and recommendations for correcting any problems identified.

18. It is important, at this time, to discuss the nature and causes of ballot error. A "residual vote" occurs when a voting system determines that a ballot does not contain a permissible vote in a particular race. There are two (2) kinds of residual votes:

(a) "Overvotes" occur when the voting system determines that the voter has cast more votes in a particular race than permitted in that race, notwithstanding the voter's actual intent. Almost every overvote is an error and does not accurately reflect the intent of the voter to cast no more votes than permitted in a particular race.

(b) "Undervotes" occur when the voting system determines that the voter has cast no vote in a particular race, notwithstanding the voter's actual intent. The vast majority of undervotes at the top of a ballot, and many undervotes not at the top of a ballot, are errors and do not accurately reflect the intent of the voter to cast a vote. Undervotes are significantly more common than overvotes.

19. The Defendants, and each of them, pursuant to their respective and shared statutory duties, certified, approved, implemented, developed procedures for and operated a "touch screen" paperless voting system utilized in Palm Beach County

and Indian River County since 2002, called "Sequoia AVC Edge Voting System Release 3.1".

20. In the first election use of such system, in Palm Beach County, there was a run off for a Wellington Village Council seat. The margin of victory in such run off was four (4) votes and there were seventy-eight (78) "undervotes".

21. Pursuant to Fla. Stat. §102.141 and §102.166, a manual recount of such undervotes was mandated and also was requested by the losing candidate, but a manual recount was impossible with the aforementioned "touch screen" paperless voting system.

22. Pursuant to Fla. Stat. §101.595, the Defendant's were supposed to identify, and correct the problems with such system, but apparently did not do so.

23. The Division of Elections, Florida Department of State website at <http://election.dos.state.fl.us/votemeth/systems/countysys.asp> reveals that there are presently several voting systems that have been approved in the State of Florida. Further, the "Sequoia AVC Edge Voting System Release 3.1" is utilized by three other counties in the State of Florida including Indian River County. At least 15 counties utilize "touch screen" paperless voting systems.

24. On or about July 8, 2003, Plaintiff, ROBERT WEXLER wrote to the Defendant, Secretary of State, GLENDA E. HOOD, expressing his concerns regarding the shortcomings of voting equipment that was being utilized. Such correspondence was to no avail. (Exhibit "B").

25. In January 2004, there was a special election to fill a vacated seat in the Florida Legislature for District 91, which, in part lies in Palm Beach County, but which lies entirely within the Southern District of Florida.

The margin of victory in such special election was 12 votes, and 134 ballots were invalidated as "undervotes". Pursuant to Fla. Stats. §102.141 and §102.166 a manual recount was again mandated.

26. Because of the Defendants and each of their continuing violations of their aforesaid respective and shared statutory duties, a manual recount was again impossible and thus not accomplished.

27. Indeed, as of February 2004, the Defendants and each of them did not even have any guidelines/procedures for manual recounts of "touch screen" paperless voting systems. When inquiries were made to the Defendant, GLENDA E. HOOD, she responded that since it is "impossible" to overvote with "touch screen" paperless voting systems, and such systems do not permit a review of undervotes, a manual recount of votes in Florida counties where such systems are utilized is futile, and therefore in those counties there will be no manual recounts. (Exhibit "C").

28. In December 2003, pursuant to her statutory duties, the Defendant HOOD promulgated a proposed administrative rule pertinent to vote tallying, counting and recounting procedures. 1S-2.031 F.A.C. (Exhibit "D").

29. A review of such proposed rule reveals that Defendant HOOD has established a manual re-count procedure applicable in fifty-two (52) counties 1S-2.031(6) F.A.C., but in fifteen (15) counties, including Palm Beach County there is no procedure for a manual recount in violation of the aforesaid statutes. Instead of a

manual recount procedure in those 15 counties, the proposed rule merely requires a regurgitation of the overall vote tally.

30. On February 13, 2004, the Defendant HOOD promulgated a second Notice of Change of Proposed Rule 1S-2.031, F.A.C. which, in violation of the aforesaid statutes totally eliminates any manual recount requirement for undervotes on "touch screen" paperless voting system. (Exhibit "E").

31. In the litigation took place during the 2000 election controversy, the US Supreme Court issued its opinion of Bush vs. Gore, 531 US 98, 121 Supreme Court 525 (2000).

32. The US Supreme Court specifically ruled, in order for any recount to determine voter intent, to comply with requirements of equal protection and due process, adequate statewide standards for determining what is a legal vote would have to be adopted, along with practicable procedures to implement them. Further, equal protection and due process required orderly judicial review of any disputed matters that arise.

33. Plaintiffs contend that based on the aforementioned problems that have already arisen in Palm Beach County with the "touch screen" paperless voting systems, and by virtue of the non uniform, differential standards in fifteen (15) counties in the state of Florida, including Palm Beach County and Indian River County, as opposed to the other fifty-two (52) counties of the state there exists an ongoing violation of their rights to due process and equal protection guaranteed by the Fourteenth Amendment of the United State Constitution. Unless this Court takes action, the upcoming elections and others in the future will be conducted in violation of the equal protection and the due

process rights of Plaintiffs and all other voters in such fifteen (15) counties. Plaintiffs have suffered and therefore will continue to suffer irreparable harm as a result of Florida's non-uniform system of voting and Plaintiff has no adequate remedy at law.

**COUNT I**  
**DECLARATORY RELIEF**

Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, adopt and reallege each and every allegation contained in paragraphs 1 through 33 above and further allege:

34. Plaintiffs contend that Defendants, and each of them, pursuant to above noted statutory requirements, have respective and shared mandatory responsibility to ensure that each citizen of Palm Beach County and the other fourteen (14) counties utilizing "touch screen" paperless voting systems, who exercises his or her right to vote guaranteed by the United States Constitution that, in accordance with the requirements of equal protection and due process, will have such vote accurately recorded, reported, counted, and be able to be re-counted, if appropriate and necessary.

35. Further, Plaintiffs contend that the Defendants, and each of them have a respective and shared mandatory responsibility to ensure that in the event of a recount, such recount must be able to be rapidly, properly and accurately performed, while protecting the equal protection and due process rights of the voters, including themselves.

36. In addition to concerns as registered voters in Palm Beach County, Plaintiffs, ADDIE GREENE and BURT AARONSON contend that since they candidates who are running in contested elections this election cycle, in the event a re-count will be

required, that the current systems, procedures and equipment will render that impossible.

37. That, by virtue of the abovementioned problems that have arisen since the "touch screen" paperless voting systems were utilized in Palm Beach County, in light of the ongoing acts and omissions of the Defendants, and each of them, in violation of their aforesaid statutory duties and a due process and equal protection requirements mandated in the United States Constitution. Plaintiffs fear that the problem will arise in this next election cycle and in future elections.

38. Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, are in doubt as to their rights both as voters and ADDIE GREENE and BURT AARONSON as candidates for contested election this election cycle as a candidate for re-election under the United States Constitution and the above noted statutes.

39. Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, respectfully request that this Court:

A) Take jurisdiction over this matter for purposes of rendering a declaratory decree;

B) Having taken jurisdiction, enter an Order declaring that the Defendants and each of them, have and continue to be in violation of their respective and shared Constitutional and statutory duties to provide for, protect and ensure that each voter in Palm Beach County and each other county utilizing "Touch screen" paperless voting systems will have his or her vote accurately and properly recorded with

the ability to rapidly, accurately and properly conduct a recount if necessary, with consideration of his rights of equal protection and due process;

C) Require the Defendants, and each of them, to immediately take whatever steps are necessary to correct such Constitutional and Statutory violations prior to the very next election scheduled in Palm Beach County, and each other county using "Touch screen" paperless voting systems;

D) Require the Defendants notify this Court of the progress and completion of implementation of this Court's Order on an ongoing basis;

E) Require the Defendants, and each of them, to communicate to the voters of each affected county of this Court's Order and steps taken to implement such Order;

F) Grant such other relief as this Court deems proper;

G) Retain jurisdiction over the parties and the subject to assess taxable costs and any and all penalties this Court deems meet and just;

WHEREFORE, Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, request this Honorable Court enter declaratory judgment in favor of the Plaintiff and against the Defendants, and each of them.

**COUNT II**  
**INJUNCTIVE RELIEF**

Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, adopt and reallege each and every allegation contained in paragraphs 1 through 33 above and further allege:

40. Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, reasonably anticipate that, in order for Defendants, and each of them, to correct their respective and shared constitutional and statutory violations will take some time.

41. The next election cycle in Florida is the primary, which will be held on Tuesday, August 31, 2004.

42. The Defendants, aforesaid acts and omissions in violation of their respective and shared Constitutional and statutory duties pose an immediate threat to the rights of plaintiff, Palm Beach County voters, voters in other counties that utilize “touch screen” paperless voting systems, and also to the political candidates.

43. Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, have no adequate remedy at law and they, and all other affected voters in Palm Beach County and the other counties that utilize “Touch screen” paperless voting systems, as well as Plaintiffs, ADDIE GREENE and BURT AARONSON in their capacity as political candidates with opposition, will suffer immediate and irreparable harm if this Injunctive Relief is not granted.

44. Plaintiffs are confident that, based on all the aforesaid facts and law that they will prevail on the merits of this action.

45. Plaintiffs, respectfully requests that this Court:

A) Take jurisdiction over this matter for purposes of rendering a declaratory decree;

B) Having taken jurisdiction, enter an Order declaring that the Defendants and each of them, have and continue to be in violation of their respective

and shared Constitutional and statutory duties to provide for, protect and ensure that each voter in Palm Beach County and each other county that utilizes "Touch screen" paperless voting systems, will have his or her vote accurately and properly recorded with the ability to rapidly, accurately and properly conduct a manual recount if necessary, with consideration of his rights of equal protection and due process;

C) Require the Defendants, and each of them, to immediately take whatever steps are necessary to correct such Constitutional and Statutory violations prior to the very next election scheduled in Palm Beach County, and each other county that utilizes "Touch screen" paperless voting systems;

D) Require the Defendants notify this Court of the progress and completion of implementation of this Court's Order on an ongoing basis;

E) Require the Defendants, and each of them, to communicate to the voters of each affected county of this Court's Order and steps taken to implement such Order;

F) Grant such other relief as this Court deems proper;

G) Retain jurisdiction over the parties and the subject to assess taxable costs and any and all penalties this Court deems meet and just;

WHEREFORE, Plaintiffs, ROBERT WEXLER, ADDIE GREENE, BURT AARONSON and TONY FRANSETTA, request this Honorable Court enter declaratory relief in favor of the Plaintiffs and against the Defendants, and each of them.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this March 8, 2004 to: J. MICHAEL BURMAN, ESQ., Burman, Critton, Luttier & Coleman, 515 N. Flagler Drive, Suite 400, West Palm Beach, FL

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