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To: *Council of record*
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Subject: *Jennings/Gedder*
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COMMENTS:

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Judge *Wm. Garry* / *Becky Jones*
Leon County Courthouse
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IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA,

CHRISTINE JENNINGS, nominee of the
Democratic Party for Representative in
Congress from the State of Florida's
Thirteenth Congressional District,

Plaintiff,

vs

CASE NO. 2006-CA-2973

ELECTIONS CANVASSING COMMISSION
OF THE STATE OF FLORIDA; SARASOTA
COUNTY CANVASSING BOARD; KATHY
DENT, as Sarasota County Supervisor of
Elections; SUE M. COBB, as Secretary of State
of the State of Florida; DAWN K. ROBERTS,
as Director of the Division of Elections of the
State of Florida; VERN BUCHANAN, as
nominee of the Republican Party for
Representative in Congress from the State of
Florida's Thirteenth Congressional District;
and ELECTION SYSTEMS & SOFTWARE, INC.,

Defendants.

ELLEN FEDDER, LANCE JONES, ERNEST LASCHE,
a/k/a MIKE LASCHE, BARBARA KLEIN, LOIS
HARMES, JOHN MINDER, DOVIE MURRAY,
JOHN McBRIDE, SUSAN GAAR, GARY LAMER
and CHARLES CLIFTON,

CASE NO. 2006-CA-2996

Plaintiffs,

vs

TOM GALLAGHER, Chief Financial Officer, State of Florida, GOVERNOR JEB BUSH, and State Senator DAN WEBSTER, as members of and as the FLORIDA ELECTIONS CANVASSING COMMISSION; and SUE M. COBB, as Secretary of State, State of Florida; et al.,

Defendants.

ORDER ON MOTIONS

This cause came on for hearing on the Motions To Compel filed by Plaintiff, Christine Jennings, and Plaintiffs, Ellen Fedder, Lance Jones, Ernest Lasche, a/k/a Mike Lasche, Barbara Klein, Lois Harmes, John Minder, Dovie Murray, John McBride, Susan Gaar, Gary Lamer, and Charles Clifton, and the Motion For Entry of a Protective Order filed by Plaintiff, Christine Jennings. The Court having considered the evidence presented, the record, argument of counsel, and being otherwise fully advised finds as follows:

- A. All parties agree for the purposes of the motions that the Source Code and Proprietary Technology associated therewith constitutes a trade secret.
- B. The sole issue for determination is whether or not Plaintiffs can demonstrate a reasonable necessity to gain access to the trade secret.
- C. Plaintiffs allege that there was some 18,412 undervotes in the race for The United States House of Representatives in Florida's Thirteenth Congressional District in Sarasota County, or 12.9% of the votes cast in said county, and that such a large number

demonstrates a malfunctioning of the iVotronic system which rejected thousands of legal votes.

D. The machines now challenged were tested as required by law prior to the early voting and election day voting and were found to be working properly.

E. Because the election was a close one and due to Plaintiffs' allegations an audit was conducted on the voting system to verify its accuracy.

F. Two parallel tests were conducted on the subject screen systems and representatives of both Plaintiffs and Defendants were present. The test results revealed 100% accuracy of the equipment in reporting the vote selections.

G. Plaintiffs have presented no evidence to demonstrate that the parallel testing was flawed and/or the results not valid.

H. The testimony of Plaintiffs' experts was nothing more than conjecture and not supported by credible evidence.

I. For this Court to grant Plaintiffs' motions would require this Court to find that it is reasonably necessary for the Plaintiffs to have access to the trade secrets of Defendant, Election Systems & Software, Inc., based on nothing more than speculation and conjecture, and would result in destroying or at least gutting the protections afforded those who own the trade secrets.

Accordingly, it is

ORDERED AND ADJUDGED as follows:

1. The Motion To Compel filed by Plaintiff, Christine Jennings, is Denied.
2. The Motion To Compel filed by Plaintiffs, Ellen Fedder, Lance Jones, Ernest Lasche, a/k/a Mike Lasche, Barbra Klein, Lois Harmes, John Minder, Dovie Murray, John McBride, Susan Gaar, Gary Lamer, and Charles Clifton, is Denied.
3. The Motion For Entry of a Protective Order filed by Plaintiff, Christine Jennings, is moot, and thus Denied.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this
29th day of December, 2006.


WILLIAM L. GARY
Circuit Judge

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