

This story was edited and ready to run when I happened to mention to my editor, John Bennet, that I'd spent the afternoon hanging Kerry literature on doorknobs. Twenty minutes later, I got a call from both Bennet and David Remnick, telling me they had to kill the story because of my obvious bias. "What would happen if Fox News found out?" Remnick asked, to which I replied, "What would happen if The Nation found out that the New Yorker killed a good story because it was afraid of Fox News?" I argued that I was not a paid operative of the Kerry campaign, but just a citizen participating in democracy. And if they couldn't trust me to keep my politics out of my writing, how could they trust me to be on staff at all? It's conversations like this that explain why I don't write for the New Yorker anymore.

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As the third week of September began in south Florida, the air grew torpid and heavy with menace. Hurricane Ivan was lurking south of Cuba, trying to decide whether to punish the Sunshine State with a third tropical lashing in as many weeks. Palm trees along Biscayne Boulevard rustled nervously. The sky over Miami swelled with greenish clouds that would neither dissipate nor burst.

Election day was fifty-six days off, and Florida's Democrats anticipated it with an acute and complex dread. The presidential

contest in Florida is as close this year as it was in 2000,¹ which raises the specter of another fight over whether and how to recount votes. Florida is hardly the only state riven in the polls; Pennsylvania, Michigan, Ohio, and Colorado are also dead heats. This year's election-night nail-biter could happen in any of about fifteen states.² Florida's Democrats, though, are the party's P.T.S.D. sufferers; four years ago, the G.O.P. pitted James Baker against Warren Christopher in a thirty-six-day recount battle and thrashed the Democrats with better information, noisier street activists, more aggressive lawyers, and cleverer spin.³ Bush v. Gore was in many ways Goliath v. David; Republicans held the governor's mansion, the state legislature, had one of their own activists supervising the election as Florida secretary of state, and enjoyed a crucial five-to-four majority on the United States Supreme Court.⁴ This year, Goliath stands taller, and the thought of a recount fight makes Democrats tremble. Two new justices appointed by Governor Jeb Bush sit on the Florida Supreme Court, and while the new secretary of state, Glenda Hood, isn't officially a member of the G.O.P. campaign staff, the legislature has changed her job from elected to governor-appointed, so Hood – a former Republican mayor of Orlando and a George W. Bush elector in 2000 --

¹ As indicted by electoral-vote.com

² As indicted by electoral-vote.com

³ all of this is amply illustrated in Jeffrey Toobin's book, Too Close to Call

⁴ Too Close to Call

answers directly to Jeb Bush. Even Coatrishie, the Caribbean goddess of storms and floods, turned out to be a Republican.⁵ Her serial hurricanes have kept John Kerry out of Florida for weeks while President Bush swoops in with promises of disaster relief and enjoys priceless photo ops, standing beside his brother in supermarket parking lots, handing out ice.

Bobbie Brinegar and Lida Rodriguez-Taseff are arguably two of the angriest people in the state – which is saying something -- and they agreed to meet me for dinner in the basement restaurant of the Biltmore Hotel in Coral Gables. The Biltmore’s graceful 1920’s architecture⁶ has an airy Great Gatsby elegance on a sunlit afternoon, but on this storm-pressed night, deep in the stone vault of its cellar, the place felt like Hogwarts with Voldemort on the prowl. Brinegar and Rodriguez-Taseff are principals in something called the Miami-Dade Election Reform Coalition, a militantly non-partisan voting rights group. “A pox on both their houses,” Rodriguez-Taseff said as we sat down. Small and dark, with bookish wire-rimmed glasses and long black hair, she immigrated from Colombia at age nine and is now a commercial litigator for the century-old law firm Duane Morris.⁷ Though we were sitting beside each other, she spoke loud enough to

⁵ file “Gods of wind and storms”

⁶ file “history of the Biltmore”

⁷ file “Lida Rodriguez-Taseff – Full Resume”

hit the back of a jury box from fifty paces. "Everything bad that has happened in Florida has been initiated by the Republicans with a rollover by the Democrats," she said, banging the table with her palm and making the flatware jump. Brinegar politely cleared her throat. She is a fifty-one-year-old second-generation Miamian, president of the League of Women Voters of Miami-Dade County, and speaks with the tea-party delicacy of a hostess careful not to offend. "There is a laundry list of things the Republicans have been up to that are unethical," she said. Jeb Bush, Glenda Hood, and the legislature have tweaked rules to favor Republicans, knocked likely Democratic voters off the rolls, certified questionable voting machines, and jumped the gun to add to the ballot Ralph Nader, who is expected to draw off liberal votes. So brazen have the Republicans been about gaming the election that Jimmy Carter, the high-priest of international vote-watching, declared "some basic international requirements for a fair election" missing in Florida⁸ and the Times editorial page said Hood "cannot be trusted to run an impartial election" and should be replaced.⁹ "Where have the Democrats been during all this?" Rodriguez-Taseff asked. "Dead! Asleep! Morally bankrupt!" She snatched up her folded napkin and whip-cracked it open. Brinegar sighed. "It's true," she said. I'm sensitive to this because I'm from a

⁸ file "Carter Criticizes Florida"

⁹ file "Partisans, and Nonpartisans, in Florida," Times editorial, 9/21/04

Republican family, but it's been remarkable. The Democrats are just scrambling to play defense."

More accurately, they're playing possum. Democrats take it as an article of faith that a large voter turnout helps them and a low voter turnout helps Republicans. They have to weigh whether raising a stink about perceived chicanery will do more harm than good. It doesn't take many page-one election controversies to convince first-time voters from such places as Haiti, Cuba, the Dominican Republic and Mexico, of which Florida has many, that the fix is in and voting is not worthwhile. So mostly the Democrats lay low. The squeeze they find themselves in dictates a radically different strategy from that of 2000. Their legal calculations tell them not to be drawn into a fight after election day, and their political calculations tell them not to be drawn into a fight before election day. What their strategy comes down to, then, is the twelve voting hours of November 2. If they're going to win the state on which the whole election might hinge, they're going to have to turn November 2 inside out.

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In the endless game of coulda-shoulda-woulda that has consumed Florida Democrats since 2000, what most haunts them is that they were caught flat-footed on election morning. Within an hour of the polls opening in Palm Beach County, Democrats were getting

calls from elderly Jews worried that they'd accidentally voted for the holocaust-denying Pat Buchanan. Yet as Jeffrey Toobin tells it in his book Too Close to Call, they did nothing about the so-called butterfly ballot for the next four hours except try to get the elections supervisor, Theresa LePore, on the phone. There was little LePore could do; many of the polling places in her five hundred and thirty-one precincts had no phone or fax machine. The clock ran out, and some thirty-four hundred votes probably intended for Al Gore went to Pat Buchanan.¹⁰ George W. Bush won the state, and the presidency, by a sixth that many.¹¹

John Hardin Young, a Washington specialist in the arcane field of recount law, was part of the army of lawyers flown to Florida by the Gore campaign on election night. But by the time he was called in, the battle was already over. "We'd lost the election by eight or nine that morning," he told me on the phone. Blaming the butterfly ballot misses the point, he said. Ballot-design happens on the county level and is often screwy. You might as well blame the weather. The fatal mistake was relying on a mortified elections supervisor to act. "We needed trained people outside the polls handing out flyers: 'Be careful. Vote Gore on line five,' If someone had gone to Kinko's at nine o'clock that

¹⁰ Too Close to Call

¹¹ Bush won Florida by 537 votes

morning," Hardin said, "Al Gore would be president today."¹²

The Democratic plan for this election day is relatively simple: flood the state with lawyers. The party hopes to place a trained volunteer – a lawyer if possible -- outside every polling place in hotly contested counties. When a voter is denied a ballot or confused, the volunteer can intervene or call a legal expert. "The important thing is to get the ballot cast on the spot, and not wait to fight about later," Hardin said. Though it sounds obvious, manning every poll is the kind of thing both parties got out of the habit of doing in the television age. "We're going back to pre-1960 retail politics," he said. "You can resolve close to one hundred percent of the problems at the polling place."¹³

At street level, downtown Miami is a welter of Brazilian cafeterias, Dominican convenience stores, Vietnamese electronics shops, Pakistani clothiers, and Cuban cafes, all blaring music into the muggy heat. I stepped off the sidewalk into the gelid marble lobby of a downtown office tower, fired myself skyward in a stainless-steel box, and stepped into the cool, silent world of Steven Zack. Zack is both recruiting sergeant and commanding general of the Democrat's election day lawyer corps. He is a partner in the big-gun law firm of Boies Schiller & Flexner and general counsel to the Kerry campaign in

¹² Too Close to Call, page 27

¹³ John Hardin Young, 202-479-1111, or young@sandlerreiff.com

Florida. His vast office, on the twenty-eighth floor of the Bank of America Tower, felt like it was suspended in midair. Miami has few buildings this tall, none between here and the sea. All that was visible through Zack's picture windows were the black outer bands of Hurricane Ivan. It was like entering the stateroom of a zeppelin captain.

Zack is uniquely Floridian – an Ashkenazi Jew from Cuba. Short and stout, with tight curly hair and wide-spaced eyes, he emigrated in 1961 when he was fifteen. In 2000, he argued Bush v. Gore before the Florida Supreme Court – one of the few rounds the Democrats won. News clippings and framed copies of the decision hang like battle flags on his walls. “Yeah,” he began, standing with a laugh and giving them a long thoughtful look. I waited for him to finish, but he spread his hands with a whuddaya-gonna-do shrug, and sat back down. He was asked this summer to assemble a flying squad of lawyers, he said. “I sent out fifty emails this summer, asking lawyers around the state to volunteer on election day, and right away I got sixty-five emails back.” The number has since grown into the hundreds. Zack's volunteers – he calls them the Kerry Group -- include former U.S. Attorney General Janet Reno, former Florida Attorney General Robert Butterworth, and celebrity Miami attorney Roy Black. “We want people to know they have the best law firm in the state working for them,” Zack said. “We

want them comfortable that their vote will count."¹⁴

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Florida's voters will wake up November 2 with considerable reason to think otherwise. [tk] of them, some [tk] percent, will cast their ballots on touch-screen electronic voting machines that are theoretically marvelous but which have malfunctioned with operatic flamboyance since they were introduced in 2002. Their seventeen-inch color screens can display ballots in English, Spanish and Haitian Creole. They can speak to blind voters, allowing them to cast ballots unassisted for the first time. They can prevent voters from voting for the same ballot item twice – a mistake that cost thousands of people their vote in 2000. In practice, though, the machines have caused polls to open late or close early, have apparently lost votes, and contain an internal auditing systems so buggy that Miami-Dade's technology director declared them "unusable." (The county, Florida's biggest, will use them anyway on November 2, as will Broward, Palm Beach, and twelve others.) The machines are also childishly easy to hack; a team of computer scientists hired by the state of Maryland last year discovered they could pick the machines' locks in ten seconds with the pocket clip of a ballpoint pen, and with a few simple tricks void or change all the votes therein. Unlike a paper ballot or even the

¹⁴ Steven Zack, 305-357-8442 or szack@bsflfp.com

hated punch cards of yore, touch-screen machines produce no hard evidence of a voter's intent – a characteristic they share, incidentally, with the lever-operated machines used in New York. Shenanigans are impossible to detect.

South Floridians exhibit a distinct joie de sleaze in their penchant for nine-pound jewelry and Jiffy-Pop coiffure. Though they cluck their tongues, they also take a subtle, Miami-Vice pride in their ostentatiously corrupt swampwater heritage, and relish a good conspiracy theory. To many here, the touch-screen machines are a Republican plot – manufactured by a company partly owned by Republican Senator Chuck Hagel of Nebraska, certified by a Republican secretary of state who then went to work for their manufacturer, hawked to Miami-Dade by a G.O.P. veteran of Bush v. Gore, and defended by Glenda Hood and Governor Bush with unshakable fealty.

Tallahassee is a bit higher above sea level than Miami and has a reputation for workaday sobriety. I flew there to see Ion Voltaire Sancho, the Leon County elections supervisor, on the day forecasters confirmed that Ivan was headed there too. The capital, an attractive historic square and statehouse surrounded by miles of sterile office blocks, seemed as quiet and wary as a battered wife. Every television was tuned to the Weather Channel, which showed the big white doughnut three days away. In his tireless opposition to Florida's touch-

screen machines, Sancho has developed a reputation -- depending on whom you talk to -- as either the most honest man in Florida or a self-aggrandizing nutcase. "You have just traveled to the state where power politics rules!" he sang across his crowded reception area as he came out to meet me. At fifty-three, Sancho has the loud, compact intensity of a high-school gym teacher. His muscles were packed into a golf shirt with a bolo tie at the throat, his white hair clipped close. Sancho is a Puerto Rican from Columbus, Ohio, who speaks no Spanish, was named by his electrical-engineer father for the charged atomic particle and the French philosopher, was a conscientious objector during Vietnam, and became elections supervisor in 1988 after running for the county commission and seeing five percent of the voters disenfranchised through ineptitude. He is affiliated with neither party. "Elections supervisors love the touch-screen machines!" he said. "They hate to store paper, to count paper, to correctly ascertain how much paper they need." His county uses optical-scan machines, in which voters insert a paper ballot they've marked. "We had sixty-one ballot styles in this county alone, and if I don't give you the right one, I've disenfranchised you. It's a headache." Supervisors, he said, long for technology that doesn't allow messy recounts -- especially after 2000. "I've had supervisors in touch-screen counties tell me, 'Ion, I'm never doing a recount again.'" Sancho finds it suspicious that the

touch-screen machines showed up in counties that are heavily African American and Democrat. The error rate is so much higher on the touch-screen machines, he said, that "the Democrats have to get twenty-five thousand more votes just to be even. It's rigging the election without anyone seeing your finger on the scale."¹⁵

Four blocks across Tallahassee, in the single-story yellow-brick office building that is Democratic state headquarters, Scott Maddox, who chairs the party with the Panglossian eagerness of a car salesman, immediately changed the subject. "Guess what; these are the machines we have," he said, shooting red pinstripe cuffs from the sleeves of his blue blazer. "In the next fifty days there's no remedy, and if you have no remedy what do you do, hold a lot of press conferences and undermine people's faith in voting? No thanks."¹⁶

Even if the touch-screen machines function perfectly on November 2 and are not hacked, they have already hurt the Democrats. After two years of front-page controversy about them, almost a fifth of Floridians tell pollsters they're "not very confident" or "not confident at all" that their votes will count¹⁷ – a disastrous sentiment for Democrats. The G.O.P. sent a flyer to its likely voters this summer, urging them to vote absentee because "the new

¹⁵ Ion Sancho, 850-488-1350 or ion@mail.co.leon.fl.us

¹⁶ Scott Maddox, 850-222-3411 or maddox@fladems.com

¹⁷ Floridians unsure votes will count

electronic voting machines do not have a paper ballot to verify your vote in case of a recount."¹⁸ The Republicans later apologized for impugning the technology, but even their "embarrassment" worked to their advantage. It poured another few corrosive drops on the public's faith in the system.

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Florida is one of seven states that does not restore voting rights to felons after they have served their sentences; it's an even touchier subject than voting machines here because it recalls the notorious Black Codes that defined Jim Crow. Florida's disenfranchisement of felons dates from Reconstruction, when Florida led the nation in lynchings¹⁹ and employed an arsenal of laws – poll taxes, literacy tests, grandfather clauses – that excluded blacks from voting without referring to race. Cross under Interstate 95 from trendy North Miami and you're in a vast ghetto, south Florida's Soweto, called Liberty City. The houses are small and shabby; the discount outlets and family-owned supermarkets along the wide avenues are big and shabby. Many storefronts are boarded up. While the rest of Miami was peppered with political yard signs and campaign billboards, I saw almost none of that here. Liberty City does not look like a popular campaign stop, and no wonder. Because Florida permanently

¹⁸ file: "republican "vote absentee" flyer"

¹⁹ file "lynchings"

disenfranchises felons, a practice sometimes called "civil death," one black man in three here is forbidden to vote.

In the 1990s hispanics, who tend to vote Republican in Florida, overtook blacks, who overwhelmingly vote Democratic, as Florida's biggest minority.²⁰ For the 2000 election, then-Secretary of State Katherine Harris hired a private contractor to compile a felon list that wrongly removed from the rolls some fifty thousand legal voters – many of them African-Americans and likely Democrats. Since then, the Florida legislature has upgraded many misdemeanors to felonies, including several that only poor people are likely to commit, such as cashing two unemployment checks after finding a job. Earlier this year, Glenda Hood said she was sending to the county election supervisors a new list of forty-eight thousand names, but that it was secret. It took a lawsuit by CNN to pry the list open and then, in a single day, the Miami Herald found that it included more than twenty-one hundred people, many of them black Democrats, whose voting rights had been restored by executive clemency and who therefore were eligible to vote.²¹ The Sarasota Herald-Tribune added that while Hispanics comprise some eleven percent of Florida's prison population, only about one name in a thousand on the purge list was hispanic.

Though Hood withdrew the list, she did not officially clear the names of

²⁰ files "Florida 1990 census" and "Florida 2000 census"

²¹ file "thousands of eligible voters on list"

the wrongly listed. She left it up to each county elections supervisor to continue the purge.

Howard Simon ran the Michigan chapter of the American Civil Liberties Union before taking over the Florida chapter in [tk]. He is a soft-spoken [tk] year-old with an enviable head of black hair and heavy black glasses that fall just short of hip. Simon has no illusions that his former home is a civil libertarian's Elysium: one of its Republican state representatives, John Pappageorge, made headlines in July for telling the Detroit Free Press, "If we do not suppress the Detroit vote," which is eighty-three percent black, "we're going to have a tough time in this election."²² But Simon finds himself constantly astounded by the naked desire of certain Floridians to discourage blacks from voting. Last March, after Orlando's Democratic mayor, Buddy Dyer – who is white -- won reelection by only two hundred thirty-four votes, armed plainclothes state policemen knocked at the homes of fifty elderly black people who had voted by absentee ballot.²³ "Naturally they said it was a legitimate investigation into voter fraud, but they only visited the old black folks," Simon said. "A grand jury is investigating, but so what? All anybody hears is a bunch of black people cast a vote and got visited by the police."

²² file "Pappageorge in Detroit"

²³ file "intimidating Orlando voters"

To be black or poor in Florida is to receive a lot of subtle and not-so-subtle messages that you're not welcome at the polls. After the 2000 debacle, Congress tried to remove an obstacle to voting by requiring all states to allow voters to cast a provisional ballot on election day if they believe themselves to be registered but don't show up on a poll-worker's list. In most states, if you're later found to be on the rolls anywhere in the state, your vote counts. But in adapting Florida law to conform with the federal rule, the legislature in Tallahassee found a way to turn it on its head. If you cast a provisional ballot in any but your own precinct, your ballot is discarded. "It punishes low-income people and African-Americans, who tend to rent and move around a lot," Simon told me. It also recalls the Reconstruction-era Black Codes requiring an address and proof of a year's residence in the state, qualifications which blacks, who moved around as migratory farm workers, often couldn't meet. Simon nodded toward the window, which framed an angry black sky. "Who knows if after all these hurricanes, all the usual polling places will be open? What if some people don't get the word that their poll has moved?" he asked. "There's no logical reason for a law like Florida's, unless you don't want people's votes to count."

Simon's offices, in a rundown cement building in north Miami, are decorated with intimidating signs taken he gathered from polling

places around the state after the ACLU sued to have them banned. "A person who **commits** or **attempts** to **commit** any **fraud** in connection with voting, votes a fraudulent ballot or votes more than once in an election can be convicted of a **felony** of the **third degree** and **fined** up to \$5000, and/or imprisoned for up to 5 years," a red-and-white poster from Franklin County warns. [note to desk: bold sic.] That's true as far as it goes. But poor people, immigrants, street vendors, and others who feel vulnerable to arrest often don't trust themselves to parse the complicated rules that govern voting. To them, a sign threatening jail time for voting the wrong way can make voting seem like an invitation to the cops. "The dirty little secret," Simon sighed, "is that not everybody wants more people to vote."²⁴ As I drove back down Biscayne Boulevard, the radio hyped the impending visit of the Dalai Lama to Miami. His theme, the anchor said, will be "compassion and respect."

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Mitchell Berger, another Democratic veteran of the 2000 recount, works in his own zeppelin high above Fort Lauderdale, helping Steve Zack recruit lawyers. At [tk], he looks a little like the actor George Segal would look if you kept him awake for a week. As I arrived at his office, Glenda Hood was issuing instructions to the

²⁴ Howard Simon, ACLU, 305-576-2336 or aclufl@aclufl.org

county election supervisors to print Ralph Nader's name on absentee ballots, even though a judge had forbidden her to do that and his ruling was under appeal. In 2000, Nader won ninety-seven thousand votes in Florida. "I'm deep in Nader-land," Berger said blearily. Every twenty seconds, the Blackberry on his hip buzzed; each time, he pulled it from its hard plastic holster, glanced at it, replaced it in its holster, and kept talking. Berger is the attorney who spent half of election day 2000 trying to get the Palm Beach County elections supervisor on the phone, a mistake he does not intend to repeat. "We're going to have a lawyer in every supervisor's office this time," he said. When the party needs to speak with a supervisor, it will call the cellphone of one of the lawyers, who will then walk across the room and, if necessary, press it to the supervisor's head. Buzz. Glance. "It's not hard for me to see an agenda in the secretary of state's office." Buzz. Glance. "Glenda Hood did away with witness signatures on absentee ballots, and there's no requirement that they be postmarked by election day." Buzz. Glance. "So in theory, if Bush loses, they can go around to military bases overseas, get a lot of guys to vote for Bush, and mail them in." Buzz. Glance, and Berger lunged for the phone. "That's ninety-seven thousand votes!" he cried into the receiver. "Now we need to have enough money to make sure those ninety-seven thousand votes vote for us!" He hung up. "Sorry. What

else? Voter ID. You're not required to show ID when you vote, but we get reports all the time of people – usually poor people who don't have driver's licenses – being turned away for not having ID." Buzz. Glance. "You don't want to litigate every little thing, though, because you end up with this voter feedback of 'my vote isn't going to count anyway, so I'm not even going to show up'" he said.²⁵ (The Democrats did, however, file an unsuccessful suit to get Nader removed from the ballot and joined another, as yet undecided [note to desk: we'll have to check at press time] aimed at eliminating the rule nullifying provisional ballots that are cast in the wrong precinct.)

Berger handed me a twenty-seven page Florida Election Day Manual printed by the Democrats for their poll watchers. The booklet, laser-printed and stapled, responds to the most common voter challenges with quotes from the law and citations of statute numbers, such as the right to see a demonstration of the voting equipment, § 101.5611, or the right to special assistance if disabled, § 97.061 and 101.051. It also advises voters who fear they're on the verge of casting a provisional ballot in the wrong precinct – and thus losing their vote – to call a Democratic hotline, 866-OUR-VOTE. The most important item may be on page two: "If someone challenges your right to vote, you have the right to an explanation. The explanation

²⁵ Mitchell Berger, 954-525-9900 or mberger@bergersingerman.com

should be put in writing with an oath giving reasons for the challenge, § 101.031 (2) and 101.111.”²⁶ All that explaining, writing and swearing would presumably give a cellphone-equipped poll watcher time to call in legal advice from the Kerry Group. Berger waved away discussion of a possible recount. “If we need to put the fire suits on, we have the fire suits. But we prefer to win it at the polls,” he said. Buzz. Glance. “But look, it’s also true that a big election-day effort will give us a lot of information. Lawsuits are fought with facts. If it comes to that, this time we’ll have more facts.” Berger’s Blackberry was bombinating constantly now, and he ushered me out. “Great societies are known by their art and architecture; great democracies should be known by their voting infrastructure,” he said at the door. “You shouldn’t have to need a lawyer to cast a vote for President in this country, but I guess you do.”²⁷

The commander of the opposing zeppelin is Eric Buermann of Steel Hector & Davis, one-time general counsel of the Florida Republican Party, who faced Zack and Berger in the trenches of 2000. The day I visited, the threat of Ivan had receded, but now Hurricane Jeanne was now spinning toward Miami. The sky, as usual, was furious. Buermann’s office, suspended forty-one stories over

²⁶ Paper item: Florida Election Day Manual

²⁷ Mitchell Berger, 954-525-9900 or mberger@bergersingerman.com

downtown Miami in the Wachovia Bank building, was wrapped in the storm clouds. As he stepped forward to shake hands, lightning flashed across the windows behind him. "Coffee?" he said as we sat. "Water? Coca-Cola?" Buermann is soft-featured and quick to laugh. He seems more like a small town Rotary booster than a Republican legal shark, but he is a walking cautionary tale for Democrats on the risks of preëlection lawsuits. In 2000, he arguably won the White House for George W. Bush before election day had even dawned. With only thirteen days to go, the Democrats sued to get thousands of Republican absentee ballots thrown out because the brochure that solicited them, mailed by Jeb Bush, illegally displayed the state seal. The law seemed clear; use of the seal was illegal because the Bush campaign hadn't obtained the secretary of state's permission to use it.²⁸ Had the judge agreed and thrown out the ballots Gore would have won by a comfortable margin. Buermann, though, took a hard look at the seal, which shows a woman standing by a palm tree with a ship in the background. "I knew that at some point the palm tree was changed from a coconut to a sable palm, that the lady's dress was changed from plains Indian to Seminole, and the sailing ship was changed to a steamship. The printer had used an old seal. We went into court and argued that the seal on the mailer only looks like the

²⁸ paper item: Florida Democratic Party et al, v. Jeb Bush, et al.

state seal.” The judge dismissed the lawsuit, and the Democrats ended up looking churlish.

Buermann said that while Democrats want to Hoover as many people as possible into the voting booth, Republicans concentrate on excluding people who shouldn't be voting. “We tend to worry more about fraud,” Buermann said. The corps of volunteer lawyers he is assembling to counter the Kerry Group at the polls will be schooled primarily in spotting improper voting. “In 2000, the Democrats were very good at voter registration. A lot of new voters were flooding into the precincts. A lot didn't know how to vote. When there were problems, it looked like fraud, though I don't know that it necessarily was. The Republicans were naturally upset.”²⁹

It is a measure of how badly the Republicans want to win Florida that Mindy Tucker showed up in Tallahassee eight weeks before election day. Tucker is a media-managing superstar, the face and voice of the Bush campaign during the 2000 recount. She was only thirty then, and as a reward she got to manage the press during John Ashcroft's contentious confirmation as attorney general, and after that, the Justice Department's media operation during the Timothy McVeigh execution, the September 11 aftermath, and the Microsoft anti-trust case. She finished her political career, or so she thought, as

²⁹ Eric Buermann, 305-577-2816, cell 305

communications direction for the Republican National Committee. But after her husband, a Marine reservist, went to Iraq in February,³⁰ Tucker, like a scarred old veteran, reported to active duty in the Republican ranks.

She didn't want me to come to Republican headquarters and insisted we meet instead in the coffee shop of the Doubletree Hotel in downtown Tallahassee. Tucker is pretty in a midwest-farm-girl way and speaks with the dismissive affect of one tired of a loser's whining. "Do Republicans think felons should vote?" she asked. "No. This is who we are. You hear all kinds of things – people who come in and say they're on the rolls and aren't, poll watchers letting people vote who shouldn't be voting." She talked about a Daily News investigation in August that found some forty-six thousand people – almost three-quarters of them Democrats – registered in both New York and Florida. As many as a thousand, including eighty-four-year-old Normal Siegel of Queens, had apparently voted in both states at least once.³¹ "This is the kind of thing that bothers us," she said. "Any time we work to uphold the law they're going to say, 'they're disenfranchising voters again.' 'They don't want black people to vote.'"

³⁰ note to desk: she said he was due home in 15 days and we were talking on September 13, so perhaps we should make sure he got home.

³¹ file "voting in both NY and Fla."

Republicans are working on turnout this time, too. Conservative Christians failed to turn out in 2000 in the numbers that the R.N.C. expected, or in the numbers that labor unions turned out for Democrats. Turnout, which Republicans had heretofore considered a Democratic priority, moved to the top of the Republicans' agenda. They created a plan they call "Seventy-two Hours," and used local and state elections all over the country in 2001 to test tactics for 2004. Computers with recorded voices called voters in some precincts, while volunteers called voters in others. The live callers turned out four to five percent more voters than the computers. The party also sent a larger number of people door-to-door than usual, helping Sen. Wayne Allard of Colorado win a reelection fight that polls predicted he'd lose.³² So now Tucker was saying, almost word-for-word, what Democrats had been telling me all week: "People used to think television was the most important thing. What we learned in 2000 is that that's not exactly true. By election day, you've seen so many ads that you start to tune them out. You have to do the TV, but TV alone won't get you there. We used to joke that G.O.T.V. (which usually stands for Get Out The Vote) meant "get on TV." Now it means "Get On The Van."³³

(we're working on an ending...)

³² File "wining votes from the ground up"

³³ Mindy Tucker 850-222-7920 or mfletcher@rpof.org

end file