

Press Release June 1, 2009

Media Contacts:
Garland Favorito
(404) 664-4044

Supreme Court Brief Filed in Landmark E-Voting Rights Case

ATLANTA, GA – Citizens involved in an electronic voting rights lawsuit, filed a brief today that will be heard by the Georgia Supreme Court. The brief appeals a ruling on a 13-count lawsuit that is being followed nationally.

The suit contends that the former Secretary of State violated voting rights of Election Day voters by failing to protect them with an auditable election process and tangible ballots as required by law and the state Constitution.

The citizen appellants charge that machine independent audit capabilities are only available in Georgia via optically scanned absentee ballots and that indiscernible electronic records cannot be properly verified by voters, audited by election officials or fully recounted.

Key federal issues before the court include whether or not Georgia considers voting to be a fundamental right explicitly and implicitly protected by the U.S. Constitution. Fundamental rights are subject to strict scrutiny under provisions of previous U.S. Supreme Court case law. The appellants believe that the current method of voting cannot withstand such scrutiny because of numerous deficiencies including admissions by state witnesses that:

- Georgia's E-voting systems were piloted, certified and acquired without having the independent audit trail that the law required;
- Voting systems can swap race totals among candidates without detection;
- The tabulation servers do not meet federal vote fraud prevention standards;
- Election results can be manipulated by county officials without detection;
- Testable requirements cannot ensure the software counts votes accurately;

The appeal brief cites misapplied case law and 17 errors of facts where court conclusions conflicted with the evidence in the record.

Appellant Mark Sawyer, stated: "We don't consider the original ruling to be legitimate. It has almost as many flaws as the voting systems. The court did not acknowledge any of the evidence we collected, did not factually refute any of the arguments we made, and did not understand and rule properly on arguments in at least three of our counts."

The initial court order and appeal brief are posted at the www.voterga.org web site.