

The voting machine verdict

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After much legal wrangling, the question of whether the state's 10,000 electronic voting machines accurately record votes is headed into the courtroom, with a trial slated for September.

Long before that, experts will have performed tests and reached conclusions about the reliability of the machines. Yet New Jerseyans walking into voting booths on Nov. 4 may be casting their ballots without knowing what those tests found. They will make a choice for president uncertain whether their votes will be properly recorded.

Why? Judge Linda Feinberg has imposed a gag order preventing anyone connected with the case from disclosing what the testing of the machines reveals. The lawyers and experts have to remain mum until the case -- including any appeal -- is completed. Most likely that will be well after the presidential election.

Fortunately, the American Civil Liberties Union of New Jersey, the New Jersey Press Association and other organizations are seeking to overturn Feinberg's order. We wish them success.

The September trial will be the culmination of a four-year legal battle over the reliability of electronic voting machines.

Those pressing the legal case want voters to be able to see a paper printout, allowing them to verify their votes. They got a boost when the February presidential primary results were examined. There were discrepancies between two internal counting mechanisms on some machines. It is a sampling of those machines that experts will deconstruct to figure out what caused the problems -- malfunction or human error.

Executives from Sequoia Voting System, the manufacturer, objected to having outside experts take a look inside the machines. They feared trade secrets could be exposed.

Feinberg acknowledged those concerns. But she did agree with the voting advocates' lawyers that their expert, a Princeton University computer scientist, must be allowed to examine the devices.

The resulting decision to muzzle the lawyers and experts represents a compromise -- a bad one. Feinberg justified it by reasoning that "The public will know soon enough when this case is over."

That's not good enough in a case involving basic constitutional rights. It's dismissive of constitutional principles. In a democracy, the right to vote is paramount. It's diminished considerably if citizens can't have confidence in the results.

Voters should not have to walk into booths in November uncertain whether their votes will be accurately recorded. There is no justification for withholding from the public the findings of the experts.

