Wheeler Trigg O'Donnell

Media Advisory: General Election and DRE Concerns

News
Aug 28, 2012

Nonpartisan Colorado voters release letter requesting meeting with Secretary of State Gessler to address how to mitigate pervasive violations of election laws and election security regulations identified in June primary election.

Contacts:
Paul F. Hultin, 303-244-1840
Matthew E. Johnson, 303-244-1864

Background:
Attorneys Paul Hultin and Matthew Johnson of the Denver-based civil litigation law firm Wheeler Trigg O'Donnell LLP (WTO) represent, pro bono, two nonpartisan Colorado voters, Jeffrey Sherman and Myriah Sullivan Conroy (the "Electors") regarding the Electors' ongoing concerns about the integrity and accuracy of the November 2012 General Election because of security lapses in the June primary election involving discredited Direct Recording Electronic voting machines ("DREs"). WTO has continued its pro bono representation of the Electors since the Denver District Court ordered enhanced security for DREs in the lawsuit of Conroy v. Dennis in 2006.

On August 24, WTO sent a letter to Secretary Gessler explaining the severity of documented election law violations

in the June primary election in Douglas and Teller Counties. A copy of that letter is attached.

On behalf of its clients, WTO is seeking a meeting with Secretary Gessler to discuss emergency action that can be taken to mitigate what appear to be systemic violations of Colorado election security laws and regulations. To date, WTO has not received a substantive response to its August 24 letter. The Secretary's office has proposed an August 31, 2012 preliminary meeting with the Deputy Secretary of State.

As noted in the August 24 letter, the Electors are attempting to schedule meeting with Secretary Gessler to address what appear to by state-wide DRE security lapses in light of admitted security lapses in the June primary election. Douglas County Clerk and Recorder Jack Arrowsmith claimed that Douglas County had received a non-existent exemption from Election Rule 43 (DRE security). Multiple breaches of Election Rule 43, and lack of basic knowledge of DREs in Teller County was reported by Secretary Gessler in recently released reports. This indicates a systemic problem with election security statewide that has the potential to cast a dark cloud over the 2012 Presidential election in Colorado.

During the fall of 2011 and the winter and spring of 2012, Secretary Gessler amended Election Rule 43. The Electors and WTO submitted public comments objecting to the Secretary's proposed amendments as an unnecessary and dangerous dilution of DRE security regulations. Recent Republican primary election debacles in Douglas and Teller County have taken the Electors' concerns from being purely theoretical approximately six months ago, to the reality of today.

There is a scientific consensus that DREs are insecure and unreliable. DREs continue to be challenged by computer scientists from major universities (including Stanford, Princeton and Johns Hopkins) by engineers, and by policy makers across the United States. With a razor-thin margin in

the presidential election predicted in the swing state of Colorado, it is critical that Secretary Gessler conduct a comprehensive examination of the preparedness of the County Clerks in Colorado to avoid an election day melt-down.

Trial Tested™ Denver-based civil litigation firm Wheeler Trigg O'Donnell helps its clients resolve disputes that threaten their businesses, brands, products, people, and customers. WTO handles trials, appeals, arbitrations, and related areas of complex civil litigation, including class actions and multidistrict litigation, often as national or regional trial counsel, for many of the nation's best-known companies in a wide variety of industries.

© 2026 Wheeler Trigg O'Donnell LLP. All Rights Reserved