# Replacing Mechanical Voting Machines with Electronic Voting Machines

*Taylor v. Onorato*

*(Gary L. Lancaster, W.D. Pa. 2:06-cv-481)*

On April 12, 2006, People for the American Way and seven voters filed a federal complaint in the Western District of Pennsylvania to enjoin Allegheny County's planned replacement of mechanical voting machines with electronic voting machines in the May 16 primary election.[1] The plaintiffs' allegations included a charge that the new machines were not in compliance with the Help America Vote Act (HAVA).[2] Defendants included county, state, and federal officials.[3] On the following day, the plaintiffs filed a motion for a preliminary injunction.[4]

The court assigned the case to Judge Gary L. Lancaster, who set a status conference for April 18.[5] Judge Lancaster denied a request by news media to attend.[6] He wanted an informal, open discussion of what the case was about and what the parties wanted from him.[7] He found this to be an absolutely vital step in presiding over the case.[8] At the conclusion of the conference, Judge Lancaster invited the parties to use his conference room for what turned out to be unsuccessful settlement discussions.[9]

Judge Lancaster ordered an evidentiary hearing set for April 25.[10] The defendants presented unrebutted evidence that switching back to the old machines would not be feasible for the next election.[11] The issues in the case, however, were primarily legal.[12] After a three-day hearing, Judge Lancaster denied the injunction.[13] He determined that HAVA does not afford private rights of action and the plain-

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1. Complaint, Taylor v. Onorato, No. 2:06-cv-481 (W.D. Pa. Apr. 12, 2006), D.E. 1; Taylor v. Onorato, 428 F. Supp. 2d 384, 385 (W.D. Pa. 2006); *see* Ryan Haggerty, *Voters Try to Bar New Machines*, Pittsburgh Post-Gazette, Apr. 13, 2006, at A1; Glenn May, *Suit Would Ban New Voting Machines*, Pittsburgh Trib. Rev., Apr. 13, 2006.

2. Complaint, *supra* note 1; *Taylor*, 428 F. Supp. 2d at 385–86; *see* Pub. L. No. 107-252, 116 Stat. 1666 (2002), *as amended*, 42 U.S.C. §§ 15301–15545 (2011). *See generally* Brian Kim, *Help America Vote Act*, 40 Harv. J. on Legis. 579 (2003).

3. Complaint, *supra* note 1; *Taylor*, 428 F. Supp. 2d at 385; *see* May, *supra* note 1.

4. Preliminary Injunction Motion, *Taylor*, No. 2:06-cv-481 (W.D. Pa. Apr. 13, 2006), D.E. 2.

5. Order, *id.* (Apr. 13, 2006), D.E. 10.

Tim Reagan interviewed Judge Lancaster for this report by telephone on October 18, 2012.

6. *See* Jason Cato, *Hearing to Decide Voting Machines' Fate*, Pittsburgh Trib. Rev., Apr. 19, 2006.

7. Interview with Hon. Gary L. Lancaster, Oct. 18, 2012.

8. *Id.*

9. *Id.*

10. Minutes, *Taylor*, No. 2:06-cv-481 (W.D. Pa. Apr. 13, 2006), D.E. 10.

11. Interview with Hon. Gary L. Lancaster, Oct. 18, 2012.

12. *Id.*

13. Taylor v. Onorato, 428 F. Supp. 2d 384 (W.D. Pa. 2006); Order, *Taylor*, No. 2:06-cv-481 (W.D. Pa. Apr. 28, 2006), D.E. 80; *see* Jason Cato, *Judge Denies Injunction in Vote Suit*, Pittsburgh Trib. Rev., Apr. 28, 2006; Paula Reed Ward, *County Voting Machines OK'd*, Pittsburgh Post-Gazette, Apr. 29, 2006, at B1.

tiffs had not proved that the new machines would be sufficiently less reliable than the old machines to merit relief.[14]

The Pittsburgh *Post-Gazette* reported that the new machines were a somewhat flawed success:

> Yes, there were glitches, particularly with getting the new electronic voting machines started. In some cases, machines arrived at polling places with cracked screens. And the vote took much longer to count than in past elections, leaving some outcomes hanging into the wee hours.
>
> But all in all, Allegheny County officials were pleased with Tuesday's debut of electronic touch-screen voting, even as they look for ways to eliminate glitches and speed vote counting before November's general election.[15]

A couple of weeks later, the newspaper reported that advocacy groups were still dissatisfied with the new technology.[16]

The plaintiffs voluntarily dismissed the action on June 5.[17]

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14. *Taylor*, 428 F. Supp. 2d 384; *see* Jason Cato, *Judge Clears Way for Voting Machines*, Pittsburgh Trib. Rev., Apr. 29, 2006.

15. Mark Belko, *County Gives Good Grade to New Voting Machines*, Pittsburgh Post-Gazette, May 18, 2006, at A1.

16. Moustafa Ayad, *Groups Cite Flaws in Electronic Voting*, Pittsburgh Post-Gazette, June 2, 2006, at B1.

17. Dismissal, *Taylor*, No. 2:06-cv-481 (W.D. Pa. June 5, 2006), D.E. 87.