

*As Vote Nears, Parties Prepare For Legal Fights*  
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**HEADLINE:** As Vote Nears, Parties Prepare For Legal Fights

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**BODY:**

A team of lawyers for the Democratic Party has been arguing with postal officials in Columbus, Ohio, trying to persuade them to process thousands of absentee ballots that have arrived with insufficient postage.

In Pennsylvania, the Republican Party has opened a "recount account" and set aside \$500,000 to pay lawyers who will answer telephones on Election Day and monitor polls to see whether officials demand proper voters' identification. In Maryland, lawyers representing candidates for senator and governor from both parties met recently and swapped cellphone numbers and e-mail addresses to smooth out the logistics of potential litigation.

Several days from what Republican and Democratic campaign strategists expect to be a close election, the legal machinery of a messy fight is shifting into high gear.

Democrats say they are most concerned that voters will be prevented from voting by long lines or poll workers' demanding unnecessary forms of identification.

Republicans say they are guarding against ineligible people trying to vote.

The parties are sending their largest concentrations of lawyers to states with the tightest races like Maryland, Missouri, Ohio and Tennessee. Most of them are unpaid volunteers, though many from large firms are working pro bono to meet their firms' expectation for hours of public service.

On Saturday and Sunday, hundreds of the 7,000 lawyers who are working on the election for the Democratic National Committee will board planes for Arizona, Florida, Maryland, Missouri, Ohio and 13 other states.

Their task is to reinforce local teams where party officials say there is the greatest potential for long lines, voter intimidation or confusion at the polls and where they may

need to file court petitions to keep polls open late.

"We're not going to make the mistake we did last time, which was to wait until after the election for litigation," said Chris Redfern, chairman of the Ohio Democratic Party.

That party has spent \$250,000 in legal fees on suits over new electronic voting machines and a voter identification law. The Republican National Committee is shipping out 150 lawyers on Monday to help hundreds of local lawyers in Florida, Michigan, Missouri, Tennessee and other states answering phones and working at polling stations policing against voter fraud.

"What is unfortunate is that it appears Democrats are following their playbook from 2004 and alleging voter suppression where it does not exist, in an effort to launch a pre-emptive strike," said Tracey Schmitt, spokeswoman for the Republican National Committee.

It is not just parties gearing up.

In its largest mobilization ever for a non-presidential election, the Justice Department will dispatch about 800 lawyers to potentially troubled polling locations in 65 cities in 20 states to ensure voting rights laws are obeyed.

The Lawyers' Committee for Civil Rights Under Law, the **N.A.A.C.P.** and the People for the American Way Foundation will jointly have 2,000 lawyers fanning out across 20 states.

Though unwilling to provide numbers, the executive director of the Republican National Lawyers Association, Michael B. Thielen, said his organization had received many requests for extra lawyers to be sent to Missouri and Pennsylvania.

Aside from new voter identification laws, new voter registration databases and so many close races, the rollout of electronic voting equipment provides an unusually high potential for suits during and after the election.

Lawyers have complained about electronic machines in Texas and Virginia that are cutting off some candidates' last names on a summary page.

Florida, South Carolina and Texas, have had reports of electronic machines showing the wrong name when a voter presses a button for a candidate.

In Colorado, a federal judge deemed the new touch-screen machines insecure and unreliable and ruled that they not be used again, raising the likelihood that lawyers will contest the legitimacy of the results on Tuesday.

"Both sides are lawyering up," said Doug Chapin, director of the nonpartisan Election Reform Information Project. "Election night is not necessarily the finish line anymore."

Election litigation has grown since 2000, reaching 361 suits in 2004, up from 108 in 1996, according to Richard L. Hasen, a professor at the Loyola Law School in Los Angeles.

The Hotline, a political newsletter, noted the trend, commenting, "We're waiting for the day that pols can cut out the middleman and settle all elections in court."

Nathaniel Persily, a professor of election law at the University of Pennsylvania, said Democrats were responding to the election problems of 2000, when they felt outmatched by

Republican lawyers in Florida.

Lawyers and voting experts say they are especially watching the states with new voter identification laws, where they expect the laws to cause confusion and possible contention. Some of the new laws, in Arizona, Georgia, Indiana and Missouri, are being litigated. Voting rights groups in those states say they intend to interview people turned away because of a lack of proper identification.

In St. Louis, a lawyer directing the Democrats' legal efforts, Shonagh Clements, said she was prodding officials to obtain credentials for 300 lawyers, many of whom she plans to train on Sunday to work as poll challengers.

"We're doing a lot of sprinting just to get through the weekend," Ms. Clements said.

In Maryland, the pace is similarly frenetic. This week, Democratic lawyers have been combing through a Republican manual for poll workers acquired by a Democratic operative that gives instructions on aggressively challenging voters' credentials. Aside from looking for illegalities in the document, Democrats have been writing a manual to counter the Republican booklet, instructing their poll workers how to watch for overzealous Republican poll watchers.

Officials from both parties say Maryland is ripe for litigation and voting problems because the governor has voiced skepticism about the dependability of electronic voting machines.

As a result, a record number of voters have filed absentee ballots.

Experts say those are more susceptible to fraud and demands for recounts.

"Unfortunately, the Maryland Democratic Party wants to have this election decided in the courts, with their 400 roving attorneys," said Audra Miller, spokeswoman for the Republican Party.

Ms. Miller, without providing numbers, said her party planned to mobilize its largest fleet of election lawyers.

Many states with the new voter identification laws encourage poll workers to have voters without proper identification use provisional ballots.

More than 30 states do not count provisional ballots cast in the wrong precinct.

Demos, a nonpartisan organization that studies election issues, calls ballots that election officials allow to be cast but have no intention of counting placebo ballots. The group predicts that in close elections the rules for counting provisional ballots could lead to legal cases.

A elections expert with the Century Foundation, Tova Wang, said lawyers of all stripes were trying to figure out how to handle the high- and low-tech problems that are difficult to document like lost computer data or backups at polling stations.

"How do you litigate a long line?" Ms. Wang asked. "For people who can't afford to wait for hours, long lines essentially take away their right to vote. But litigating it is nearly impossible."

Mary Ellen Gurewitz, a lawyer in Detroit for the Michigan Democratic Party, which is dispatching 800 lawyers statewide, said she hoped to catch the problem in advance.

"Many more votes are lost from incompetent election administration than voter suppression," Ms. Gurewitz said. "So we're going to minority neighborhoods in Detroit, Lansing and Flint, because that's where we know the Republican challengers will try to contest voters' qualifications."

Her lawyers, Ms. Gurewitz added, will be trained to encourage poll workers to set up the polling places to reduce problems like lines for voters that are divided by precinct rather than all voters gathering in a single long line.

Lawyers for the Michigan Republican Party have been photocopying fill-in-the-blank boilerplate forms if they have to go to court on Tuesday to challenge interpretations of election laws.

Fifty of the party's 200 volunteer lawyers will staff a phone bank at party headquarters in Lansing to take complaints before calling the teams of 10 to 15 lawyers to respond from one of 10 regional centers.

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