

## INDEX TO APPENDICES

Lower Court King Et al vs. Whitmer Et al, Case No. 20-cv-13134, US District Court, Eastern District of Michigan, Exhibits 1-43, PgID 958-1831)

	Page No.
1. Civil Docket For Case 20-cv-13134	1-12
2. Exhibit 1 R. 6 Amended Complaint	13-97
3. Exhibit 2 R. 6-1 Redacted Declaration	98-105
4. Exhibit 3 R 6-2 Ballot Making Devices (BMD) Cannot Assure Will of Voters 28 pages	106-133
5 Exhibit 4 R 6-3 Affidavits including Abbie Helminen, Andrew Mill, Anna Pennala, Etc. 234 pages	134-367
6. Exhibit 5 R. 6-4 Constantino v. City of Detroit	368-444
7. Exhibit 6 R. 6-5 Mellissa Carona	445-447
8. Exhibit 7 R. 6-6 Jessica Connard	448-451
9. Exhibit 8 R. 6-7 Matt Cianzar	452-454
10. Exhibit 9 R. 6-8 Dominion Voting System Contract	455-615
11. Exhibit 10 R. 6-9 Texas-Preliminary Statement, Dominion Voting System	616-618
12 Exhibit 11 R. 6-10 Kayla Toma	619-625
13. Exhibit 12 R. 6-11 Monica Palmer	626-631
14 Exhibit 13 R. 6-12 William Hartmann	626-631
15 Exhibit 14 R. 6-13 Patrick Colbeck	637-643
16 Exhibit 15 R. 6-14 Patrick Colbeck	644-645
17 Exhibit 16 R. 6-15 Carlos Malony, Member of Congress	646-647
18 Exhibit 17 R. 6-16 US Senators Letter	648-662
19 Exhibit 18 R. 6-17 Ann Cardozo	663-667
20 Exhibit 19 R. 6-18 Cybersecurity Advisory, IRAN	668-677
21 Exhibit 20 R. 6-19 Joseph Oltrann	678-683
22 Exhibit 21 R. 6-20 Marian Sheridan	684-685
23 Exhibit 22 R. 6-21 Analysis of Surveys Regarding Absentee Ballots Across Several States	686-705
24 Exhibit 23 R. 6-22 Statistical Voting Analysis in the Michigan 2020 Presidential Election	706-713
25 Exhibit 24 R. 6-23 Matt Braynard on Twitter	714
26 Exhibit 25 R. 6-24 Russel James Ramsland, Jr.	715-722
27 Exhibit 26 R. 6-25 Electronic Intelligence Analyst	723-739

28	Exhibit 27 R. 6-26 Ronald Watkins	740-746
29	Exhibit 28 R. 6-27 Harri Hursti	747-803
30	Exhibit 29 R. 6-28 Electronic J. Alex Halderman	804-913
31	Exhibit 30 R. 6-29 Michigan 2020 Voter Analysis report, 11-17-20	914-970
32	Exhibit 31 R. 6-30 Redacted Declaration	971-974
33.	Exhibit 32 R. 7 Motion for Temporary Restraining Order	975-992
34.	Exhibit 33 R. 49 Reply to response Re: Emergency Motion for Temporary Restraining Order	993-1025
35.	Exhibit 34 R. 49-1 Response to Stephen Ansolabehere’s Comments Regarding Absentee Ballots Across Several States	1026-1029
35.	Exhibit 35 R. 49-2 Expert report of Eric Quinnell, PhD	1030-1035
36.	Exhibit 36 R. 49-3 Expert Report of Russell J.	1036-1068
37.	Exhibit 37 R. 49-4 Redacted Affidavit	1069-1077
38.	Exhibit 38 R. 57 Supplemental Brief Re: Motion for Temporary Restraining Order.	1078-1082
39.	Exhibit 39 R. 57-1 Freehan v. Wisconsin Elections Comm	1083-1092
40.	Exhibit 40 R. 57-2 Amended Complaint Freehan vs. Wisconsin Elections Committee	1093-1143
41	Exhibit 41 R. 60 Response to Emergency Motion for Temporary Restaining Order	1144-1146
42.	Exhibit 42 R. 62, OPINION AND ORDER DENYING PLAINTIFFS’ “EMERGENCY MOTION FOR DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF” PgID 3295- 3330	1147-1182
43.	Exhibit 42, R. 64 Notice of Appeal	1183

**U.S. District Court  
Eastern District of Michigan (Detroit)  
CIVIL DOCKET FOR CASE #: 2:20-cv-13134-LVP-RSW**

King et al v. Whitmer et al  
Assigned to: District Judge Linda V. Parker  
Referred to: Magistrate Judge R. Steven Whalen  
Cause: No cause code entered

Date Filed: 11/25/2020  
Jury Demand: Plaintiff  
Nature of Suit: 950 Constitutional - State  
Statute  
Jurisdiction: Federal Question

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**Plaintiff**

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Date Filed	#	Docket Text
11/25/2020	<u>1</u>	COMPLAINT filed by All Plaintiffs against All Defendants with Jury Demand. Plaintiff requests summons issued. Receipt No: AMIEDC-8187034 - Fee: \$ 400. County of 1st Plaintiff: Washtenaw - County Where Action Arose: Wayne - County of 1st Defendant: Wayne. [Previously dismissed case: No] [Possible companion case(s): None] (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, # <u>4</u> Exhibit Exhibit 4, # <u>5</u> Exhibit Exhibit 5, # <u>6</u> Exhibit Exhibit 6, # <u>7</u> Exhibit Exhibit 7, # <u>8</u> Exhibit Exhibit 8, # <u>9</u> Exhibit Exhibit 9, # <u>10</u> Exhibit Exhibit 10, # <u>11</u> Exhibit Exhibit 101, # <u>12</u> Exhibit Exhibit 102, # <u>13</u> Exhibit Exhibit 103, # <u>14</u> Exhibit Exhibit 104, # <u>15</u> Exhibit Exhibit 105, # <u>16</u> Exhibit Exhibit 106, # <u>17</u> Exhibit Exhibit 107, # <u>18</u> Exhibit Exhibit 108, # <u>19</u> Exhibit Exhibit 109) (Rohl, Gregory) (Entered: 11/25/2020)
11/27/2020	<u>2</u>	NOTICE of Appearance by David H. Fink on behalf of City of Detroit. (Fink, David) (Entered: 11/27/2020)

11/27/2020	<u>3</u>	NOTICE of Appearance by Darryl Bressack on behalf of City of Detroit. (Bressack, Darryl) (Entered: 11/27/2020)
11/27/2020	<u>4</u>	NOTICE of Appearance by Nathan J. Fink on behalf of City of Detroit. (Fink, Nathan) (Entered: 11/27/2020)
11/27/2020	<u>5</u>	MOTION to Intervene <i>as a Defendant</i> by City of Detroit. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Fink, David) (Entered: 11/27/2020)
11/29/2020	<u>6</u>	[DOCUMENT IS TITLED FIRST AMENDED COMPLAINT] AMENDED by All Plaintiffs (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, # <u>4</u> Exhibit Exhibit 4, # <u>5</u> Exhibit Exhibit 5, # <u>6</u> Exhibit Exhibit 6, # <u>7</u> Exhibit Exhibit 7, # <u>8</u> Exhibit Exhibit 8, # <u>9</u> Exhibit Exhibit 9, # <u>10</u> Exhibit Exhibit 10, # <u>11</u> Exhibit Exhibit 11, # <u>12</u> Exhibit Exhibit 12, # <u>13</u> Exhibit Exhibit 13, # <u>14</u> Exhibit Exhibit 14, # <u>15</u> Exhibit Exhibit 15, # <u>16</u> Exhibit Exhibit 16, # <u>17</u> Exhibit Exhibit 17, # <u>18</u> Exhibit Exhibit 18, # <u>19</u> Exhibit Exhibit 19, # <u>20</u> Exhibit Exhibit 20, # <u>21</u> Exhibit Exhibit 101, # <u>22</u> Exhibit Exhibit 102, # <u>23</u> Exhibit Exhibit 103, # <u>24</u> Exhibit Exhibit 104, # <u>25</u> Exhibit Exhibit 105, # <u>26</u> Exhibit Exhibit 106, # <u>27</u> Exhibit Exhibit 107, # <u>28</u> Exhibit Exhibit 108, # <u>29</u> Exhibit Exhibit 110, # <u>30</u> Exhibit Exhibit 111) (Rohl, Gregory) Modified on 11/30/2020 (LGra). (Entered: 11/29/2020)
11/29/2020	<u>7</u>	Emergency MOTION for Temporary Restraining Order by All Plaintiffs. (Rohl, Gregory) (Entered: 11/29/2020)
11/29/2020	<u>8</u>	Emergency MOTION to Seal by All Plaintiffs. (Rohl, Gregory) (Entered: 11/29/2020)
11/30/2020	<u>9</u>	[STRICKEN] CERTIFICATE OF SERVICE by All Plaintiffs (Rohl, Gregory) Modified on 11/30/2020 (LGra). (Entered: 11/30/2020)
11/30/2020	<u>10</u>	[STRICKEN] CERTIFICATE OF SERVICE by All Plaintiffs (Rohl, Gregory) Modified on 11/30/2020 (LGra). (Entered: 11/30/2020)
11/30/2020	<u>11</u>	[STRICKEN] CERTIFICATE OF SERVICE by All Plaintiffs (Rohl, Gregory) Modified on 11/30/2020 (LGra). (Entered: 11/30/2020)
11/30/2020	<u>12</u>	Emergency MOTION to Intervene <i>as Defendant</i> by Robert Davis. (Paterson, Andrew) (Entered: 11/30/2020)
11/30/2020	<u>13</u>	NOTICE of Appearance by Scott R. Eldridge on behalf of Democratic National Committee, Michigan Democratic Party. (Eldridge, Scott) (Entered: 11/30/2020)
11/30/2020	<u>14</u>	MOTION to Intervene by Democratic National Committee, Michigan Democratic Party. (Attachments: # <u>1</u> Exhibit Motion to Dismiss, # <u>2</u> Exhibit Jaffe Affidavit, # <u>3</u> Exhibit MacKenzie Affidavit, # <u>4</u> Exhibit Zimmerman Affidavit, # <u>5</u> Exhibit Complaint, # <u>6</u> Exhibit Order, # <u>7</u> Exhibit Appeal Motion, # <u>8</u> Exhibit Appellate Docket, # <u>9</u> Exhibit Order, # <u>10</u> Exhibit Order, # <u>11</u> Exhibit Order, # <u>12</u> Exhibit Order, # <u>13</u> Exhibit Order, # <u>14</u> Exhibit Order, # <u>15</u> Exhibit Petition, # <u>16</u> Exhibit Amended Complaint) (Eldridge, Scott) (Entered: 11/30/2020)
11/30/2020	<u>15</u>	NOTICE of Appearance by Andrew A. Paterson, Jr on behalf of Robert Davis. (Paterson, Andrew) (Entered: 11/30/2020)
11/30/2020		A United States Magistrate Judge of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form is available for download at <a href="http://www.mied.uscourts.gov">http://www.mied.uscourts.gov</a> (LGra) (Entered: 11/30/2020)
11/30/2020	<u>16</u>	SUMMONS Issued for * All Defendants * (LGra) (Entered: 11/30/2020)
11/30/2020		NOTICE of Error directed to: Gregory J. Rohl re <u>9</u> Certificate of Service. Wrong or

000007		incomplete PDF image was uploaded. Document was stricken and must be refiled correctly. [No Image Associated with this docket entry] (LGra) (Entered: 11/30/2020)
11/30/2020		NOTICE of Error directed to: Gregory J. Rohl re <u>10</u> Certificate of Service. Wrong or incomplete PDF image was uploaded. Document was stricken and must be refiled correctly. [No Image Associated with this docket entry] (LGra) (Entered: 11/30/2020)
11/30/2020		NOTICE of Error directed to: Gregory J. Rohl re <u>11</u> Certificate of Service. Wrong or incomplete PDF image was uploaded. Document was stricken and must be refiled correctly. [No Image Associated with this docket entry] (LGra) (Entered: 11/30/2020)
12/01/2020	<u>17</u>	Emergency MOTION to Expedite <i>Briefing, Scheduling and Adjudication of Proposed Intervenor Defendant Robert Davis' Emergency Motion to Intervene (ECF No. 12)</i> . by Robert Davis. (Paterson, Andrew) (Entered: 12/01/2020)
12/01/2020		TEXT-ONLY ORDER: Responses, if any, to the <u>5</u> <u>12</u> <u>14</u> Motions to Intervene, shall be filed no later than 9:00 AM on Wednesday, December 2, 2020. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/01/2020)
12/01/2020	<u>18</u>	ATTORNEY APPEARANCE: Mary Ellen Gurewitz appearing on behalf of Democratic National Committee (Gurewitz, Mary Ellen) (Entered: 12/01/2020)
12/01/2020	<u>19</u>	ATTORNEY APPEARANCE: Mary Ellen Gurewitz appearing on behalf of Michigan Democratic Party (Gurewitz, Mary Ellen) (Entered: 12/01/2020)
12/01/2020	<u>20</u>	EXHIBIT <i>Exhibit A- Email Correspondence between Counsel for Plaintiffs and Counsel for Proposed Intervenor Defendant Robert Davis Granting Concurrence for Intervention re 17 Emergency MOTION to Expedite Briefing, Scheduling and Adjudication of Proposed Intervenor Defendant Robert Davis' Emergency Motion to Intervene (ECF No. 12)</i> ., <u>12</u> Emergency MOTION to Intervene <i>as Defendant</i> by Robert Davis (Paterson, Andrew) (Entered: 12/01/2020)
12/01/2020		TEXT-ONLY ORDER: Once proper service has been effectuated, Plaintiff shall immediately notify the Court, in writing, and provide information by which the Court may contact opposing counsel to schedule a status conference.If proper service is not effectuated by 5:00 PM today, Plaintiffs shall notify the Court, in writing by 5:30 PM today, regarding the status of serving Defendants. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/01/2020)
12/01/2020	<u>21</u>	CERTIFICATE of Service/Summons Returned Executed. All Defendants. (Rohl, Gregory) (Entered: 12/01/2020)
12/01/2020	<u>22</u>	ATTORNEY APPEARANCE: Heather S. Meingast appearing on behalf of Jocelyn Benson, Michigan Board of State Canvassers, Gretchen Whitmer (Meingast, Heather) (Entered: 12/01/2020)
12/01/2020	<u>23</u>	ATTORNEY APPEARANCE: Erik A. Grill appearing on behalf of Jocelyn Benson, Michigan Board of State Canvassers, Gretchen Whitmer (Grill, Erik) (Entered: 12/01/2020)
12/01/2020	<u>24</u>	ORDER Re: Briefing Schedule. Signed by District Judge Linda V. Parker. (RLou) (Entered: 12/01/2020)
12/02/2020	<u>25</u>	RESPONSE to <u>5</u> MOTION to Intervene <i>as a Defendant</i> , <u>12</u> Emergency MOTION to Intervene <i>as Defendant</i> , <u>14</u> MOTION to Intervene filed by All Plaintiffs. (Rohl, Gregory) (Entered: 12/02/2020)
12/02/2020	<u>26</u>	REPLY to Response re <u>12</u> Emergency MOTION to Intervene <i>as Defendant</i> filed by Robert Davis. (Attachments: # <u>1</u> Exhibit Exhibit A- Email Chain between Plaintiffs' Counsel and

000008		Counsel for Intervenor Defendant Robert Davis Granting Concurrence) (Paterson, Andrew) (Entered: 12/02/2020)
12/02/2020	<u>27</u>	APPLICATION ( <i>Ex Parte</i> ) to Extend Page Limits by Democratic National Committee, Michigan Democratic Party. (Eldridge, Scott) (Entered: 12/02/2020)
12/02/2020	<u>28</u>	OPINION and ORDER Granting <u>5</u> <u>12</u> <u>14</u> Motions to Intervene. Signed by District Judge Linda V. Parker. (RLou) (Entered: 12/02/2020)
12/02/2020		TEXT-ONLY ORDER Granting <u>27</u> Application to Extend Page Limits. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/02/2020)
12/02/2020	<u>29</u>	RESPONSE to <u>8</u> Emergency MOTION to Seal filed by Robert Davis. (Paterson, Andrew) (Entered: 12/02/2020)
12/02/2020	<u>30</u>	Ex Parte MOTION for Leave to File Excess Pages in <i>City of Detroit's Brief in Response to Plaintiffs Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief</i> by City of Detroit. (Fink, David) (Entered: 12/02/2020)
12/02/2020	<u>31</u>	RESPONSE to <u>7</u> Emergency MOTION for Temporary Restraining Order filed by Jocelyn Benson, Michigan Board of State Canvassers, Gretchen Whitmer. (Attachments: # <u>1</u> Index of Exhibits Exhibit List, # <u>2</u> Exhibit 1. Constantino v City of Detroit Wayne Circuit 20-014780-AW Affidavit of Christopher Thomas, # <u>3</u> Exhibit 2. Affidavit of Jonathan Brater, # <u>4</u> Exhibit 3. Draft minutes 11.23.2020, # <u>5</u> Exhibit 4. Electors Transmittal, # <u>6</u> Exhibit 5. MRP Electors, # <u>7</u> Exhibit 6. Johnson v Benson, et al MI Sup Ct 162286 Petition, # <u>8</u> Exhibit 7. Bailey v Antrim Co Antrim Circuit 20-9238-CZ Complaint, # <u>9</u> Exhibit 8. Trump v Benson Court of Claims 20-000225-MZ Complaint, # <u>10</u> Exhibit 9. Trump v Benson Court of Claims 20-000225-MZ Order, # <u>11</u> Exhibit 10. Trump v Benson Court of Appeals 355378 Brief, # <u>12</u> Exhibit 11. Stoddard v City of Detroit, et al Wayne Circuit 20-014604-CZ Complaint, # <u>13</u> Exhibit 12. Stoddard v City of Detroit, et al Wayne Circuit 20-014604-CZ Order, # <u>14</u> Exhibit 13. Constantino v City of Detroit, et al Wayne Circuit 20-01780-AW Complaint, # <u>15</u> Exhibit 14. Constantino v City of Detroit, et al Wayne Circuit 20-014780-AW Order, # <u>16</u> Exhibit 15. Constantino MI Sup Ct 162245 Order) (Meingast, Heather) (Entered: 12/02/2020)
12/02/2020	<u>32</u>	RESPONSE to <u>8</u> Emergency MOTION to Seal filed by Democratic National Committee, Michigan Democratic Party. (Eldridge, Scott) (Entered: 12/02/2020)
12/02/2020	<u>33</u>	MOTION for Leave to File Excess Pages by Jocelyn Benson, Michigan Board of State Canvassers, Gretchen Whitmer. (Meingast, Heather) (Entered: 12/02/2020)
12/02/2020	<u>34</u>	RESPONSE to <u>8</u> Emergency MOTION to Seal filed by City of Detroit. (Fink, David) (Entered: 12/02/2020)
12/02/2020	<u>35</u>	RESPONSE to <u>8</u> Emergency MOTION to Seal filed by Jocelyn Benson, Michigan Board of State Canvassers, Gretchen Whitmer. (Meingast, Heather) (Entered: 12/02/2020)
12/02/2020		TEXT-ONLY ORDER Granting <u>33</u> Motion for Leave to File Excess Pages. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/02/2020)
12/02/2020	<u>36</u>	RESPONSE to <u>7</u> Emergency MOTION for Temporary Restraining Order filed by Democratic National Committee, Michigan Democratic Party. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Exhibit, # <u>15</u> Exhibit, # <u>16</u> Exhibit, # <u>17</u> Exhibit, # <u>18</u> Exhibit, # <u>19</u> Exhibit, # <u>20</u> Exhibit, # <u>21</u> Exhibit, # <u>22</u> Exhibit, # <u>23</u> Exhibit, # <u>24</u> Exhibit) (Eldridge, Scott) (Entered: 12/02/2020)
12/02/2020		TEXT-ONLY ORDER Granting <u>30</u> Motion for Leave to File Excess Pages. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/02/2020)

12/02/2020	<u>37</u>	RESPONSE to <u>7</u> Emergency MOTION for Temporary Restraining Order filed by Robert Davis. (Paterson, Andrew) (Entered: 12/02/2020)
12/02/2020	<u>38</u>	ANSWER to <u>6</u> Amended Document,,, <i>Intervenor Defendant Robert Davis' Answer to Plaintiffs' Purported First-Amended Complaint <u>6</u></i> by Robert Davis. (Paterson, Andrew) (Entered: 12/02/2020)
12/02/2020	<u>39</u>	RESPONSE to <u>7</u> Emergency MOTION for Temporary Restraining Order filed by City of Detroit. (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12) (Fink, David) (Entered: 12/02/2020)
12/03/2020	<u>40</u>	ANSWER to Complaint with Affirmative Defenses <i>Intervenor Defendant Robert Davis' Answer to Plaintiffs' Original Complaint <u>1</u></i> by Robert Davis. (Paterson, Andrew) (Entered: 12/03/2020)
12/03/2020	<u>41</u>	Emergency MOTION to Strike <u>6</u> Amended Document,,, by Robert Davis. (Paterson, Andrew) (Entered: 12/03/2020)
12/03/2020	<u>42</u>	Amended MOTION to Strike <u>6</u> Amended Document,,, <i>Intervenor Defendant Robert Davis' AMENDED/CORRECTED Emergency Motion to Strike Plaintiffs' Amended Complaint <u>6</u></i> by Robert Davis. (Paterson, Andrew) (Entered: 12/03/2020)
12/03/2020	<u>43</u>	Request Seeking Permission to file an Amicus Curiae Brief with (Attachments: # <u>1</u> Letter Regarding Recommendation, # <u>2</u> Letter regarding Bronze Star) by Arthur. J. Clemens (ATee) (Entered: 12/03/2020)
12/03/2020	<u>44</u>	MOTION for Extension of Time to File Response/Reply by All Plaintiffs. (Rohl, Gregory) (Entered: 12/03/2020)
12/03/2020		TEXT-ONLY ORDER Granting <u>44</u> Motion for Extension of Time to File Response/Reply. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/03/2020)
12/03/2020	<u>45</u>	Emergency MOTION to Strike <u>7</u> Emergency MOTION for Temporary Restraining Order by Robert Davis. (Attachments: # <u>1</u> Exhibit Exhibit A- Email from Asst. Attorney General Meingast Advising Counsel for Intervenor Defendant Robert Davis That Written Consent was Not Given to Plaintiffs to file amended complaint <u>6</u> ) (Paterson, Andrew) (Entered: 12/03/2020)
12/03/2020	<u>46</u>	Emergency MOTION to Expedite <i>Briefing, Scheduling and Adjudication of Intervenor Defendant Robert Davis' Emergency Motions to Strike (ECF Nos. 42, 45)</i> by Robert Davis. (Paterson, Andrew) (Entered: 12/03/2020)
12/03/2020		TEXT-ONLY ORDER: Pursuant to Federal Rule of Civil Procedure 15(a)(1), Plaintiffs were not required to seek leave of court or permission of the opposing parties prior to filing their Amended Complaint. Intervenor Davis' <u>41</u> Motion to Strike and <u>42</u> Amended Motion to Strike, are therefore DENIED. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/03/2020)
12/03/2020		TEXT-ONLY ORDER: The Court does not find the proffered information useful or otherwise necessary to the administration of justice. See United States v. State of Mich., 940 F.2d 143, 165 (6th Cir. 1991). Accordingly, the <u>43</u> Request Seeking Permission to File an Amicus Curiae Brief is DENIED. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/03/2020)
12/03/2020		TEXT-ONLY CERTIFICATE OF SERVICE re Text-Only Order, on Arthur J. Clemens Jr., at 400 N. 4th Street, #1008, St. Louis, MO 63102 (RLou) (Entered: 12/03/2020)

12/03/2020	<u>47</u>	ATTORNEY APPEARANCE: Eugene Driker appearing on behalf of Michigan State Conference NAACP (Driker, Eugene) (Entered: 12/03/2020)
12/03/2020	<u>48</u>	MOTION Leave to File Amicus Brief , MOTION for Leave to File by Michigan State Conference NAACP. (Driker, Eugene) (Entered: 12/03/2020)
12/03/2020	<u>49</u>	REPLY to Response re <u>7</u> Emergency MOTION for Temporary Restraining Order filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, # <u>4</u> Exhibit Exhibit 4) (Rohl, Gregory) (Entered: 12/03/2020)
12/03/2020	<u>50</u>	REPLY to Response re <u>8</u> Emergency MOTION to Seal filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit Exhibit 1) (Rohl, Gregory) (Entered: 12/03/2020)
12/04/2020	<u>51</u>	NOTICE by Robert Davis of withdrawal of <u>46</u> Emergency MOTION to Expedite <i>Briefing, Scheduling and Adjudication of Intervenor Defendant Robert Davis' Emergency Motions to Strike</i> (ECF Nos. 42, 45), <u>45</u> Emergency MOTION to Strike <u>7</u> Emergency MOTION for Temporary Restraining Order . (Paterson, Andrew) (Entered: 12/04/2020)
12/04/2020	<u>52</u>	NOTICE of Appearance by Jon Greenbaum on behalf of Michigan State Conference NAACP. (Greenbaum, Jon) (Entered: 12/04/2020)
12/04/2020	<u>53</u>	ATTORNEY APPEARANCE: Stephen E. Glazek appearing on behalf of Michigan State Conference NAACP (Glazek, Stephen) (Entered: 12/04/2020)
12/04/2020	<u>54</u>	ATTORNEY APPEARANCE: Daniel M. Share appearing on behalf of Michigan State Conference NAACP (Share, Daniel) (Entered: 12/04/2020)
12/04/2020		TEXT-ONLY ORDER Granting <u>48</u> Motion for Leave to File Amicus Brief. Amicus curiae shall file the amicus brief today, December 4, 2020. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/04/2020)
12/04/2020	<u>55</u>	Amicus Curiae BRIEF by Michigan State Conference NAACP (Driker, Eugene) (Entered: 12/04/2020)
12/04/2020	<u>56</u>	NOTICE of Appearance by Ezra D Rosenberg on behalf of Michigan State Conference NAACP. (Rosenberg, Ezra) (Entered: 12/04/2020)
12/04/2020	<u>57</u>	SUPPLEMENTAL BRIEF re <u>7</u> Emergency MOTION for Temporary Restraining Order filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2) (Rohl, Gregory) (Entered: 12/04/2020)
12/04/2020	<u>58</u>	Emergency MOTION for Leave to File <i>Response to Plaintiffs' Supplemental Brief</i> (ECF 57) by Democratic National Committee, Michigan Democratic Party. (Attachments: # <u>1</u> Proposed Response) (Eldridge, Scott) (Entered: 12/04/2020)
12/05/2020		TEXT-ONLY ORDER Granting <u>58</u> Motion for Leave to File. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/05/2020)
12/05/2020	<u>59</u>	Emergency MOTION Court To Take Judicial Notice of Newspaper Articles Published In Detroit Free Press and Associated Press by Robert Davis. (Attachments: # <u>1</u> Exhibit Exhibit A-December 4 2020 Detroit Free Press, # <u>2</u> Exhibit Exhibit B- December 1 2020 AP Article) (Paterson, Andrew) (Entered: 12/05/2020)
12/06/2020	<u>60</u>	RESPONSE to <u>7</u> Emergency MOTION for Temporary Restraining Order <i>Supplemental Response</i> by All Plaintiffs. (Rohl, Gregory) (Entered: 12/06/2020)
12/06/2020		TEXT-ONLY ORDER Denying Without Prejudice <u>59</u> Emergency Motion for the Court To Take Judicial Notice of Newspaper Articles Published In Detroit Free Press and Associated Press. The Court finds the newspaper articles unnecessary to resolve the pending <u>7</u> Plaintiffs' Emergency Motion for Declaratory, Emergency, and Permanent

000011		Injunctive Relief. IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/06/2020)
12/06/2020		TEXT-ONLY ORDER: The Court is dispensing with oral argument with respect to the <u>7</u> Plaintiffs' Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief, pursuant to E.D. Michigan LR 7.1(f). IT IS SO ORDERED. Issued by District Judge Linda V. Parker. (RLou) (Entered: 12/06/2020)
12/06/2020	<u>61</u>	Notice of Determination of Motion Without Oral Argument re <u>8</u> Emergency MOTION to Seal , <u>7</u> Plaintiffs' Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief, pursuant to E.D. Michigan LR 7.1(f) (RLou) (Entered: 12/06/2020)
12/07/2020	<u>62</u>	OPINION and ORDER Denying Plaintiffs' <u>7</u> Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief. Signed by District Judge Linda V. Parker. (RLou) (Entered: 12/07/2020)
12/08/2020	<u>63</u>	NOTICE of Appearance by Stefanie Lynn Junttila on behalf of All Plaintiffs. (Junttila, Stefanie) (Entered: 12/08/2020)
12/08/2020	<u>64</u>	FEDERAL CIRCUIT NOTICE OF APPEAL by All Plaintiffs re <u>62</u> Order on Motion for TRO. Receipt No: BMIEDC-8208477 - Fee: \$ 505 - Fee Status: Fee Paid. (Junttila, Stefanie) Modified on 12/10/2020 (SSch). [DOCUMENT IS AN APPEAL TO THE SIXTH CIRCUIT COURT OF APPEALS] (Entered: 12/08/2020)
12/09/2020	<u>65</u>	Certificate of Service re <u>64</u> Federal Circuit Notice of Appeal. (LGra) (Entered: 12/09/2020)
12/09/2020	<u>66</u>	ATTORNEY APPEARANCE: Julie M Houk appearing on behalf of Michigan State Conference NAACP (Houk, Julie) (Entered: 12/09/2020)
12/10/2020	<u>67</u>	Corrected Certificate of Service re <u>64</u> Federal Circuit Notice of Appeal,. (SSch) (Entered: 12/10/2020)

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<b>PACER Login:</b>	saschulman	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	2:20-cv-13134-LVP-RSW
<b>Billable Pages:</b>	10	<b>Cost:</b>	1.00
<b>Exempt flag:</b>	Not Exempt	<b>Exempt reason:</b>	Not Exempt

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES  
DAVID HOOPER, and DAREN WADE  
RUBINGH,**

**Plaintiffs.**

**v.**

**GRETCHEN WHITMER, in her official  
capacity as Governor of the State of  
Michigan, JOCELYN BENSON, in her  
official capacity as Michigan Secretary of  
State and the Michigan BOARD OF STATE  
CANVASSERS.**

**Defendants.**

**CASE NO. 20-cv-13134**

**FIRST AMENDED COMPLAINT FOR DECLARATORY, EMERGENCY, AND  
PERMANENT INJUNCTIVE RELIEF**

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## NATURE OF THE ACTION

1. This civil action brings to light a massive election fraud, multiple violations of the Michigan Election Code, *see, e.g.*, MCL §§ 168.730-738, in addition to the Election and Electors Clauses and Equal Protection Clause of the U.S. Constitution. These violations occurred during the 2020 General Election throughout the State of Michigan, as set forth in the affidavits of dozens of eyewitnesses and the statistical anomalies and mathematical impossibilities detailed in the affidavits of expert witnesses.

2. The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to elect Joe Biden as President of the United States. The fraud was executed through a wide-ranging interstate - and international - collaboration involving multiple public and private actors,<sup>1</sup> but at bottom it was a 21st Century adaptation of 19th Century “ballot-stuffing” for the Internet age, amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. Mathematical and statistical anomalies rising to the level of impossibilities, as shown by affidavits of multiple witnesses, documentation, and expert testimony evince this scheme across the state of Michigan. This Complaint details an especially egregious range of conduct in Wayne County and the City of Detroit, though this conduct occurred throughout the State at the direction of Michigan state election officials in collaboration with Democratic election challengers and activists.

3. The multifaceted schemes and artifices implemented by Defendants and their

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<sup>1</sup> The same pattern of election fraud and voter fraud writ large occurred in all the swing states with only minor variations in Michigan, Pennsylvania, Arizona and Wisconsin. See Ex. 101, William M. Briggs, Ph.D. “An Analysis Regarding Absentee Ballots Across Several States” (Nov. 23, 2020) (“Dr. Briggs Report”).

collaborators to defraud resulted in the unlawful counting, or fabrication, of hundreds of thousands of illegal, ineligible, duplicate or purely fictitious ballots in the State of Michigan, that collectively add up to multiples of Biden's purported lead in the State of 154,188 votes. While this Complaint, and the eyewitness and expert testimony incorporated herein, identify with specificity sufficient ballots required to set aside the 2020 General Election results, the entire process is so riddled with fraud, illegality, and statistical impossibility that this Court, and Michigan's voters, courts, and legislators, cannot rely on, or certify, any numbers resulting from this election. Accordingly, this Court must set aside the results of the 2020 General Election, and grant the declaratory and injunctive relief requested herein.

#### **Dominion Voting Systems Fraud and Manipulation**

4. The fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") used by the Michigan Board of State Canvassers. The Dominion systems derive from the software designed by Smartmatic Corporation, which became Sequoia in the United States.

5. Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. *See* Ex. 1, Redacted Declaration of Dominion Venezuela Whistleblower ("Dominion Whistleblower Report"). Notably, Chavez "won" every election thereafter.

6. As set forth in the Dominion Whistleblower Report, the Smartmatic software was contrived through a criminal conspiracy to manipulate Venezuelan elections in favor of dictator Hugo Chavez:

Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the

leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic. The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government. In mid-February of 2009, there was a national referendum to change the Constitution of Venezuela to end term limits for elected officials, including the President of Venezuela. The referendum passed. This permitted Hugo Chavez to be re-elected an unlimited number of times. . . .

Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system. *Id.* ¶¶ 10 & 14.

7. A core requirement of the Smartmatic software design ultimately adopted by Dominion for Michigan's elections was the software's ability to hide its manipulation of votes from any audit. As the whistleblower explains:

Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not be tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez. *Id.* ¶15.

8. The design and features of the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs.

Essentially this allows an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people. *See* Ex. 107, August 24, 2020 Declaration of Harri Hursti, ¶¶45-48.

9. Indeed, under the professional standards within the industry in auditing and forensic analysis, when a log is unprotected, and can be altered, it can no longer serve the purpose of an audit log. There is incontrovertible physical evidence that the standards of physical security of the voting machines and the software were breached, and machines were connected to the internet in violation of professional standards, which violates federal election law on the preservation of evidence.

10. In deciding to award Dominion a \$25 million, ten-year contract (to a Dominion project team led by Kelly Garrett, former Deputy Director of the Michigan Democratic Party), and then certifying Dominion software, Michigan officials disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of elections in 2020 because it was deemed vulnerable to undetected and non-auditable manipulation.<sup>2</sup> An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has recently observed, with reference to Dominion Voting machines: "I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it a screwdriver."<sup>3</sup>

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<sup>2</sup> See Ex. 8, State of Michigan Enterprise Procurement, Dept. of Technology, Management and Budget Contract No. 071B7700117, between State of Michigan and Dominion Voting Systems (“Dominion Michigan Contract”). *See also* Ex. 9 (Texas Secretary of State decision).

<sup>3</sup> Andrew W. Appel, *et al.*, “Ballot Marking Devices (BMDs) Cannot Assure the Will of the Voters” at (Dec. 27, 2019), attached hereto as Exhibit 2 (“Appel Study”).

11. Plaintiff's expert witness, Russell James Ramsland, Jr. (Exh. 101, "Ramsland Affidavit"), has concluded that Dominion alone is responsible for the injection, or fabrication, of 289,866 illegal votes in Michigan, that must be disregarded. This is almost twice the number of Mr. Biden's purported lead in the Michigan vote (without consideration of the additional illegal, ineligible, duplicate or fictitious votes due to the unlawful conduct outlined below), and thus by itself is grounds to set aside the 2020 General Election and grant the declaratory and injunctive relief requested herein.

12. In addition to the Dominion computer fraud, this Complaint identifies several additional categories of "traditional" voting fraud and Michigan Election Code violations, supplemented by healthy doses of harassment, intimidation, discrimination, abuse and even physical removal of Republican poll challengers to eliminate any semblance of transparency, objectivity or fairness from the vote counting process. While this illegal conduct by election workers and state, county and city employees in concert with Dominion, even if considered in isolation, the following three categories of systematic violations of the Michigan Election Code cast significant doubt on the results of the election and mandate this Court to set aside the 2020 General Election and grant the declaratory and injunctive relief requested herein.

**Fact Witness Testimony of Voting Fraud & Other Illegal Conduct**

13. There were three broad categories of illegal conduct by election workers in collaboration with other employee state, county and/or city employees and Democratic poll watchers and activists. First, to facilitate and cover-up the voting fraud and counting of fraudulent, illegal or ineligible voters, election workers:

- A. Denied Republican election challengers access to the TCF Center, where all Wayne County, Michigan ballots were processed and counted;
- B. Denied Republican poll watchers at the TCF Center meaningful access to view ballot handling, processing, or counting and locked credentialed challengers out

of the counting room so they could not observe the process, during which time tens of thousands of ballots were processed;

- C. Engaged in a systematic pattern of harassment, intimidation and even physical removal of Republican election challengers or locking them out of the TCF Center;
  - D. Systematically discriminated against Republican poll watchers and favored Democratic poll watchers;
  - E. Ignored or refused to record Republican challenges to the violations outlined herein;
  - F. Refused to permit Republican poll challengers to observe ballot duplication and other instances where they allowed ballots to be duplicated by hand without allowing poll challengers to check if the duplication was accurate<sup>4</sup>;
  - G. Unlawfully coached voters to vote for Joe Biden and to vote a straight Democrat ballot, including by going over to the voting booths with voters in order to watch them vote and coach them for whom to vote;
  - H. As a result of the above, Democratic election challengers outnumbered Republicans by 2:1 or 3:1 (or sometimes 2:0 at voting machines); and
  - I. Collaborated with Michigan State, Wayne County and/or City of Detroit employees (including police) in the above unlawful and discriminatory behavior.
14. Second, election workers illegally forged, added, removed or otherwise altered

information on ballots, the Qualified Voter File (QVF) and Other Voting Records, including:

- A. Fraudulently adding “tens of thousands” of new ballots and/or new voters to QVF in two separate batches on November 4, 2020, all or nearly all of which were votes for Joe Biden;
- B. Forging voter information and fraudulently adding new voters to the QVF Voters, in particular, e.g., when a voter’s name could not be found, the election worker assigned the ballot to a random name already in the QVF to a person who had not voted and recorded these new voters as having a birthdate of 1/1/1900;
- C. Changing dates on absentee ballots received after 8:00 PM Election Day deadline

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<sup>4</sup> On October 29, 2020 the State of Michigan in the Court of Claims, Detroit, Hon. Cynthia D. Stephens entered a Stipulated Order that related to guidance for Observers, which made clear that Observers were to be in closer proximity to election workers to have a challenge heard. Otherwise they should remain 6 feet apart. (See Case No. Case No. 20-000211-MZ)

to indicate that such ballots were received before the deadline;

- D. Changing Votes for Trump and other Republican candidates; and
- E. Added votes to “undervote” ballots and removing votes from “Over-Votes”.

15. Third, election workers committed several additional categories of violations of the Michigan Election Code to enable them to accept and count other illegal, ineligible or duplicate ballots, or reject Trump or Republican ballots, including:

- A. Permitting illegal double voting by persons that had voted by absentee ballot and in person;
- B. Counting ineligible ballots – and in many cases – multiple times;
- C. Counting ballots without signatures, or without attempting to match signatures, and ballots without postmarks, pursuant to direct instructions from Defendants;
- D. Counting “spoiled” ballots;
- E. Systematic violations of ballot secrecy requirements;
- F. Unsecured ballots arrived at the TCF Center loading garage, not in sealed ballot boxes, without any chain of custody, and without envelopes, after the 8:00 PM Election Day deadline, in particular, the tens of thousands of ballots that arrived on November 4, 2020; and
- G. Accepting and counting ballots from deceased voters.

#### **Expert Witness Testimony Regarding Voting Fraud**

16. In addition to the above fact witnesses, this Complaint presents expert witness testimony demonstrating that several hundred thousand illegal, ineligible, duplicate or purely fictitious votes must be thrown out, in particular:

- A. A report from Russell Ramsland, Jr. showing the “physical impossibility” of nearly 385,000 votes injected by four precincts/township on November 4, 2020, that resulted in the counting of nearly 290,000 more ballots processed than available capacity (which is based on statistical analysis that is independent of his analysis of Dominion’s flaws), a result which he determined to be “physically impossible” (*see* Ex. 104 ¶14);
- B. A report from Dr. Louis Bouchard finding to be “statistically impossible” the widely reported “jump” in Biden’s vote tally of 141,257 votes during a single time interval

- (11:31:48 on November 4), *see* Ex. 110 at 28);
- C. A report from Dr. William Briggs, showing that there were approximately 60,000 absentee ballots listed as “unreturned” by voters that either never requested them, or that requested and returned their ballots. (*See* Ex. 101);
  - D. A report from Dr. Eric Quinell analyzing the anomalous turnout figures in Wayne and Oakland Counties showing that Biden gained nearly 100% and frequently more than 100% of all “new” voters in certain townships/precincts over 2016, and thus indicated that nearly 87,000 anomalous and likely fraudulent votes came from these precincts. (*See* Ex. 102);
  - E. A report from Dr. Stanley Young that looked at the entire State of Michigan and identified nine “outlier” counties that had both significantly increased turnout in 2020 vs. 2016 almost all of which went to Biden totaling over 190,000 suspect “excess” Biden votes (whereas turnout in Michigan’s 74 other counties was flat). (*See* Ex. 110);
  - F. A report from Robert Wilgus analyzing the absentee ballot data that identified a number of significant anomalies, in particular, 224,525 absentee ballot applications that were both sent and returned on the same day, 288,783 absentee ballots that were sent and returned on the same day, and 78,312 that had the same date for all (*i.e.*, the absentee application was sent/returned on same day as the absentee ballot itself was sent/returned), as well as an additional 217,271 ballots for which there was no return date (*i.e.*, consistent with eyewitness testimony described in Section II below). (*See* Ex. 110);
  - G. A report from Thomas Davis showing that in 2020 for larger Michigan counties like Monroe and Oakland Counties, that not only was there a higher percentage of Democrat than Republican absentee voters in every single one of hundreds of precinct, but that the Democrat advantage (*i.e.*, the difference in the percentage of Democrat vs. Republican absentee voter) was consistent (+25%-30%) and the differences were highly correlated, whereas in 2016 the differences were uncorrelated. (*See* Ex. 110); and
  - H. A report by an affiant whose name must be redacted to protect his safety who concludes that “the results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Michigan’s vote tallies to be inflated by somewhere between three and five point six percentage points. Statistical estimating yields that in Michigan, the best estimate of the number of impacted votes is 162,400. However, a 95% confidence interval calculation yields that as many as 276,080 votes may have been impacted.” (*See* Ex. 111 ¶13).
17. As explained and demonstrated in the accompanying redacted declaration of a former electronic intelligence analyst with 305th Military Intelligence with experience gathering

SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. (See Attached hereto as Ex. 105, copy of redacted witness affidavit, November 23, 2020).

18. These and other “irregularities” provide this Court grounds to set aside the results of the 2020 General Election and provide the declaratory and injunctive relief requested herein.

### **JURISDICTION AND VENUE**

19. This Court has subject matter under 28 U.S.C. § 1331 which provides, “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

20. This Court also has subject matter jurisdiction under 28 U.S.C. § 1343 because this action involves a federal election for President of the United States. “A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question.” *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

21. The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. §§ 2201 and 2202 and by Rule 57, Fed. R. Civ. P.

22. This Court has jurisdiction over the related Michigan constitutional claims and state-law claims under 28 U.S.C. § 1367. Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District. 28 U.S.C. § 1391(b) & (c).

23. Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for Congress and the President, state

executive officers, including but not limited to Secretary Benson, have no authority to unilaterally exercise that power, much less flout existing legislation.

### THE PARTIES

24. Each of the following Plaintiffs are registered Michigan voters and nominees of the Republican Party to be a Presidential Elector on behalf of the State of Michigan: Timothy King, a resident of Washtenaw County, Michigan; Marian Ellen Sheridan, a resident of Oakland County, Michigan; and, John Earl Haggard, a resident of Charlevoix, Michigan;

25. Each of these Plaintiffs has standing to bring this action as voters and as candidates for the office of Elector under MCL §§ 168.42 & 168.43 (election procedures for Michigan electors). As such, Presidential Electors “have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast,” as “[a]n inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors.” *Carson v. Simon*, 978 F.3d 1051, 1057 (8<sup>th</sup> Cir. 2020) (affirming that Presidential Electors have Article III and prudential standing to challenge actions of Secretary of State in implementing or modifying State election laws); *see also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000) (per curiam). Each brings this action to set aside and decertify the election results for the Office of President of the United States that were certified by the Michigan Secretary of State on November 23, 2020. The certified results showed a plurality of 154,188 votes in favor of former Vice-President Joe Biden over President Trump.

26. Plaintiff James Ritchard is a registered voter residing in Oceana County. He is the Republican Party Chairman of Oceana County.

27. Plaintiff James David Hooper is a registered voter residing in Wayne County. He is the Republican Party Chairman for the Wayne County Eleventh District.

28. Plaintiff Daren Wade Ribingh is a registered voter residing in Antrim County. He

is the Republican Party Chairman of Antrim County.

29. Defendant Gretchen Whitmer (Governor of Michigan) is named herein in her official capacity as Governor of the State of Michigan.

30. Defendant Jocelyn Benson (“Secretary Benson”) is named as a defendant in her official capacity as Michigan’s Secretary of State. Jocelyn Benson is the “chief elections officer” responsible for overseeing the conduct of Michigan elections. MCL § 168.21 (“The secretary of state shall be the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of this act.”); MCL § 168.31(1)(a) (the “Secretary of State shall ... issue instructions and promulgate rules ... for the conduct of elections and registrations in accordance with the laws of this state”). Local election officials must follow Secretary Benson’s instructions regarding the conduct of elections. Michigan law provides that Secretary Benson “[a]dvice and direct local election officials as to the proper methods of conducting elections.” MCL § 168.31(1)(b). *See also Hare v. Berrien Co Bd. of Election*, 129 N.W.2d 864 (Mich. 1964); *Davis v. Secretary of State*, 2020 Mich. App. LEXIS 6128, at \*9 (Mich. Ct. App. Sep. 16, 2020). Secretary Benson is responsible for assuring Michigan’s local election officials conduct elections in a fair, just, and lawful manner. *See* MCL 168.21; 168.31; 168.32. *See also League of Women Voters of Michigan v. Secretary of State*, 2020 Mich. App. LEXIS 709, \*3 (Mich. Ct. App. Jan. 27, 2020); *Citizens Protecting Michigan's Constitution v. Secretary of State*, 922 N.W.2d 404 (Mich. Ct. App. 2018), *aff’d* 921 N.W.2d 247 (Mich. 2018); *Fitzpatrick v. Secretary of State*, 440 N.W.2d 45 (Mich. Ct. App. 1989).

31. Defendant Michigan Board of State Canvassers is “responsible for approv[ing] voting equipment for use in the state, certify[ing] the result of elections held statewide ....”

Michigan Election Officials' Manual, p. 4. *See also* MCL 168.841, *et seq.* On November 23, 2020, the Board of State Canvassers certified the results of the 2020 election finding that Joe Biden had received 154,188 more votes than President Donald Trump.

### STATEMENT OF FACTS

32. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988, and under MCL 168.861, to remedy deprivations of rights, privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results, and the corollary under the Michigan Constitution.

33. The United States Constitution sets forth the authority to regulate federal elections. With respect to congressional elections, the Constitution provides.

34. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators. U.S. CONST. art. I, § 4 (“Elections Clause”).

35. With respect to the appointment of presidential electors, the Constitution provides: Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector. U.S. CONST. art. II, § 1 (“Electors Clause”). Under the Michigan Election Code, the Electors of the President and Vice President for the State of Michigan are elected by each political party at their state convention in each Presidential election year. *See* MCL §§ 168.42 & 168.43.

36. Neither Defendant is a “Legislature” as required under the Elections Clause or

Electors Clause. The Legislature is “the representative body which ma[kes] the laws of the people.” *Smiley*, 285 U.S. 365. Regulations of congressional and presidential elections, thus, “must be in accordance with the method which the state has prescribed for legislative enactments.” *Id.* at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

37. While the Elections Clause “was not adopted to diminish a State’s authority to determine its own lawmaking processes,” *Ariz. State Legislature*, 135 S. Ct. at 2677, it does hold states accountable to their chosen processes when it comes to regulating federal elections, *id.* at 2668. “A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question.” *Bush*, 531 U.S. at 113 (Rehnquist, C.J., concurring); *Smiley*, 285 U.S. at 365.

38. Plaintiffs bring this action to vindicate their constitutional rights to a free and fair election ensuring the accuracy and integrity of the process pursuant to the Michigan Constitution, art. 2, sec. 4, par. 1(h), which states all Michigan citizens have:

The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections.

39. The Mich. Const., art. 2, sec. 4, further states, “All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters’ rights in order to effectuate its purposes.”

40. Based upon all the allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to enjoin the certification of the election results pending a full investigation and court hearing, and to order an independent audit of the November 3, 2020 election to ensure the accuracy and integrity of the election.

**I. LEGAL BACKGROUND: RELEVANT PROVISIONS OF THE MICHIGAN ELECTION CODE AND ELECTION CANVASSING PROCEDURES.**

**A. Michigan law requires Secretary Benson and local election officials to provide designated challengers a meaningful opportunity to observe the conduct of elections.**

41. Challengers representing a political party, candidate, or organization interested in the outcome of the election provide a critical role in protecting the integrity of elections including the prevention of voter fraud and other conduct (whether maliciously undertaken or by incompetence) that could affect the conduct of the election. *See* MCL § 168.730-738.

42. Michigan requires Secretary of State Benson, local election authorities, and state and county canvassing boards to provide challengers the opportunity to meaningfully participate in, and oversee, the conduct of Michigan elections and the counting of ballots.

43. Michigan's election code provides that challengers shall have the following rights and responsibilities:

- a. An election challenger shall be provided a space within a polling place where they can observe the election procedure and each person applying to vote. MCL § 168.733(1).
- b. An election challenger must be allowed opportunity to inspect poll books as ballots are issued to electors and witness the electors' names being entered in the poll book. MCL § 168.733(1)(a).
- c. An election Challenger must be allowed to observe the manner in which the duties of the election inspectors are being performed. MCL § 168.733(1)(b).
- d. An election challenger is authorized to challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector. MCL § 168.733(1)(c).
- e. An election challenger is authorized to challenge an election procedure that is not being properly performed. MCL § 168.733(1)(d).
- f. An election challenger may bring to an election inspector's attention any of the following: (1) improper handling of a ballot by an elector or election inspector; (2) a violation of a regulation made by the board of election inspectors with regard to the time in which an elector may remain in the

polling place; (3) campaigning and fundraising being performed by an election inspector or other person covered by MCL§ 168.744; and/or (4) any other violation of election law or other prescribed election procedure. MCL § 168.733(1)(e).

- g. An election challenger may remain present during the canvass of votes and until the statement of returns is duly signed and made. MCL § 168.733(1)(f).
- h. An election challenger may examine each ballot as it is being counted. MCL § 168.733(1)(g).
- i. An election challenger may keep records of votes cast and other election procedures as the challenger desires. MCL § 168.733(1)(h).
- j. An election challenger may observe the recording of absent voter ballots on voting machines. MCL §168.733(1)(i).

44. The Michigan Legislature adopted these provisions to prevent and deter vote fraud, require the conduct of Michigan elections to be transparent, and to assure public confidence in the outcome of the election no matter how close the final ballot tally may be.

45. Michigan values the important role challengers perform in assuring the transparency and integrity of elections. For example, Michigan law provides it is a felony punishable by up to two years in state prison for any person to threaten or intimidate a challenger who is performing any activity described in Michigan law. MCL § 168.734(4). It is a felony punishable by up to two years in state prison for any person to prevent the presence of a challenger exercising their rights or to fail to provide a challenger with “conveniences for the performance of the[ir] duties.” MCL 168.734.

46. The responsibilities of challengers are established by Michigan statute. MCL § 168.730 states:

- (1) At an election, a political party or [an organization] interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in this act. Except as otherwise provided in this act, a political party [or interested organization] may designate not more than 2 challengers to serve in a precinct at any 1 time. A

political party [or interested organization] may designate not more than 1 challenger to serve at each counting board.

- (2) A challenger shall be a registered elector of this state.... A candidate for the office of delegate to a county convention may serve as a challenger in a precinct other than the 1 in which he or she is a candidate....
- (3) A challenger may be designated to serve in more than 1 precinct. The political party [or interested organization] shall indicate which precincts the challenger will serve when designating challengers under subsection (1). If more than 1 challenger of a political party [or interested organization] is serving in a precinct at any 1 time, only 1 of the challengers has the authority to initiate a challenge at any given time. The challengers shall indicate to the board of election inspectors which of the 2 will have this authority. The challengers may change this authority and shall indicate the change to the board of election inspectors.

47. Secretary Benson and Wayne County violated these provisions of Michigan law and violated the constitutional rights of Michigan citizens and voters when they did not conduct this general election in conformity with Michigan law and the United States Constitution.

**B. The canvassing process in Michigan.**

48. Michigan has entrusted the conduct of elections to three categories of individuals; a “board of inspectors,” a “board of county canvassers,” and the “board of state canvassers.”

49. The board of inspectors, among its other duties, canvasses the ballots and compares the ballots to the poll books. *See* MCL § 168.801. “Such canvass shall be public and the doors to the polling places and at least 1 door in the building housing the polling places and giving ready access to them shall not be locked during such canvas.” *Id.* The members of the board of inspectors (one from each party) are required to seal the ballots and election equipment and certify the statement of returns and tally sheets and deliver the statement of returns and tally sheet to the township or city clerk, who shall deliver it to the probate court judge, who will then deliver the statement of returns and tally sheet to the “board of county canvassers.” MCL § 168.809. “All election returns, including poll lists, statements, tally sheets, *absent voters*’

*return envelopes bearing the statement required [to cast an absentee ballot] ... must be carefully preserved.”* MCL § 810a and § 168.811 (emphasis added).

50. After the board of inspectors completes its duties, the board of county canvassers is to meet at the county clerk’s office “no later than 9 AM on the Thursday after” the election. November 5, 2020 is the date for the meeting. MCL 168.821. The board of county canvassers has power to summon and open ballot boxes, correct errors, and summon election inspectors to appear. Among other duties and responsibilities, the board of county canvassers shall do the following provided in MCL 168.823(3).

51. The board of county canvassers shall correct obvious mathematical errors in the tallies and returns.

*The board of county canvassers may, if necessary for a proper determination, summon the election inspectors before them, and require them to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. In the alternative to summoning the election inspectors before them, the board of county canvassers may designate staff members from the county clerk’s office to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. When the examination of the papers is completed, or the ballots have been counted, they shall be returned to the ballot boxes or delivered to the persons entitled by law to their custody, and the boxes shall be locked and sealed and delivered to the legal custodians. The county board of canvassers shall “conclude the canvass at the earliest possible time and in every case no later than the fourteenth day after the election,” which is November 17. MCL 168.822(1). But, “[i]f the board of county canvassers fails to certify the results of any election for any officer or proposition by the fourteenth day after the election as provided, the board of county canvassers shall immediately deliver to the secretary of the board of state canvassers all records and other information pertaining to the election. The board of state canvassers shall meet immediately and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the board of county canvassers.”* MCL 168.822(2).

52. The Michigan board of state canvassers then meets at the Secretary of State's office the twentieth day after the election and announces its determination of the canvass "not later than the fortieth day after the election." For this general election, that is November 23 and December 13. MCL 168.842. There is provision for the Secretary of State to direct an expedited canvass of the returns for the election of electors for President and Vice President.

53. The county board of canvassers shall "conclude the canvass at the earliest possible time and in every case no later than the fourteenth day after the election," which is November 17. MCL 168.822(1). But, "[i]f the board of county canvassers fails to certify the results of any election for any officer or proposition by the fourteenth day after the election as provided, the board of county canvassers shall immediately deliver to the secretary of the board of state canvassers all records and other information pertaining to the election. The board of state canvassers shall meet immediately and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the board of county canvassers." MCL 168.822(2).

54. The federal provisions governing the appointment of electors to the Electoral College, 3 U.S.C. §§ 1-18, require Michigan Governor Whitmer to prepare a Certificate of Ascertainment by December 14, the date the Electoral College meets.

55. The United States Code (3 U.S.C. § 5) provides that if election results are contested in any state, and if the state, prior to election day, has enacted procedures to settle controversies or contests over electors and electoral votes, and if these procedures have been applied, and the results have been determined six days before the electors' meetings, then these results are considered to be conclusive and will apply in the counting of the electoral votes. This date (the "Safe Harbor" deadline) falls on December 8, 2020. The governor of any state

where there was a contest, and in which the contest was decided according to established state procedures, is required (by 3 U.S.C. § 6) to send a certificate describing the form and manner by which the determination was made to the Archivist as soon as practicable.

56. The members of the board of state canvassers are Democrat Jeannette Bradshaw, Republican Aaron Van Langeveide, Republican Norman Shinkle, and Democrat Julie Matuzak. Jeannette Bradshaw is the Board Chairperson. The members of the Wayne County board of county canvassers are Republican Monica Palmer, Democrat Jonathan Kinloch, Republican William Hartmann, and Democrat Allen Wilson. Monica Palmer is the Board Chairperson.

57. More than one hundred credentialed election challengers provided sworn affidavits. These affidavits stated, among other matters, that these credentialed challengers were denied a meaningful opportunity to review election officials in Wayne County handling ballots, processing absent voter ballots, validating the legitimacy of absent voter ballots, and the general conduct of the election and ballot counting. *See* Exhibit 1 (affidavits of election challengers).

**II. FACTUAL ALLEGATIONS AND FACT WITNESS TESTIMONY REGARDING MICHIGAN ELECTION CODE VIOLATIONS AND OTHER UNLAWFUL CONDUCT BY ELECTION WORKERS AND MICHIGAN STATE, WAYNE COUNTY AND/OR CITY OF DETROIT EMPLOYEES.**

58. Wayne County used the TCF Center in downtown Detroit to consolidate, collect, and tabulate all of the ballots for the County. The TCF Center was the only facility within Wayne County authorized to count the ballots.

**A. Republican Election Challengers Were Denied Opportunity to Meaningfully Observe the Processing and Counting of Ballots.**

59. There is a difference between a ballot and a vote. A ballot is a piece of paper. A vote is a ballot that has been completed by a citizen registered to vote who has the right to cast a vote and has done so in compliance with Michigan election law by, among other things, verifying their identity and casting the ballot on or before Election Day. It is the task of

Secretary Benson and Michigan election officials to assure that only ballots cast by individuals entitled to cast a vote in the election are counted and to make sure that all ballots cast by lawful voters are counted and the election is conducted in accordance with Michigan's Election Code uniformly throughout Michigan.

60. Challengers provide the transparency and accountability to assure ballots are lawfully cast and counted as provided in Michigan's Election Code and voters can be confident the outcome of the election was honestly and fairly determined by eligible voters.

61. Wayne County excluded certified challengers from meaningfully observing the conduct of the election in violation of the Michigan Election Code. This allowed a substantial number of ineligible ballots to be counted, as outlined in Section B. below. These systematic Michigan Election Code violations, and the disparate treatment of Republican vs. Democratic poll challengers, also violated the Equal Protection Clause and other provisions of the U.S. Constitution as detailed herein. The following affidavits describe the specifics that were observed. This conduct was pervasive in Wayne County as attested to in the affidavits attached at Ex. 3.

### **1. Republican Observers Denied Access to TCF Center**

62. Many individuals designated as challengers to observe the conduct of the election were denied meaningful opportunity to observe the conduct of the election. For example, challengers designated by the Republican Party or Republican candidates were denied access to the TCF Center (formerly called Cobo Hall) ballot counting location in Detroit while Democratic challengers were allowed access. Exhibit 3 (Deluca aff. ¶¶7-9, 16-18; Langer aff. ¶3; Papsdorf aff. ¶3; Frego aff. ¶9; Downing aff. ¶¶2-9, 11, 15, 22; Sankey aff. ¶¶5-8; Ostin aff. ¶¶5-7; Cavaliere aff. ¶3; Cassin aff. ¶4; Rose aff. ¶18; Zimmerman aff. ¶8; Langer aff. ¶3; Poplawski aff. ¶3; Henderson aff. ¶7; Fuqua-Frey aff. ¶5; Ungar aff. ¶4; Eilf aff. ¶¶9, 17; Jeup aff. ¶¶6-7;

Tietz aff. ¶¶9-18; McCall aff. ¶¶5-6; Arnoldy aff. ¶¶5, 8-9 (unlimited members of the media were also allowed inside regardless of COVID restrictions while Republican challengers were excluded)).

63. Many challengers stated that Republican challengers who had been admitted to the TCF Center but who left were not allowed to return. *Id.* (Bomer aff. ¶16; Paschke aff. ¶4; Schneider aff., p. 2; Arnoldy aff. ¶6; Boller aff. ¶¶13-15 (removed and not allowed to serve as challenger); Kilunen aff. ¶7; Gorman aff. ¶¶6-8; Wirsing aff., p. 1; Rose aff. ¶19; Krause aff. ¶¶9, 11; Roush aff. ¶16; M. Seely aff. ¶6; Fracassi aff. ¶6; Whitmore aff. ¶5). Furthermore, Republican challengers who left the TCF Center were not allowed to be replaced by other Republican challengers while Democratic challengers were replaced.

## **2. Disparate and Discriminatory Treatment of Republican vs. Democratic Challengers.**

64. As a result of Republican challengers not being admitted or re-admitted, while Democratic challengers were freely admitted, there were many more Democratic challengers allowed to observe the processing and counting of absent voter ballots than Republican challengers. *Id.* (Helminen aff. ¶12 (Democratic challengers outnumbered Republican challengers by at least a two-to-one ratio); Daavettila aff., p. 2 (ten times as many Democratic challengers as Republican); A. Seely aff. ¶19; Schneider aff., p. 2; Wirsing aff., p. 1; Rauf aff. ¶21; Roush aff. ¶¶16-17; Topini aff. ¶4).

65. Many challengers testified that election officials strictly and exactingly enforced a six-foot distancing rule for Republican challengers but not for Democratic challengers. *Id.* (Paschke aff. ¶4; Wirsing aff., p. 1; Montie aff. ¶4; Harris aff. ¶3; Krause aff. ¶7; Vaupel aff. ¶5; Russel aff. ¶7; Duus aff. ¶9; Topini aff. ¶6). As a result, Republican challengers were not allowed to meaningfully observe the ballot counting process.

**3. Republican Challengers Not Permitted to View Ballot Handling, Processing or Counting.**

66. Many challengers testified that their ability to view the handling, processing, and counting of ballots was physically and intentionally blocked by election officials. *Id.* (A. Seely aff. ¶15; Miller aff. ¶¶13-14; Pennala aff. ¶4; Tyson aff. ¶¶12- 13, 16; Ballew aff. ¶8; Schornak aff. ¶4; Williamson aff. ¶¶3, 6; Steffans aff. ¶¶15-16, 23- 24; Zaplitny aff. ¶15; Sawyer aff. ¶5; Cassin aff. ¶9; Atkins aff. ¶3; Krause aff. ¶5; Sherer aff. ¶¶15, 24; Basler aff. ¶¶7-8; Early aff. ¶7; Posch aff. ¶7; Chopjian aff. ¶11; Shock aff. ¶7; Schmidt aff. ¶¶7-8; M. Seely aff. ¶4; Topini aff. ¶8).

67. At least three challengers said they were physically pushed away from counting tables by election officials to a distance that was too far to observe the counting. *Id.* (Helminen aff. ¶4; Modlin aff. ¶¶4, 6; Sitek aff. ¶4). Challenger Glen Sitek reported that he was pushed twice by an election worker, the second time in the presence of police officers. *Id.* (Sitek aff. ¶4). Sitek filed a police complaint. *Id.*

68. Challenger Pauline Montie stated that she was prevented from viewing the computer monitor because election workers kept pushing it further away and made her stand back away from the table. *Id.* (Montie aff. ¶¶4-7). When Pauline Montie told an election worker that she was not able to see the monitor because they pushed it farther away from her, the election worker responded, “too bad.” *Id.* ¶8.

69. Many challengers witnessed Wayne County election officials covering the windows of the TCF Center ballot counting center so that observers could not observe the ballot counting process. *Id.* (A. Seely aff. ¶¶9, 18; Helminen aff. ¶¶9, 12; Deluca aff. ¶13; Steffans aff. ¶22; Frego aff. ¶11; Downing aff. ¶21; Sankey aff. ¶14; Daavettilla aff., p. 4; Zimmerman aff. ¶10; Krause aff. ¶12; Sherer aff. ¶22; Johnson aff. ¶7; Posch aff. ¶10; Rauf aff. ¶23; Luke aff., p.

1; M. Seely aff. ¶8; Zelasko aff. ¶8; Ungar aff. ¶12; Storm aff. ¶7; Fracassi aff. ¶8; Eilf aff. ¶25; McCall aff. ¶9).

#### 4. Harassment, Intimidation & Removal of Republican Challengers

70. Challengers testified that they were intimidated, threatened, and harassed by election officials during the ballot processing and counting process. *Id.* (Ballew aff. ¶¶7, 9; Gaicobazzi aff. ¶¶12-14 (threatened repeatedly and removed); Schneider aff., p. 1; Piontek aff. ¶11; Steffans aff. ¶26 (intimidation made her feel too afraid to make challenges); Cizmar aff. ¶8(G); Antonie aff. ¶3; Zaplitny aff. ¶20; Moss aff. ¶4; Daavettila aff., pp. 2-3; Tocco aff. ¶¶1-2; Cavaliere ¶3; Kerstein aff. ¶3; Rose aff. ¶16; Zimmerman aff. ¶5; Langer aff. ¶3; Krause aff. ¶4; Sherer aff. ¶24; Vaupel aff. ¶4; Basler aff. ¶8; Russell aff. ¶5; Burton aff. ¶5; Early aff. ¶7; Pannebecker aff. ¶10; Sitek aff. ¶4; Klamer aff. ¶4; Leonard aff. ¶¶6, 15; Posch aff. ¶¶7, 14; Rauf aff. ¶24; Chopjian aff. ¶10; Cooper aff. ¶12; Shock aff. ¶9; Schmidt aff. ¶¶9-10; Duus aff. ¶10; M. Seely aff. ¶4; Storm aff. ¶¶5, 7; DePerno aff. ¶¶5-6; McCall aff. ¶¶5, 13).

71. Articia Bomer was called a “racist name” by an election worker and also harassed by other election workers. *Id.* (Bomer aff. ¶7). Zachary Vaupel reported that an election supervisor called him an “obscene name” and told him not to ask questions about ballot processing and counting. *Id.* (Vaupel aff. ¶4). Kim Tocco was personally intimidated and insulted by election workers. *Id.* (Tocco aff. ¶¶1-2). Qian Schmidt was the target of racist comments and asked, “what gives you the right to be here since you are not American?” *Id.* (Schmidt aff. ¶9).

72. Other challengers were threatened with removal from the counting area if they continued to ask questions about the ballot counting process. *Id.* (A. Seely aff. ¶¶6, 13, 15; Pennala aff. ¶5). Challenger Kathleen Daavettila observed that Democratic challengers distributed a packet of information among themselves entitled, “Tactics to Distract GOP

Challengers.” *Id.* (Daavettila aff., p. 2). An election official told challenger Ulrike Sherer that the election authority had a police SWAT team waiting outside if Republican challengers argued too much. *Id.* (Sherer aff. ¶24). An election worker told challenger Jazmine Early that since “English was not [her] first language...[she] should not be taking part in this process.” *Id.* (Early aff. ¶11).

73. Election officials at the TCF Center in Detroit participated in the intimidation experienced by Republican challengers when election officials would applaud, cheer, and yell whenever a Republican challenger was ejected from the counting area. *Id.* (Helminen aff. ¶9; Pennala aff. ¶5; Ballew aff. ¶9; Piontek aff. ¶11; Papsdorf aff. ¶3; Steffans aff. ¶25; Cizmar aff. ¶8(D); Kilunen aff. ¶5; Daavettila aff., p. 4; Cavaliere aff. ¶3; Cassin aff. ¶10; Langer aff. ¶3; Johnson aff. ¶5; Early aff. ¶13; Klamer aff. ¶8; Posch aff. ¶12; Rauf aff. ¶22; Chopjian aff. ¶13; Shock aff. ¶10).

#### **5. Poll Workers Ignored or Refused to Record Republican Challenges.**

74. Unfortunately, this did not happen in Wayne County. Many challengers testified that their challenges to ballots were ignored and disregarded. *Id.* (A. Seely aff. ¶4; Helminen aff. ¶5; Miller aff. ¶¶10-11; Schornak aff. ¶¶9, 15; Piontek aff. ¶6; Daavettila aff., p. 3; Valice aff. ¶2; Sawyer aff. ¶7; Kerstein aff. ¶3; Modlin aff. ¶4; Cassin aff. ¶6; Brigmon aff. ¶5; Sherer aff. ¶11; Early aff. ¶18; Pannebecker aff. ¶9; Vanker aff. ¶5; M. Seely aff. ¶11; Ungar aff. ¶¶16-17; Fracassi aff. ¶4).

75. As an example of challenges being disregarded and ignored, challenger Alexandra Seely stated that at least ten challenges she made were not recorded. *Id.* (A. Seely aff. ¶4). Articia Bomer observed that ballots with votes for Trump were separated from other ballots. *Id.* (Bomer aff. ¶5). Articia Bomer stated, “I witnessed election workers open ballots with Donald Trump votes and respond by rolling their eyes and showing it to other poll workers. I believe

some of these ballots may not have been properly counted.” *Id.* ¶8. Braden Gaicobazzi challenged thirty-five ballots for whom the voter records did not exist in the poll book, but his challenge was ignored and disregarded. *Id.* (Giacobazzi aff. ¶10). When Christopher Schornak attempted to challenge the counting of ballots, an election official told him; “We are not talking to you, you cannot challenge this.” *Id.* (Schornak aff. ¶15). When Stephanie Krause attempted to challenge ballots, an election worker told her that challenges were no longer being accepted because the “rules ‘no longer applied.’” *Id.* (Krause aff. ¶13).

## 6. Unlawful Ballot Duplication.

76. If a ballot is rejected by a ballot-tabulator machine and cannot be read by the machine, the ballot must be duplicated onto a new ballot. The Michigan Secretary of State has instructed, “If the rejection is due to a false read the ballot must be duplicated by *two election inspectors who have expressed a preference for different political parties.*” Michigan Election Officials’ Manual, ch. 8, p. 6 (emphasis added). Thus, the ballot-duplicating process must be performed by bipartisan teams of election officials. It must also be performed where it can be observed by challengers.

77. But Wayne County prevented many challengers from observing the ballot duplicating process. *Id.* (Miller aff. ¶¶6-8; Steffans aff. ¶¶15-16, 23-24; Mandelbaum aff. ¶6; Sherer aff. ¶¶16-17; Burton aff. ¶7; Drzewiecki aff. ¶7; Klamer aff. ¶9; Chopjian aff. ¶10; Schmidt aff. ¶7; Champagne aff. ¶12; Shinkle aff., p. 1). Challenger John Miller said he was not allowed to observe election workers duplicating a ballot because the “duplication process was personal like voting.” *Id.* (Miller aff. ¶8). Challenger Mary Shinkle stated that she was told by an election worker that she was not allowed to observe a ballot duplication because “if we make a mistake then you would be all over us.” *Id.* (Shinkle aff., p. 1). Another challenger observed election officials making mistakes when duplicating ballots. *Id.* (Piontek aff. ¶9).

78. Many challengers testified that ballot duplication was performed only by Democratic election workers, not bipartisan teams. Exhibit 1 (Pettibone aff. ¶3; Kinney aff., p. 1; Wasilewski aff., p. 1; Schornak aff. ¶¶18-19; Dixon aff., p. 1; Kolanagireddy aff., p. 1; Kordenbrock aff. ¶¶3-4; Seidl aff., p. 1; Kerstein aff. ¶4; Harris aff. ¶3; Sitek aff. ¶4).

**7. Democratic Election Challengers Frequently Outnumbered Republican Poll Watchers 2:1 or Even 2:0.**

79. Dominion contractor Melissa Carrone testified that there were significantly more Democrats than Republicans at the TCF Center, and that as a result there were “over 20 machines [that] had two democrats judging the ballots-resulting in an unfair process.” Exh. 5 ¶5. Other affiants testified to the fact that Democrats outnumbered Republicans by 2:1 or more *Id.* (Helminon aff. ¶12). Democrats also impersonated Republican poll watchers. *Id.* (Seely aff. ¶19).

**8. Collaboration Between Election Workers, City/County Employees, and Democratic Party Challengers and Activists.**

80. Affiants testified to systematic and routine collaboration between election workers, Michigan public employees and Democratic election challengers and activists present, in particular to intimidate, harass, distract or remove Republican election watchers. *See, e.g.*, Exh. 1 (Ballow aff. ¶9; Gaicobazzi aff. ¶¶12, 14; Piontek aff. ¶11).

**B. Election Workers Fraudulently Forged, Added, Removed or Otherwise Altered Information on Ballots, Qualified Voter List and Other Voting Records.**

81. A lawsuit recently filed by the Great Lakes Justice Center (“GLJC”) raises similar allegations of vote fraud and irregularities that occurred in Wayne County. *See* Exhibit 4 (copy of complaint filed in the Circuit Court of Wayne County in *Costantino, et al. v. City of Detroit, et al.*) (“GLJC Complaint”). The allegations and affidavits included in the GLJC Complaint are incorporated by reference in the body of this Complaint.

**1. Election Workers Fraudulently Added “Tens of Thousands” of New Ballots and New Voters in the Early Morning and Evening of November 4.**

82. The most egregious example of election workers’ fraudulent and illegal behavior concerns two batches of new ballots brought to the TCF Center after the 8:00 PM Election Day deadline. First, at approximately 4:30 AM on November 4, 2020, poll challenger Andrew Sitto observed “tens of thousands of new ballots” being brought into the counting room, and “[u]nlike the other ballots, these boxes were brought in from the rear of the room.” Exh. 4, GLJC Complaint, Exh. C at ¶ 10. Mr. Sitto heard other Republican challengers state that “several vehicles with out-of-state license plates pulled up to the TCF Center a little before 4:30 AM and unloaded boxes of ballots.” *Id.* at ¶ 11. “All ballots sampled that I heard and observed were for Joe Biden.” *Id.* at ¶ 12.

83. A second set of new boxes of ballots arrived at the TCF Center around 9:00 PM on November 4, 2020. According to poll watcher Robert Cushman, these boxes contained “several thousand new ballots.” Exh. 4, GLJC Complaint, Exh. D at ¶ 5. Mr. Cushman noted that “none of the names on the new ballots were on the QVF or the Supplemental Sheets,” *id.* at ¶ 7, and he observed “computer operators at several counting boards manually adding the names and addresses of these thousands of ballots to the QVF system.” *Id.* at ¶ 8. Further, “[e]very ballot was being fraudulently and manually entered into the [QVF], as having been born on January 1, 1990.” *Id.* at ¶ 15. When Mr. Cushman challenged the validity of the votes and the impossibility of each ballot having the same birthday, he “was told that this was the instruction that came down from the Wayne County Clerk’s office.” *Id.* at ¶ 16.

84. Perhaps the most probative evidence comes from Melissa Carone, who was “contracted to do IT work at the TCF Center for the November 3, 2020 election.” Exh. 5, ¶1. On November 4, Ms. Carrone testified that there were “two vans that pulled into the garage of

the counting room, one on day shift and one on night shift.” *Id.* ¶8. She thought that the vans were bringing food, however, she “never saw any food coming out of these vans,” and noted the coincidence that “Michigan had discovered over 100,000 more ballots – not even two hours after the last van left.” *Id.* Ms. Carrone witnessed this illegal vote dump, as well as several other violations outlined below.

**2. Election Workers Forged and Fraudulently Added Voters to the Qualified Voter List.**

85. Many challengers reported that when a voter was not in the poll book, the election officials would enter a new record for that voter with a birth date of January 1, 1900. Exhibit 1 (Gaicobazzi aff. ¶10; Piontek aff. ¶10; Cizmer aff. ¶8(F); Wirsing aff., p. 1; Cassin aff. ¶9; Langer aff. ¶3; Harris aff. ¶3; Brigmon aff. ¶5; Sherer aff. ¶¶10-11; Henderson aff. ¶9; Early ¶16; Klamer aff. ¶13; Shock aff. ¶8; M. Seely aff. ¶9). *See also id.* (Gorman aff. ¶¶23-26; Chopjian aff. ¶12; Ungar aff. ¶15; Valden aff. ¶17). Braden Gaicobazzi reported that a stack of thirty-five ballots was counted even though there was no voter record. *Id.* (Giacobazzi aff. ¶10).

86. The GLJC Complaint alleges the Detroit Election Commission “systematically processed and counted ballots from voters whose name failed to appear in either the Qualified Voter File (QVF) or in the supplemental sheets.” Exh. 4, GLJC Complaint at 3. The GLJC Complaint provides additional witness affidavits detailing the fraudulent conduct of election workers, in particular, that of Zachary Larsen, who served as a Michigan Assistant Attorney General from 2012 through 2020 and was a certified poll challenger at the TCF Center. “Mr. Larsen reviewed the running list of scanned in ballots in the computer system, where it appeared that the voter had already been counted as having voted. An official operating the computer then appeared to assign this ballot to a different voter as he observed a completely different name that was added to the list of voters at the bottom of a running tab of processed ballots on the right side

of the screen.” *Id.* at ¶ 16. Mr. Larsen observed this “practice of assigning names and numbers” to non-eligible voters who did not appear in either the poll book or the supplement poll book. *Id.* at ¶ 17. Moreover, this appeared to be the case for the majority of the voters whose ballots he personally observed being scanned. *Id.*

### **3. Changing Dates on Absentee Ballots.**

87. All absentee ballots that existed were required to be inputted into the QVF system by 9:00 PM on November 3, 2020. This was required to be done in order to have a final list of absentee voters who returned their ballots prior to 8:00 PM on November 3, 2020. In order to have enough time to process the absentee ballots, all polling locations were instructed to collect the absentee ballots from the drop-box once every hour on November 3, 2020.

88. Jessica Connarn is an attorney who was acting as a Republican challenger at the TCF Center in Wayne County. Ex. 6. Jessica Connarn’s affidavit describes how an election poll worker told her that he “was being told to change the date on ballots to reflect that the ballots were received on an earlier date.” *Id.* ¶1. Jessica Connarn also provided a photograph of a note handed to her by the poll worker in which the poll worker indicated she (the poll worker) was instructed to change the date ballots were received. *See id.* Jessica Connarn’s affidavit demonstrates that poll workers in Wayne County were pre-dating absent voter ballots, so that absent voter ballots received after 8:00 PM on Election Day could be counted.

89. Plaintiffs have learned of a United States Postal Service (“USPS”) worker Whistleblower, who on November 4, 2020 told Project Veritas that a supervisor named Johnathan Clarke in Traverse City, Michigan, issued a directive to collect ballots and stamp them as received on November 3, 2020, even though there were not received timely, as required by law: “We were issued a directive this morning to collect any ballots we find in mailboxes, collection boxes, just outgoing mail in general, separate them at the end of the day so that they

could hand stamp them with the previous day's date," the whistleblower stated. "Today is November 4th for clarification."<sup>5</sup> This is currently under IG Investigation at the U.S. Post Office. According to the Postal worker whistleblower, the ballots are in "express bags" so they could be sent to the USPS distribution center. *Id.*

90. As set forth in the GLJC Complaint and in the Affidavit of Jessy Jacob, an employee of the City of Detroit Elections Department, "on November 4, 2020, I was instructed to improperly pre-date the absentee ballots receive date that were not in the QVF as if they had been received on or before November 3, 2020. I was told to alter the information in the QVF to falsely show that the absentee ballots had been received in time to be valid. She estimates that this was done to thousands of ballots." Exh. 4, GLJC Complaint, Exh. B at ¶ 17.

**4. Election Workers Changed Votes for Trump and Other Republican Candidates.**

91. Challenger Articia Bomer stated, "I observed a station where election workers were working on scanned ballots that had issues that needed to be manually corrected. I believe some of these workers were changing votes that had been cast for Donald Trump and other Republican candidates." *Id.* (Bomer aff. ¶9). In addition to this eyewitness testimony of election workers manually changing votes for Trump to votes for Biden, there is evidence that Dominion Voting Systems did the same thing on a much larger scale with its Dominion Democracy Suite software. *See generally infra* Section IV.

**5. Election Officials Added Votes and Removed Votes from "Over-Votes".**

92. Another challenger observed over-votes on ballots being "corrected" so that the ballots could be counted. Exh. 3 (Zaplitny aff. ¶13). At least one challenger observed poll

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<sup>5</sup> <https://townhall.com/tipsheet/bethbaumann/2020/11/04/usps-whistleblower-in-michigan-claims-higher-ups-were-engaging-in-voter-fraud-n2579501>

workers adding marks to a ballot where there was no mark for any candidate. *Id.* (Tyson aff. ¶17).

**C. Additional Violations of Michigan Election Code That Caused Ineligible, Illegal or Duplicate Ballots to Be Counted.**

**1. Illegal Double Voting.**

93. At least one election worker “observed a large number of people who came to the satellite location to vote in-person, but they had already applied for an absentee ballot. These people were allowed to vote in-person and were not required to return the mailed absentee ballot or sign an affidavit that the voter lost the mailed absentee ballot.” Exh. 4, GLJC Complaint (Exh. B) Jacob aff. at ¶ 10. This permitted a person to vote in person and also send in his/her absentee ballot, and thereby vote at least twice.

**2. Ineligible Ballots Were Counted – Some Multiple Times.**

94. Challengers reported that batches of ballots were repeatedly run through the vote tabulation machines. Exh. 3 (Helminen aff. ¶4; Waskilewski aff., p. 1; Mandelbaum aff. ¶5; Rose aff. ¶¶4-14; Sitek aff. ¶3; Posch aff. ¶8; Champagne aff. ¶8). Challenger Patricia Rose stated she observed a stack of about fifty ballots being fed multiple times into a ballot scanner counting machine. *Id.* (Rose aff. ¶¶4-14). Articia Bomer further stated that she witnessed the same group of ballots being rescanned into the counting machine “at least five times.” *Id.* ¶12. Dominion contractor Melissa Carone observed that this was a routine practice at the TCF Center, where she “witnessed countless workers rescanning the batches without discarding them first” – as required under Michigan rules and Dominion’s procedures – “which resulted in ballots being counted 4-5 times” by the “countless” number of election workers. Carone aff. ¶3. When she observed that a computer indicated that it had “a number of over 400 ballots scanned – which means one batch [of 50] was counted over 8 times,” and complained to her Dominion supervisor, she was informed that “we are here to do assist with IT work, not to run their election.” *Id.* at ¶4.

**3. Ballots Counted with Ballot Numbers Not Matching Ballot Envelope.**

95. Many challengers stated that the ballot number on the ballot did not match the number on the ballot envelope, but when they raised a challenge, those challenges were disregarded and ignored by election officials, not recorded, and the ballots were processed and counted. Exh. 3 (A. Seely aff. ¶15; Wasilewski aff., p. 1; Schornak aff. ¶13; Brunell aff. ¶¶17, 19; Papsdorf aff. ¶3; Spalding aff. ¶¶8, 11; Antonie aff. ¶3; Daavettila aff., p. 3; Atkins aff. ¶3; Harris aff. ¶3; Sherer aff. ¶21; Drzewiecki aff. ¶¶5-6; Klamer aff. ¶4; Rauf aff. ¶¶9-14; Roush aff. ¶¶5-7; Kinney aff. ¶5). For example, when challenger Abbie Helminen raised a challenge that the name on the ballot envelope did not match the name on the voter list, she was told by an election official to “get away”, and that the counting table she was observing had “a different process than other tables.” *Id.* (Helminen aff. ¶5).

**4. Election Officials Counted Ineligible Ballots with No Signatures or No Dates or with No Postmark on Ballot Envelope.**

96. At least two challengers observed ballots being counted where there was no signature or postmark on the ballot envelope. *Id.* (Brunell aff. ¶¶17, 19; Spalding aff. ¶13; Sherer aff. ¶13). Challenger Anne Vanker observed that “60% or more of [ballot] envelopes [in a batch] bore the same signature on the opened outer envelope.” *Id.* (Vanker aff. ¶5). Challenger William Henderson observed that a counting table of election workers lost eight ballot envelopes. Exhibit 1 (Henderson aff. ¶8). The GLJC Complaint further alleges the Election Commission “instructed election workers to not verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity.”

97. Plaintiff Marian Sheridan, who was a poll watcher at TCF Center and is Vice chair of the Michigan Republican Party, led a “team of almost 1200” to review “the voting records of 51,018 registered voters” in Wayne County “who voted for the first time in the

November 3rd election of 2020.” Ex. 20 ¶5. Her team found that 20,300 of those “did not have a ‘ballot requested date’ in Wayne County,” and that “10,620 absentee ballots show a ‘ballot sent date’ 40 days before the election, after August 13th but before September 24.” *Id.* ¶¶8 & 11.

**5. Election Officials Counted “Spoiled” Ballots.**

98. At least two challengers observed spoiled ballots being counted. *Id.* (Schornak aff. ¶¶6-8; Johnson aff. ¶4). At least one challenger observed a box of provisional ballots being placed in a tabulation box at the TCF Center. Ex. 1 (Cizmar aff. ¶5).

**6. Systematic Violations of Ballot Secrecy Requirements.**

99. Affiant Larsen identified a consistent practice whereby election officials would remove ballots from the “secrecy sleeve” or peek into the envelopes, visually inspect the ballots, and based on this visual inspection of the ballot (and thereby identify the votes cast), determine whether to “place the ballot back in its envelope and into a ‘problem ballots’ box that required additional attention to determine whether they would be processed and counted.” Ex. 4, GLJC Complaint, Ex. A at ¶14. Mr. Larsen also observed that some ballots arriving without any secrecy sleeve at all were counted after visual inspection, whereas many ballots without a secrecy sleeve were placed in the “problem ballots” box. *Id.* at ¶¶21-22. “So the differentiation among these ballots despite both ballots arriving in secrecy sleeves was perplexing and again raised concerns that some ballots were being marked as ‘problem ballots’ based on who the person had voted for rather on any legitimate concern about the ability to count and process the ballot appropriately.” *Id.* at ¶24.

**7. Election Workers Accepted Unsecured Ballots, without Chain of Custody, after 8:00 PM Election Day Deadline.**

100. Poll challengers observed two batches of new ballots brought to the TCF Center after the 8:00 PM Election Day deadline, as detailed in the GLJC Complaint and Section II.B.1.

Affiant Daniel Gustafson further observed that these batches of ballots “were delivered to the TCF Center in what appeared to be mail bins with open tops.” Ex. 4, GLJC Complaint, Ex. E at ¶4. Mr. Gustafson further observed that these bins and containers “did not have lids, were not sealed, and did not have the capability of having a metal seal,” *id.* at ¶5, nor were they “marked or identified in any way to indicated their source of origin.” *Id.* at ¶6.

101. An election challenger at the Detroit Department of Elections office observed passengers in cars dropping off more ballots than there were people in the car. Exh. 3 (Meyers aff. ¶3). This challenger also observed an election worker accepting a ballot after 8:00 PM on Election Day. *Id.* ¶7.

102. An election challenger at the Detroit Department of Elections office observed ballots being deposited in a ballot drop box located at the Detroit Department of Elections after 8:00 PM on Election Day. *Id.* (Meyers aff. ¶6).

103. On November 4, 2020, Affiant Matt Ciantar came forward who, independently witnessed, while walking his dog, a young couple deliver 3-4 large plastic clear bags, that appeared to be “express bags”, as reflected in photographs taken contemporaneously, to a U.S. Postal vehicle waiting. *See generally* Exh. 7 Matt Ciantar Declaration. The use of clear “express bags” is consistent with the USPS whistleblower Johnathan Clarke in Traverse City, Michigan. *See infra* Paragraph 78.

#### **8. Ballots from Deceased Voters Were Counted.**

104. Plaintiff Sheridan’s team reviewed 51,018 new registered voters in Wayne County, and found that “205 of the voters were deceased, with an additional 1005 unverifiable through” their sources. Ex. 20 ¶6. One Michigan voter stated that her deceased son has been recorded as voting twice since he passed away, most recently in the 2020 general election. Ex. 3 (Chase aff. ¶3).

**D. Wayne County Election So Riddled with “Irregularities and Inaccuracies” That Wayne County Board of Canvassers Refused to Certify Results.**

105. The attached affidavit of Monica Palmer (Ex. 11), Chairperson of the Wayne County Board of Canvassers details the numerous “irregularities and inaccuracies” in Wayne County, both for the August 4, 2020 primary and the November 3, 2020 General Election, which convinced her to refuse to certify the General Election results. Among other things, her testimony describes Wayne County’s long-standing systemic problems with “unbalanced” precincts (*i.e.*, matching the vote count with the actual number of ballots cast). In the August 4, 2020 Primary election, for example, 72% of Detroit’s absentee voting precincts were out of balance.” *Id.* ¶7. This may have been due to the fact that the “City of Detroit did not scan a single precinct within a batch,” which “makes it nearly impossible to re-tabulate a precinct without potentially disrupting a perfectly balanced precinct. *Id.* ¶6 (second bullet). As a result, “[a]ll Board members express serious concerns about the irregularities and inaccuracies,” and “unanimously approved” a joint resolution to request that Secretary Benson institute an investigation and appoint an independent election monitor for the 2020 General Election, *id.* ¶9, which was not done. Chairperson Palmer determined, based on preliminary results from the 2020 General Election, that once again “more than 70% of Detroit’s 134 Absentee Voter Counting Boards (AVCB) did not balance and many had no explanation to why they did not balance.” *Id.* ¶14.

106. On November 17, 2020, Chairperson Palmer initially voted not to certify the results, but subsequently agreed to certify, subject to the condition that Secretary Benson conduct a “full, independent audit” of the results. *Id.* ¶21. When Secretary Benson reneged on the commitment, however, Chairperson Palmer rescinded her prior vote to certify. *Id.* ¶24. “The Wayne County election process had serious process flaws which deserve investigation,” and

Chairperson Palmer continues to believe that the results should not be certified pending “an additional 10 days of canvass by the State Board of Canvassers.” *Id.* ¶ 26.

107. Wayne County Board of Canvassers Member William C. Hartmann has also testified to the serious problems with the Wayne County Canvass. *See* Ex. 12. Like Chairperson Palmer, he “determined that 71% of Detroit’s 134 Absent[ee] Voter Counting Boards (AVCB) were left unbalanced and many *unexplained*.” *Id.* ¶6 (emphasis in original). Mr. Hartmann joined Chairperson Palmer in initially voting not to certify the results of the 2020 General Election, and the subsequent decision to do so based on a commitment to conduct an independent audit, and then voting again not to certify when Secretary Benson refused to conduct an audit. *Id.* ¶¶ 7, 11, and 18. In his testimony, Mr. Hartmann identifies a number of questions that must be answered – many of them tracking the concerns raised in Section II.A to II.C above – before the results can be certified. Of particular concern is the “**use of private monies directing local officials regarding the management of the election, how these funds were used and whether such funds were used to pay election workers.**” *Id.* ¶17.c. He also raises questions as to “*[w]hy the pollbooks, Qualified Voter Files, and final tallies do not match or balance?*”; “*were republicans not used in signing seals certified at the end of the night ... before ballot boxes were documented, closed and locked?*”; the absence of logs from Detroit’s 134 ACVB; “*[h]ow many challenged ballots were counted?*”; “*[h]ow many voter birthdates were altered in the pollbooks?*”; “*[w]ere ballots counted in TCF that were not reflected in the electronic pollbook or paper supplemental list?*”; and were the “18,000 same-day registrations in Detroit on November 3 ... verified as proper voters prior to the tabulation of their ballots?” *Id.* ¶17. “Until these questions are addressed,” Mr. Hartmann “remain[s] opposed to certification of the Wayne County results.” *Id.* ¶19.

### III. EXPERT WITNESS TESTIMONY INDICATING WIDESPREAD VOTING FRAUD AND MANIPULATION

#### A. Approximately 30,000 Michigan Mail-In Ballots Were Lost, and Approximately 30,000 More Were Fraudulently Recorded for Voters who Never Requested Mail-In Ballots.

108. The attached report of William M. Briggs, Ph.D. (“Dr. Briggs Report”) summarizes the multi-state phone survey data of 248 Michigan voters collected by Matt Braynard, which was conducted from November 15-17, 2020. (*See* Ex. 101, Dr. Briggs Report at 1 & Att. 1 thereto (“Braynard Survey”).) Using the Braynard Survey, Dr. Briggs identified two specific errors involving unreturned mail-in ballots that are indicative of voter fraud, namely: “**Error #1:** those who were recorded as receiving absentee ballots *without* requesting them;” and “**Error #2:** those who returned absentee ballots but whose votes went missing (*i.e.*, marked as unreturned).” *Id.* Dr. Briggs then conducted a parameter-free predictive model to estimate, within 95% confidence or prediction intervals, the number of ballots affected by these errors out of a total of 139,190 unreturned mail-in ballots for the State of Michigan.

109. With respect to **Error #1**, Dr. Briggs’ analysis estimated that **29,611 to 36,529 ballots** out of the total 139,190 unreturned ballots (**21.27% - 26.24%**) were recorded for voters who had **not** requested them. *Id.* With respect to **Error #2**, the numbers are similar with **27,928 to 34,710 ballots** out of 139,190 unreturned ballots (**20.06% - 24.93%**) recorded for voters who **did return their ballots were recorded as being unreturned.** *Id.* Taking the average of the two types of errors together, **62,517 ballots, or 45% of the total, are “troublesome.”**

110. These errors are not only conclusive evidence of widespread fraud by the State of Michigan,<sup>6</sup> but they are fully consistent with the fact witness statements above the evidence

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<sup>6</sup> The only other possible explanations for the statements of 248 Michigan mail-in voters included in the Braynard Survey data is (a) that the 248 voters (who had no known pre-existing relationship apart from being listed as having unreturned absentee ballots) somehow contrived to

regarding Dominion presented below insofar as **these purportedly unreturned absentee ballots provide a pool of 60,000-70,000 unassigned and blank ballots that could be filled in by Michigan election workers, Dominion or other third parties to shift the election to Joe Biden.**

111. With respect to Error #1, Dr. Briggs' analysis, combined with the statements of the Michigan voters in the Braynard Survey, demonstrates that approximately **30,000 absentee ballots were sent to someone besides the registered voter named in the request**, and thus could have been filled out by anyone and then submitted in the name of another voter.

112. With respect to Error #2, Dr. Briggs' analysis indicates that approximately **30,000 absentee ballots were either lost or destroyed** (consistent with allegations of Trump ballot destruction) **and/or were replaced with blank ballots filled out by election workers, Dominion or other third parties.** Accordingly, Dr. Briggs' analysis showing that almost half of purportedly "unreturned ballots" suffers from one of the two errors above – which is consistent with his findings in the four other States analyzed (Arizona 58%, Georgia 39%, Pennsylvania 37%, and Wisconsin 31%) – provides further support that these widespread "irregularities" or anomalies were one part of a much larger interstate fraudulent scheme to rig the 2020 General Election for Joe Biden.

**B. Statistical Analysis of Anomalous and Unprecedented Turnout Increases in Specific Precincts Indicate that There Were at Least 40,000 "Excess Voters" in Wayne County and At Least 46,000 in Oakland County.**

113. The attached affidavit of Eric Quinell, Ph.D. analyzes the extraordinary increase in turnout from 2016 to 2020 in a relatively small subset of townships and precincts outside of

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collude together to submit false information or (b) that these 248 suffered from amnesia, dementia or some other condition that caused them to falsely claim that they had requested a mail-in ballot or returned a mail-in ballot.

Detroit in Wayne County and Oakland County, and more importantly how nearly 100% or more of all “new” voters from 2016 to 2020 voted for Biden. (*See* Ex. 102; *see also* Ex. 110, Chapter 2). Using publicly available information from Wayne County and Oakland County, Dr. Quinell first found that for the votes received up to the 2016 turnout levels, the 2020 vote Democrat vs. Republican two-ways distributions (i.e., excluding third parties) tracked the 2016 Democrat vs. Republican distribution very closely, which was 55%-45% for Wayne County (outside Detroit) and 54%-46% for Oakland County. *Id.* at ¶¶18 & 20.

114. However, after the 2016 turnout levels were reached, the Democrat vs. Republican vote share shifts decisively towards Biden by approximately 15 points, resulting in a 72%/28% D/R split for Oakland County and 70%/30% D/R split for Wayne County (outside of Detroit). What is even more anomalous – and suspicious – is the fact that nearly all of these “new” votes in excess of 2016 come from a small number of townships/precincts where the increased Biden vote share is nearly 100% or over 100% for Biden. *Id.*

115. For example, in the township of Livonia in Wayne County, Biden gained 3.2 voters for every 1 new Trump voter, and Biden received 97% of all “new” votes over 2016 and 151% of all new voter registrations. *Id.* at ¶6. In the township of Troy in Oakland County, the vote share shifted from 51%/49% in 2016 to 80%/20% in 2020 due to Biden receiving 98% of new votes above 2016 and 109% of new voter registrations. *Id.* at ¶20. Looking county-wide, Biden gained 2.32 new voters over 2016 levels to every 1 new Trump voter in Wayne County (outside Detroit) and 2.54 additional new voters per Trump voter for Oakland County. *Id.* ¶5.

116. Based on these statistically anomalous results that occurred in a handful of townships in these two counties, Dr. Quinell’s model determined that there were 40,771 anomalous votes in Wayne County (outside Detroit) and 46,125 anomalous votes in Oakland

County, for a total of nearly 87,000 anomalous votes or approximately 65% of Biden's purported lead in Michigan.

117. Dr. Quinell's conclusions are supported by the testimony S. Stanley Young, Ph.D. (*See* Ex. 110, Chapter 1, "Analysis of Michigan County Vote Counts"). Dr. Young examined all Michigan counties for changes in turnout from 2016 to 2020. In 74 out of 83 Michigan counties, the 2020 vs. 2016 turnout was within +/- 3,000 votes. *Id.* at 5. The two largest outliers are Oakland County (+54,310), Wayne County (+42,166), representing approximately 96,000 net votes for Biden, with the remaining seven outliers counties (Kent, Washtenaw, Ingham, Kalamazoo, Macomb, Ottawa, and Grand Traverse), which collectively represent an additional 95,000 net votes for Biden (or 191,000 in total). *Id.* at 6.

118. All or nearly all of the "new" votes were due to increased absentee and mail-in votes. Dr. Young also analyzes the differences in the distributions of election day in-person voting for Trump and Biden and the distribution for each of absentee mail-in votes. For Trump, the distributions are nearly identical, whereas the Biden distribution "are *very* different" representing "a serious statistical aberration", that when combined with the turnout anomalies "are all statistically improbable relative to the body of the data." *Id.* at 7. Dr. Young's analysis indicates that, when the entire State of Michigan is considered, there were likely over 190,000 "excess" and likely fraudulent Biden votes, which once again is significantly larger than Biden's 154,188 margin in Michigan.

**C. Over 13,000 Ineligible Voters Who Have Moved Out-of-State Illegally Voted in Michigan.**

119. Evidence compiled by Matt Braynard using the National Change of Address ("NCOA") Database shows that 12,120 Michigan voters in the 2020 General Election moved out-of-state prior to voting, and therefore were ineligible. Mr. Braynard identified 1,170

Michigan voters in the 2020 General Election who subsequently registered to vote in another state, and were therefore ineligible to vote in the 2020 General Election. When duplicates from the two databases are eliminated, the merged number is 13,248 ineligible voters whose votes must be removed from the total for the 2020 General Election.<sup>7</sup>

**D. Physical Impossibility: There Were At Least 289,866 More Ballots Processed in Four Michigan Counties on November 4 Than There Was Processing Capacity.**

120. The expert witness testimony of Russell James Ramsland, Jr. (“Ramsland Affidavit”), which is described in greater detail below, identifies an event that occurred in Michigan on November 4 that is “physically impossible” *See* Ex. 104 at ¶14. The “event” reflected in the data are “4 spikes totaling 384,733 ballots allegedly processed in a combined interval of 2 hour[s] and 38 minutes” for four precincts/townships in four Michigan counties (Wayne, Oakland, Macomb, and Kent). *Id.* Based on Mr. Ramsland’s analysis of the voting machines available at the referenced locations, he determined that the maximum processing capability during this period was only 94,867 ballots, so that “there were 289,866 more ballots processed in the time available for processing in the four precincts/townships, than there was processing capacity.” *Id.* This amount alone is **nearly twice the number of ballots by which Biden purportedly leads President Trump** (*i.e.*, 154,188).

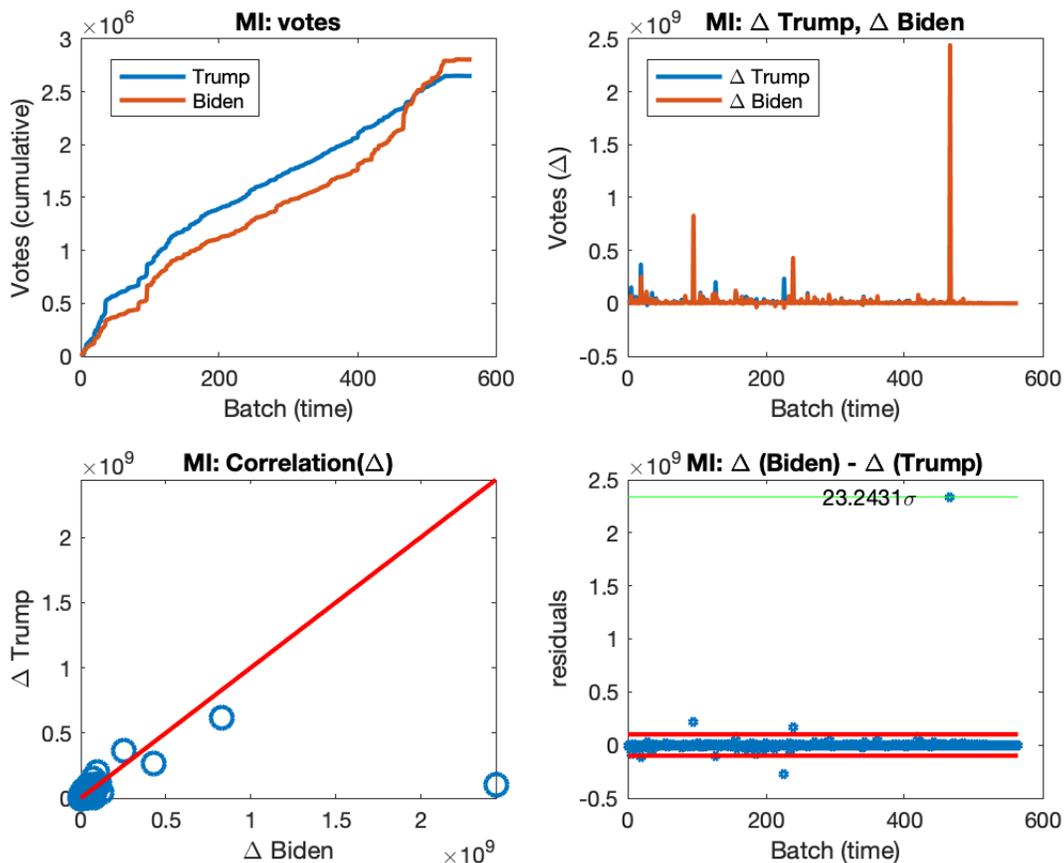
**E. Statistical Impossibility: Biden’s Vertical “Jump” of 141,257 Votes at 11:31:48 on November 4, 2020.**

121. Finally, Dr. Louis Bouchard analyzes the widely reported anomalous “jump” in Biden’s tally, where 141,257 votes for Biden were recorded during a single time interval: 11:31:48 on November 4, 2020. (*See* Ex. 110, Chapter 7). Before the jump Biden was trailing

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<sup>7</sup> Mr. Braynard posted the results of his analysis on Twitter. *See* <https://twitter.com/MattBraynard/status/1329700178891333634?s=20>. This Complaint includes a copy of his posting as Exhibit 103.

Trump by a significant amount, and then Biden’s vote tally curve went nearly vertical, making up the difference and surging past Trump nearly instantaneously as shown in the figure in the upper left below reproduced from Dr. Bouchard’s report. (*See id.* at 28).



122. Both candidates had “jumps” reflecting the addition of new votes, but this Biden jump was orders of magnitude than any jump received by Trump in the two States analyzed by Dr. Boucher (i.e., Florida and Michigan), *id.* at 26, and further that the “statistically anomalous jumps are all in Biden’s favor.” *Id.* at 27. The odds of a jump of 141,257 votes “**is statistically impossible; the odds of this happening are 1 in  $10^{23}$ .**” *Id.* (Dr. Boucher also found even larger jumps for Biden in Florida on November 4, one for 435,219 votes and another for 367,539 votes. *Id.*).

**F. Additional Anomalies and Impossibilities for Michigan Mail-In Ballots.**

123. Robert Wilgus finds several additional statistical anomalies, and arguably impossibilities, in the mail-in ballot data. *See* Ex. 110 (Chapter 3, “Exploring Michigan Main-In Ballots Data”). Most notably, Mr. Wilgus analyzed Michigan mail-in data obtained through a FOIA request, and found the following: (1) 224,525 mail-in ballot applications were sent and received on the same date; (2) 288,783 mail-in ballots were sent and returned on the same date; (3) 78,312 applications were sent and received **and** the ballot sent and received **all on the same date**. *Id.* at 15. These number do not include **217,271 ballots with no date at all**, *id.* at 14, which likely would have increased the foregoing numbers, and is fully consistent with the numerous affiants above who testified to observing poll workers processing ballots without envelopes, and of poll workers, USPS personnel changing dates on absentee ballots and the other illegal conduct described in Section II.A and II.B above.

124. Thomas Davis identifies a different anomaly in the absentee mail-in data, namely, that (1) “the *percentage* of Democratic absentee voters exceeds the *percentage* of Republican absentee voters **in every precinct**,” and (2) “[e]ven more remarkable – and unbelievable – these two **independent variables appear to track one another**.” Ex. 110, Chapter 5 at 17 (emphasis in original). As shown in Mr. Davis’s article, the plots of the Democrat percentage of absentee voters in Ingham, Macomb, and Oakland Counties for 2020 are uniformly higher (i.e., with no intersections or lines crossing) than the Republican precinct, and the D-R percentage are nearly always in the range of +25%-30%; for 2016, by contrast, the plots for these three counties look like random walks with the Democrat and Republican line plots frequently crossing back and forth across one another. *Id.* at 17-18. Mr. Davis concludes that these statistical anomalies are “**very strong evidence that the absentee voting counts in some counties in Michigan have likely been manipulated by a computer algorithm**,” and that at some time after the 2016

election, software was installed that programmed tabulating machines “**to shift a percentage of absentee ballot votes from Trump to Biden.**” *Id.* at 19.

#### IV. FACTUAL ALLEGATIONS REGARDING DOMINION VOTING SYSTEMS

##### A. Dominion Undetectably Switched Trump Votes to Biden in Antrim County, which Was Only Discoverable Through Manual Recount.

125. On the morning of November 4, unofficial results posted by the Antrim County Clerk showed that Joe Biden had over 7,700 votes — 3,000 more than Donald Trump. Antrim County voted 62% in favor of President Trump in 2016. The Dominion Voting Systems election management system and voting machines (tabulators), which were used in Antrim County, are also used in many other Michigan counties, including Wayne County, were at fault.

126. However, malfunctioning voting equipment or defective ballots may have affected the outcome of a vote on an office appearing on the ballot.” Michigan Manual for Boards of County Canvassers. These vote tabulator failures are a mechanical malfunction that, under MCL §§ 168.831-168.839, requires a “special election” in the precincts affected.

127. Secretary of State Benson released a statement blaming the county clerk for not updating certain “media drives,” but her statement failed to provide any coherent explanation of how the Dominion Voting Systems software and vote tabulators produced such a massive miscount.<sup>8</sup>

128. Secretary Benson continued: “After discovering the error in reporting the unofficial results, the clerk worked diligently to report correct unofficial results by reviewing the printed totals tape on each tabulator and hand-entering the results for each race, for each precinct

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<sup>8</sup> See State of Michigan, Department of State Report, *Isolated User Error in Antrim County Does Not Affect Election Results* (November 7, 2020), available at: [https://www.michigan.gov/documents/sos/Antrim\\_Fact\\_Check\\_707197\\_7.pdf](https://www.michigan.gov/documents/sos/Antrim_Fact_Check_707197_7.pdf).

in the county.” *Id.* What Secretary Benson fails to address is what would have happened if no one “discover[ed] the error,” for instance, in Wayne County, where the number of registered voters is much greater than Antrim County, and where the tabulators were not individually tested.

129. Wayne County used the same Dominion voting system tabulators as did Antrim County, and Wayne County tested only a single one of its vote tabulating machines before the election. The Trump campaign asked Wayne County to have an observer physically present to witness the process. *See* Exhibit 4. Wayne County denied the Trump campaign the opportunity to be physically present. Representatives of the Trump campaign did have opportunity to watch a portion of the test of a single machine by Zoom video.

**B. Eyewitness Testimony That Dominion Voting Machines Were Improperly Connected to the Internet and Used Removable Storage Media and Mass File Transfers.**

130. Affiant Patrick Colbeck was a Michigan State Senator from 2011 through 2018, is an IT specialist and certified Microsoft Small Business specialist, and served as a poll challenger at the TCF Center on November 3-4, 2020. In that capacity, Mr. Colbeck inquired whether the Dominion voting machines were connected to the Internet, but was repeatedly told “no” by three different election workers. *See* Ex. 13, Colbeck Nov. 8 aff ¶¶2,3 & 5. Mr. Colbeck determined that the voting machines were connected to the Internet, based on his visual inspection of the machines, which displayed the Windows “icon that indicates internet connection on each terminal.” *Id.* ¶5. Mr. Colbeck also took a series of pictures attached to his November 8, 2020 testimony showing the cables connecting the machines to the Internet, as well as screenshots from his phone showing that the Electronic Poll Books were also connected wirelessly to the Internet, *id.* ¶¶5-6, and used this data to create a network topology for the Detroit TCF Center Absentee Ballot Voter Counting Board. *Id.* The election workers also repeatedly refused to

answer Mr. Colbeck's questions as to how the "tabulated results were to be transferred to the County and other parties," despite the fact that the Detroit Elections Manual "specified that the tabulated votes would be copied from the adjudicator computers to a series of flash drives," *id.* ¶5, *i.e.*, rather than through Internet connections.

131. Mr. Colbeck also "witnessed mass file transfer operations on the monitor of a Local Data Center computer operated by [TCF Center] IT Staff, Detroit Election Officials, and Dominion Voting Systems employees." Ex. 14, Colbeck Nov. 20 aff. ¶7. Based on his experience as an IT professional, Mr. Colbeck "was curious as to what files would need to be transferred in mass as opposed to the serial process of importing results from each tabulator one at a time **as prescribed in the Detroit Elections Manual.**" *Id.* This question could be answered by event logs from the Dominion voting tabulators.

**C. The Pattern of Incidents Shows an Absence of Mistake - Always In The Favor Of Biden.**

132. Rules of Evidence, 404(b), applicable to civil matters makes clear that,

(b) Evidence of other crimes, wrongs, or acts shall not be admissible to prove the character of a person in order to show action in conformity therewith. **It may, however, be admissible for other purposes, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.**

133. Tabulator issues and election violations occurred elsewhere in Michigan reflecting a pattern, where multiple incidents occurred. In Oakland County, votes flipped a seat to an incumbent Republican, Adam Kochenderfer, from the Democrat challenger when: "A computer issue in Rochester Hills caused them to send us results for seven precincts as both precinct votes and absentee votes. They should only have been sent to us as absentee votes," Joe

Rozell, Oakland County Director of Elections for the City of Huntington Woods, said.<sup>9</sup>

134. The Oakland County flip of votes becomes significant because it reflects a second systems error, wherein both favored the Democrats, and **precinct votes were sent out to be counted**, and they were counted twice as a result until the error was caught on a recount. Precinct votes should never be counted outside of the precinct, and they are required to be sealed in the precinct. See generally, MCL § 168.726.

**D. Dominion Voting Machines and Forensic Evidence of Wide-Spread Fraud in Defendant Counties.**

135. The State of Michigan entered into a ten-year contract with Dominion Systems' Democracy Suite 4.14-D first, and then included Dominion Systems Democracy Suite 5.0-S on or about January 27, 2017, which added a fundamental modification: "dial-up and wireless results transmission capabilities to the ImageCast Precinct and results transmission using the Democracy Suite EMS Results Transfer Manager module."<sup>10</sup>

136. The Michigan Contract with Dominion Voting Systems Democracy packages include language that describes *Safety and Security*, which in part makes the risks of potential breach clear where keys can be lost despite the fact that they provide full access to the unit, and while it is clear that the electronic access provides control to the unit, and the ability to alter results, combined with the lack of observers, creates a lack of security that becomes part of a pattern of the absence of mistake, or fraud:

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<sup>9</sup> Bill Laitner, *Fixed Computer Glitch Turns Losing Republican into a Winner in Oakland County*, Detroit Free Press (Nov. 20, 2020), available at: <https://www.freep.com/story/news/local/michigan/oakland/2020/11/06/oakland-county-election-2020-race-results/6184186002/>.

<sup>10</sup> See Ex. 8, State of Michigan Enterprise Procurement, Dept. of Technology, Management and Budget Contract No. 071B7700117, between State of Michigan and Dominion Voting Systems ("Dominion Michigan Contract").

The ImageCast tabulators are unlocked by an iButton security key, which is used to:

- Authenticate the software version (ensuring it is a certified version that has not been tampered with)
- Decrypt election files while processing ballots during the election
- Encrypt results files during the election
- Provide access control to the unit

**It is anticipated that the iButton security keys may get lost; therefore, any substitute key created for the same tabulator will allow the unit to work fully.**<sup>11</sup>

137. As evidence of the risks of the Dominion Democracy Suite, as described above, the same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020 specifically because the “examiner reports raise concerns about whether Democracy Suite 5.5-A system ... **is safe from fraudulent or unauthorized manipulation.**”<sup>12</sup>

**1. Antrim County “Glitch” Was Not “Isolated Error” and May Have Affected Other Counties.**

138. The first red flag is the Antrim County, Michigan “glitch” that switched 6,000 Trump ballots to Biden, and that was only discoverable through a manual hand recount. *See supra* Paragraph 94. The “glitch” was later attributed to “clerical error” by Dominion and Antrim Country, presumably because if it were correctly identified as a “glitch”, “the system would be required to be ‘recertified’ according to Dominion officials. This was not done.” Exh. 104, Ramsland Aff. at ¶10. Mr. Ramsland points out that “the problem most likely did occur due to a glitch where an update file did not properly synchronize the ballot barcode generation and reading portions of the system.” *Id.* Further, **such a glitch would not be an “isolated error,” as it “would cause entire ballot uploads to read as zero in the tabulation batch, which we**

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<sup>11</sup> See Ex. 8, Dominion Michigan Contract at 122.

<sup>12</sup> See Ex. 9, State of Texas Secretary of State, Elections Division, *Report of Review of Dominion Voting Systems Democracy Suite 5.5-A* at 2 (Jan. 24, 2020) (emphasis added).

**also observed happening in the data** (provisional ballots were accepted properly but in-person ballots were being rejected (zeroed out and/or changed (flipped)).” *Id.* Accordingly, Mr. Ramsland concludes that it is likely that other Michigan counties using Dominion may “have the same problem.” *Id.*

**E. Anomalies in Dominion’s Michigan Results for 2020 General Election Demonstrate Dominion Manipulated Election Results, and that the Number of Illegal Votes Is Nearly Twice As Great as Biden’s Purported Margin of Victory.**

139. The expert witness testimony of Russell James Ramsland, Jr. (“Ramsland Affidavit”)<sup>13</sup> analyzes anomalies in Dominion’s Michigan results for the 2020 election, and flaws in the system architecture more generally, to conclude that Dominion manipulated election results. Dominion’s manipulation of election results enabled Defendants to engage in further voting fraud violations above and beyond the litany of violations recited above in Section II.A through Section II.C.

140. Mr. Ramsland’s analysis of the raw data, which provides **votes counts, rather than just vote shares, in decimal form** proves that Dominion manipulated votes through the use of an “additive” or “Ranked Choice Voting” algorithm (or what Dominion’s user guide refers to as the “RCV Method”). *See id.* at ¶12.<sup>14</sup> Mr. Ramsland presents the following example of this data – taken from “Dominion’s direct feed to news outlets” – in the table below. *Id.*

state	timestamp	eevp	trump	biden	TV	BV
michigan	2020-11-04T06:54:48Z	64	0.534	0.448	1925865.66	1615707.52

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<sup>13</sup> As detailed in the Ramsland Affidavit and the CV attached thereto, Mr. Ramsland is a member of the management team Allied Security Operations Group, LLC (“ASOG”), a firm specializing in cybersecurity, OSINT and PEN testing of networks for election security and detecting election fraud through tampering with electronic voting systems.

<sup>14</sup> *See id.* (quoting Democracy Suite EMS Results Tally and Reporting User Guide, Chapter 11, Settings 11.2.2., which reads, in part, “RCV METHOD: This will select the specific method of tabulating RCV votes to elect a winner.”).

michigan	2020-11-04T06:56:47Z	64	0.534	0.448	1930247.664	1619383.808
michigan	2020-11-04T06:58:47Z	64	0.534	0.448	1931413.386	1620361.792
michigan	2020-11-04T07:00:37Z	64	0.533	0.45	1941758.975	1639383.75
michigan	2020-11-04T07:01:46Z	64	0.533	0.45	1945297.562	1642371.3
michigan	2020-11-04T07:03:17Z	65	0.533	0.45	1948885.185	1645400.25

141. Mr. Ramsland further describes how the RCV algorithm can be implemented, and the significance of the use of fractional vote counts, with decimal places, rather than whole numbers, in demonstrating that Dominion did just that to manipulate Michigan votes.

For instance, blank ballots can be entered into the system and treated as “write-ins.” Then the operator can enter an allocation of the write-ins among candidates as he wishes. The final result then awards the winner based on “points” the algorithm in the compute, not actual votes. The fact that we observed raw vote data that includes decimal places suggests strongly that this was, in fact, done. Otherwise, votes would be solely represented as whole numbers. Below is an excerpt from Dominion’s direct feed to news outlets showing actual calculated votes with decimals. *Id.*

## 2. Strong Evidence That Dominion Shifted Votes from Trump to Biden.

142. Another anomaly identified by Mr. Ramsland is the dramatic shift in votes between the two major party candidates as the tabulation of the turnout increased, and more importantly, the change in voting share before and after 2 AM on November 4, 2020, after Wayne County and other Michigan election officials had supposedly halted counting.

Until the tabulated voter turnout reached approximately 83%, Trump was generally winning between 55% and 60% of every turnout point. **Then, after the counting was closed at 2:00 am, the situation dramatically reversed itself, starting with a series of impossible spikes shortly after counting was supposed to have stopped.** *Id.* at ¶13.

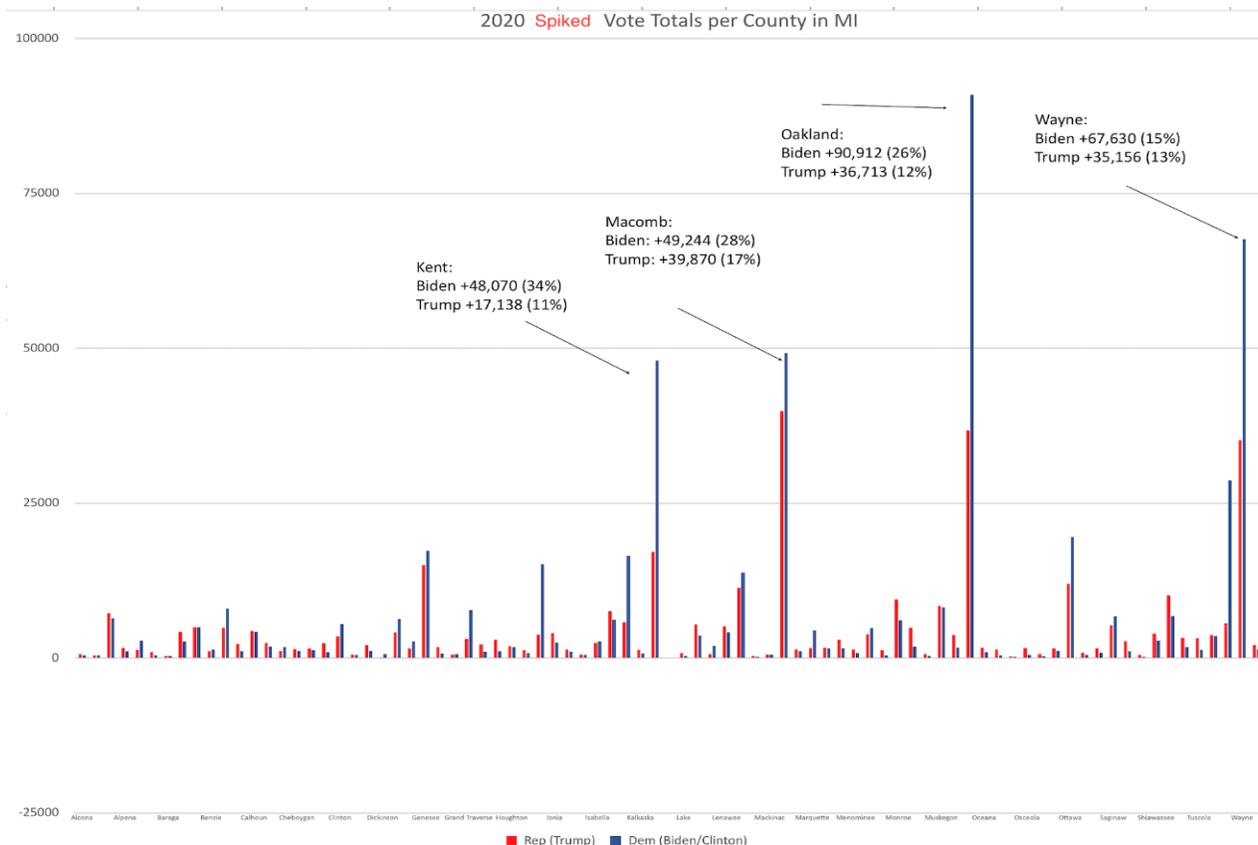
143. Once again, the means through which Dominion appears to have implemented this scheme is through the use of blank ballots that were all, or nearly all, cast for Biden.

The several spikes cast solely for Biden could easily be produced in the Dominion system by pre-loading batches of blank ballots in files such as Write-Ins, then casting them all for Biden using the Override Procedure (to cast Write-In ballots) that is available to the operator of the system. A few batches of blank ballots

could easily produce a reversal this extreme, a reversal that is almost as statistically difficult to explain as is the impossibility of the votes cast to number of voters described in Paragraph 11 above. *Id.*

144. Mr Ramsland and his team analyzed the sudden injection totaling 384,733 ballots in four Michigan counties (Wayne, Oakland, Macomb, and Kent) in a 2 hour 38 minute period in the early morning of November 4 (which would have included the first ballot dump described above in Paragraph 72), and concluded that “[t]his is an impossibility, given the equipment available at the 4 reference locations (precincts/townships).” *Id.* at ¶14.

145. Specifically, Mr. Ramsland calculated “94,867 ballots as the maximum number of ballots that could be processed” in that time period, and thus that “[t]here were 289,866 more ballots processed in the time available for processing in four precincts/townships, than the capacity of the system allows.” *Id.* Mr. Ramsland concludes that “[t]he documented existence of the spikes are strongly indicative of a manual adjustment either by the operator of the system (see paragraph 12 above) or an attack by outside actors.” *Id.* The vote totals added for all Michigan counties, including Wayne, Oakland, Macomb and Kent counties, for the period analyzed by Mr. Ramsland are reproduced in the figure below.



**3. The Number of Illegal Votes Attributable to Dominion Is Nearly Twice Biden’s Purported Margin in Michigan.**

146. Based on his analysis of the red flags and statistical anomalies discussed below,

Mr. Ramsland concludes that:

[T]hese statistical anomalies and impossibilities compels the conclusion to a reasonable degree of professional certainty that the vote count in Michigan and in Wayne County, in particular for candidates for President contain at least 289,866 illegal votes that must be disregarded.

Given that Mr. Biden’s currently purported margin of victory is approximately 154,000, the number of illegal votes attributable Dominion’s fraudulent and illegal conduct is by itself (without considering the tens or hundreds of thousands of illegal votes due to the unlawful conduct described in Section II), is nearly twice Mr. Biden’s current purported lead in the State of Michigan. Thus Mr. Ramsland affidavit alone provides this Court more than sufficient basis to grant the relief requested herein.

**F. Additional Independent Findings of Dominion Flaws.**

147. Further supportive of this pattern of incidents, reflecting an absence of mistake, Plaintiffs have since learned that the "glitches" in the Dominion system, that have the uniform effect of hurting Trump and helping Biden, have been widely reported in the press and confirmed by the analysis of independent experts.

**1. Central Operator Can Remove, Discard or Manipulate Votes.**

148. Plaintiffs have also learned of the connection between Dominion Voting Systems, Smartmatic and the voting systems used in Venezuela and the Philippines.

a. Dominion Voting has also contradicted itself in a rush to denial a pattern of errors that lead to fraud. For example, Dominion Voting Systems machines can read all of these instruments, including Sharpies. <https://www.dominionvoting.com/>

b. Dominion Voting's Democracy Suite contract with Michigan specifically requires:

*Black Ink: Black ink (or toner) must be dense, opaques, light-fast and permanent, with a measured minimum 1.2 reflection density (log) above the paper base. See Ex. 8 ¶2.6.2.*

149. Affiant Ronald Watkins, who is a network & Information cyber-securities expert, under sworn testimony explains that after studying the user manual for Dominion Voting Systems Democracy software, he learned that the information about scanned **ballots can be tracked inside the software system:**

(a) When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application. (Ex. 106, Watkins aff. ¶11).

150. Mr. Watkins further explains **that the central operator can remove or discard batches of votes.** "After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the

option to either "Accept Batch" or "Discard Batch" on the scanning menu .... “ *Id.* ¶8.

151. Mr. Watkins further testifies that the user manual makes clear that the system allows for threshold settings to be set to find all ballots get marked as “problem ballots” for discretionary determinations on where the vote goes stating:

9. During the ballot scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages".

10. Through creatively tweaking the oval coverage threshold settings, and advanced settings on the ImageCase Central scanners, it may be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder.

11. The administrator of the ImageCast Central work station may view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots". It may be possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. *Id.* ¶¶9-11.

152. Mr. Watkins further explains the vulnerabilities in the system when the copy of the selected ballots that are approved in the Results folder are made to a flash memory card – and that is connected to a Windows computer stating:

The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer". While a simple procedure, this process may be error prone and is very vulnerable to malicious administrators. *Id.* ¶13.

**2. Dominion – By Design – Violates Federal Election & Voting Record Retention Requirements.**

153. The Dominion System put in place by its own design violates the intent of Federal

law on the requirement to preserve and retain records – which clearly requires preservation of all records requisite to voting in such an election.

**§ 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation**

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election**, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

See 52 USC § 20701.

154. A Penn Wharton Study from 2016 concluded that “Voters and their representatives in government, often prompted by news of high-profile voting problems, also have raised concerns about the reliability and integrity of the voting process, and have increasingly called for the use of modern technology such as laptops and tablets to improve convenience.”<sup>15</sup>

**3. Dominion Vulnerabilities to Hacking.**

155. Plaintiffs have since learned that the "glitches" in the Dominion system --

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<sup>15</sup> Penn Wharton Public Policy Initiative, University of Pennsylvania, *The Business of Voting: Market Structure and Innovation in the Election Technology Industry* at 16 (2016) (“Penn Wharton 2016 Study”), available at: [https://trustthevote.org/wp-content/uploads/2017/03/2017-whartonoset\\_industryreport.pdf](https://trustthevote.org/wp-content/uploads/2017/03/2017-whartonoset_industryreport.pdf).

that have the uniform effect of hurting Trump and helping Biden -- have been widely reported in the press and confirmed by the analysis of independent experts.

156. Plaintiffs can show, through expert and fact witnesses that:

A. Massive End User Vulnerabilities.

(1) Users on the ground have full admin privileges to machines and software. The Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector's office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, is not counted and is handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for improper vote adjudication. (Ex. 106 Watkins aff. ¶¶8 & 11).

(2) Affiant witness (name redacted for security reasons), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation:

I was witness to the creation and operation of a sophisticated electronic voting system that permitted the leaders of the Venezuelan government to manipulate the tabulation of votes for national and local elections and select the winner of those elections in order to gain and maintain their power. Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included ... The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government. (*Id.* ¶¶6, 9, 10).

157. Specific vulnerabilities of the systems in question that have been documented or reported include:

A. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens

- up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection.” (See Ex. 2, Appel Study).
- B. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.
  - C. October 6, 2006 – Congresswoman Carolyn Maloney calls on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela. (See Ex. 15). Congresswoman Maloney wrote that “It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia ... Smartmatic now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatic, but the company has not revealed who all other Smartmatic owners are. *Id.*”
  - D. Dominion “got into trouble” with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company “that has played a significant role in the U.S. market over the last decade.”<sup>16</sup> Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election, the biggest automated election run by a private company. The automation of that first election in the Philippines was hailed by the international community and by the critics of the automation. The results transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be their new president on Election Day. In keeping with local Election law requirements, Smartmatic and Dominion were required to provide the source code of the voting machines prior to elections so that it could be independently verified. *Id.*
  - E. Litigation over Smartmatic “glitches” alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, “The software inventory provided by Smartmatic is inadequate, ... which brings into question the software credibility.”<sup>17</sup>
  - F. Dominion acquired Sequoia Voting Systems as well as Premier Election

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<sup>16</sup> *Voting Technology Companies in the U.S. – Their Histories and Present Contributions*, Access Wire, (Aug. 10, 2017), available at: <https://www.accesswire.com/471912/Voting-Technology-Companies-in-the-US--Their-Histories>.

<sup>17</sup> *Smartmatic-TIM Running Out of Time to Fix Glitches*, ABS-CBN News (May 4, 2010), available at: <https://news.abs-cbn.com/nation/05/04/10/smartmatic-tim-running-out-time-fix-glitches>.

- Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion). This map illustrates 2016 voting machine data—meaning, these data do not reflect geographic aggregation at the time of acquisition, but rather the machines that retain the Sequoia or Premier/Diebold brand that now fall under Dominion’s market share. Penn Wharton Study at 16.
- G. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden and House Member Mark Pocan wrote about their ‘particularized concerns that secretive & “trouble -plagued companies”’ “have long skimmed on security in favor of convenience,” in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S.” (See Ex. 16).
- H. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are “yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy.” It’s also an indictment, he said, “of the notion that important cybersecurity decisions should be left entirely to county election offices, many of whom do not employ a single cybersecurity specialist.”<sup>18</sup>

158. The expert witness in pending litigation in the United States District Court of Georgia, Case 1:17-cv-02989-AT, Harri Hursti, specifically testified to the acute security vulnerabilities, among other facts, by declaration filed on August 24, 2020, (See Ex. 107) wherein he testified or found:

- A. “The scanner and tabulation software settings being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes to be counted” “The voting system is being operated in Fulton County in a manner that escalates the security risk to an extreme level” “Votes are not reviewing their BMD printed ballots, which causes BMD generated results to be un-auditable due to the untrustworthy audit trail.” 50% or more of voter selections in some counties were visible to poll workers. Dominion employees maintain near exclusive control over the EMS servers. “In my professional opinion, the role played by Dominion personnel in Fulton County, and other counties with similar arrangements, should be considered

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<sup>18</sup> Kim Zetter, *Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials*, VICE (Aug. 8, 2019) (“VICE Election Article”), available at: <https://www.vice.com/en/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials>.

- an elevated risk factor when evaluating the security risks of Georgia’s voting system.” *Id.* ¶26.
- B. A video game download was found on one Georgia Dominion system laptop, suggesting that multiple Windows updates have been made on that respective computer.
  - C. There is evidence of remote access and remote troubleshooting which presents a grave security implication.
  - D. Certified identified vulnerabilities should be considered an “extreme security risk.”
  - E. There is evidence of transfer of control the systems out of the physical perimeters and place control with a third party off site.
  - F. USB drives with vote tally information were observed to be removed from the presence of poll watchers during a recent election.

1. Hursti stated within said Declaration:

“The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system.” *Id.* ¶49.

159. Rather than engaging in an open and transparent process to give credibility to Michigan’s Dominion-Democracy Suite voting system, the processes were hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Michigan’s Election Code and Federal law.

160. In October of 2020 The FBI and CISA issued a JOINT CYBERSECURITY ADVISORY ON October 30, 2020 titled: **Iranian Advanced Persistent Threat Actor**

#### **Identified Obtained Voter Registration Data**

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related

disinformation in mid-October 2020.<sup>1</sup> (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election. (See Ex. 18 at 1, CISA and FBI Joint Cyber Security Advisory of October 30, 2020)

161. An analysis of the Dominion software system by a former US Military Intelligence expert subsequently found that the Dominion Voting system and software are accessible - and got compromised by rogue actors, including foreign interference by Iran and China. (See Ex. 105, Spider Declaration (Affiant's name redacted for security reasons)).

162. The expert finds an analysis and explains how by using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See *Id.*). Several facts are set forth related to foreign members of Dominion Voting Systems and foreign servers as well as foreign interference.).

163. Another expert, whose name has been redacted, conducted in-depth statistical analysis of publicly available data on the 2020 U.S. Presidential Election from November 13, 2020 through November 28, 2020. (See Ex. 111). He compares results from Dominion Voting Machines to areas with non-Dominion Voting Machines and he finds that Biden out-performs in the areas with Dominion Voting Machines, and after checking for other potential drivers of bias, finds none. *Id.* ¶¶11-12. He finds the difference to be clearly statistically significant. His review includes data included vote counts for each county in the United States, U.S. Census data, and type of voting machine data provided by the U.S. Election Assistance Committee and further concludes that *“the results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Michigan’s vote tallies to be inflated by somewhere between three and five point six*

*percentage points. Statistical estimating yields that in Michigan, the best estimate of the number of impacted votes is 162,400. However, a 95% confidence interval calculation yields that as many as 276,080 votes may have been impacted.” Id. ¶13.*

**4. Background of Dominion Connections to Smartmatic and Hostile Foreign Governments.**

164. Plaintiffs can also show Smartmatic’s incorporation and inventors who have backgrounds evidencing their foreign connections, including Serbia, specifically its identified inventors:

Applicant: SMARTMATIC, CORP.

Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso<sup>19</sup>

165. Another Affiant witness testifies that in Venezuela, she was in official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was summarily dismissed. She explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Ex. 17, Cardozo Aff. ¶8).

**G. Because Dominion Senior Management Has Publicly Expressed Hostility to Trump and Opposition to His Election, Dominion Is Not Entitled to Any Presumption of Fairness, Objectivity or Impartiality, and Should Instead Be Treated as a Hostile Partisan Political Actor.**

166. Dr. Eric Coomer is listed as the co-inventor for several patents on ballot adjudication and voting machine-related technology, all of which were assigned to Dominion.<sup>20</sup> He joined Dominion in 2010, and most recently served as Voting Systems

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<sup>19</sup> See Patents Assigned to Smartmatic Corp., available at: <https://patents.justia.com/assignee/smartmatic-corp>

<sup>20</sup> See “Patents by Inventor Eric Coomer,” available at: <https://patents.justia.com/inventor/eric-coomer>. This page lists the following patents

Officer of Strategy and Director of Security for Dominion. Upon information and belief, Dr. Coomer first joined Sequoia Voting Systems in 2005 as Chief Software Architect and became Vice President of Engineering before Dominion Voting Systems acquired Sequoia. Dr. Coomer's patented ballot adjudication technology into Dominion voting machines sold throughout the United States, including those used in Michigan.

167. In 2016, Dr. Coomer admitted to the State of Illinois that Dominion Voting machines can be manipulated remotely.<sup>21</sup> He has also publicly posted videos explaining how Dominion voting machines can be remotely manipulated.<sup>22</sup>

168. Dr. Coomer has emerged as Dominion's principal defender, both in litigation alleging that Dominion rigged elections in Georgia and in the media. An examination of his previous public statements has revealed that Dr. Coomer is a highly partisan and even more anti-Trump, precisely the opposite of what would expect from

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issued to Dr. Coomer and his co-inventors: (1) U.S. Patent No. 9,202,113, Ballot Adjudication in Voting Systems Utilizing Ballot Images (issued Dec. 1, 2015); (2) U.S. Patent No. 8,913,787, Ballot Adjudication in Voting Systems Utilizing Ballot Images (issued Dec. 16, 2014); (3) U.S. Patent No. 8,910,865, Ballot Level Security Features for Optical Scan Voting Machine Capable of Ballot Image Processing, Secure Ballot Printing, and Ballot Layout Authentication and Verification (issued Dec. 16, 2014); (4) U.S. Patent No. 8,876,002, Systems for Configuring Voting Machines, Docking Device for Voting Machines, Warehouse Support and Asset Tracking of Voting Machines (issued Nov. 4, 2014); (5) U.S. Patent No. 8,864,026, Ballot Image Processing System and Method for Voting Machines (issued Oct. 21, 2014); (6) U.S. Patent No. 8,714,450, Systems and Methods for Transactional Ballot Processing, and Ballot Auditing (issued May 6, 2014), available at: <https://patents.justia.com/inventor/eric-coomer>.

<sup>21</sup> Jose Hermosa, *Electoral Fraud: Dominion's Vice President Warned in 2016 That Vote-Counting Systems Are Manipulable*, The BL (Nov. 13, 2020), available at: <https://thebl.com/us-news/electoral-fraud-dominions-vice-president-warned-in-2016-that-vote-counting-systems-are-manipulable.html>.

<sup>22</sup> See, e.g., "Eric Coomer Explains How to Alter Votes in the Dominion Voting System" (Nov. 24, 2020) (excerpt of presentation delivered in Chicago in 2017), available at: <https://www.youtube.com/watch?v=UtB3tLaXLJE>.

the management of a company charged with fairly and impartially counting votes (which is presumably why he tried to scrub his social media history).

169. Unfortunately for Dr. Coomer, however, a number of these posts have been captured for perpetuity. Below are quotes from some of his greatest President Trump and Trump voter hating hits. (*See Ex. 19*).

If you are planning to vote for that autocratic, narcissistic, fascist ass-hat blowhard and his Christian jihadist VP pic, UNFRIEND ME NOW! No, I'm not joking. ... Only an absolute F[\*\*]KING IDIOT could ever vote for that wind-bag fuck-tard FASCIST RACIST F[\*\*]K! ... I don't give a damn if you're friend, family, or random acquaintance, pull the lever, mark an oval, touch a screen for that carnival barker ... UNFRIEND ME NOW! I have no desire whatsoever to ever interact with you. You are beyond hope, beyond reason. You are controlled by fear, reaction and bullsh[\*]t. Get your shit together. F[\*\*]K YOU! Seriously, this f[\*\*]king ass-clown stands against everything that makes this country awesome! You want in on that? You [Trump voters] deserve nothing but contempt. *Id.* (July 21, 2016 Facebook post).<sup>23</sup>

170. In a rare moment of perhaps unintentional honesty, Dr. Coomer anticipates this Complaint and many others, by slandering those seeking to hold election riggers like Dominion to account and to prevent the United States' descent into Venezuelan levels of voting fraud and corruption out of which Dominion was born:

Excerpts in stunning Trump-supporter logic, "I know there is a lot of voter fraud. I don't know who is doing it, or how much is happening, but I know it is going on a lot." This beautiful statement was followed by, "It happens in third world countries, this the US, we can't let it happen here." *Id.* (October 29, 2016 Facebook post).

171. Dr. Coomer, who invented the technology for Dominion's voting fraud and has publicly explained how it can be used to alter votes, seems to be extremely hostile to those who would attempt to stop it and uphold the integrity of elections that

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<sup>23</sup> In this and other quotations from Dr. Coomer's social media, Plaintiffs have redacted certain profane terms.

underpins the legitimacy of the United States government:

And in other news... There be some serious fuckery going on right here fueled by our Cheeto-in-Chief stocking lie after lie on the flames of [Kris] Kobach... [Linking Washington Post article discussing the Presidential Advisory Commission on Election Integrity, of which former Kansas Secretary of State Kris Kobach was a member, entitled, “The voting commission is a fraud itself. Shut it down.”] *Id.* (September 14, 2017 Facebook post.)

172. Dr. Coomer also keeps good company, supporting and reposting ANTIFA statements slandering President Trump as a “fascist” and by extension his supporters, voters and the United States military (which he claims, without evidence, Trump will make into a “fascist tool”). *Id.* (June 2, 2020 Facebook post). Lest someone claims that these are “isolated statements” “taken out of context”, Dr. Coomer has affirmed that he shares ANTIFA’s taste in music and hatred of the United States of America, *id.* (May 31, 2020 Facebook post linking “F[\*\*]k the USA” by the exploited), the police. *Id.* (separate May 31, 2020 Facebook posts linking N.W.A. “F[\*\*]k the Police” and a post promoting phrase “Dead Cops”). *Id.* at 4-5.

173. Affiant and journalist Joseph Oltmann researched an ANTIFA in Colorado. *Id.* at 1. “On or about the week of September 27, 2020,” he attended an Antifa meeting which appeared to be between Antifa members in Colorado Springs and Denver Colorado,” where Dr. Coomer was present. In response to a question as to what Antifa “if Trump wins this ... election?”, Dr. Coomer responded “Don’t worry about the election. Trump is not going to win. I made f[\*\*]king sure of that ... Hahaha.” *Id.* at 2.

174. By putting an anti-Trump zealot like Dr. Coomer in charge of election “Security,” and using his technology for what should be impartial “ballot adjudication,” Dominion has given the fox the keys to the hen house ***and has forfeited any presumption of objectivity, fairness, or***

*even propriety*. It appears that Dominion does not even care about even an appearance of impropriety, as its most important officer has his fingerprints all over a highly partisan, vindictive, and personal vendetta against the Republican nominee both in 2016 and 2020, President Donald Trump. Dr. Coomer’s highly partisan anti-Trump rages show clear motive on the part of Dominion to rig the election in favor of Biden, and may well explain why for each of the so-called “glitches” uncovered, it is always Biden receiving the most votes on the favorable end of such a “glitch.”

175. In sum, as set forth above, for a host of independent reasons, the Michigan certified election results concluding that Joe Biden received 154,188 more votes than President Donald Trump must be set aside.

## COUNT I

### **Defendants Violated the Elections and Electors Clauses and 42 U.S.C. § 1983.**

176. Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

177. The Electors Clause states that “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors” for President. U.S. Const. art. II, §1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by *the Legislature* thereof.” U.S. Const. art. I, § 4, cl. 1 (emphasis added).

178. The Legislature is ““the representative body which ma[kes] the laws of the people.”” *Smiley v. Holm*, 285 U.S. 355, 365 (1932). Regulations of congressional and presidential elections, thus, “must be in accordance with the method which the state has prescribed for legislative enactments.” *Id.* at 367; *see also Ariz. State Legislature v.*

*Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2668 (2015).

179. Defendants are not part of the Michigan Legislature and cannot exercise legislative power. Because the United States Constitution reserves for the Michigan Legislature the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict with existing legislation. Defendants are not the legislature, and their unilateral decision to deviate from the requirements of the Michigan Election Code violates the Electors and Elections Clause of the United States Constitution.

180. Many affiants testified to Defendants' failure to follow the requirements of the Michigan Election Code, as enacted by the Michigan Legislature, MCL §§ 168.730-738, relating to the rights of partisan election challengers to provide transparency and accountability to ensure that all, and only, lawful ballots casts be counted, and that the outcome of the election was honestly and fairly determined by eligible voters casting legal ballots. As detailed in Section II, many of these requirements were either disregarded altogether or applied in a discriminatory manner to Republican election challengers. Specifically, election officials violated Michigan's Election Code by: (a) disregarding or violating MCL § 168.730 and § 168.733 requiring election challengers to have meaningful access to observe the counting and processing of ballots, *see supra* Section II.A; (b) wanton and widespread forgery and alteration, addition or removal of votes, voters, or other information from ballots, the QVF or other voting records, *see supra* Section II.B; and (c) illegal double voting, counting ineligible ballots, failure to check signatures or postmarks, and several other practices in clear violation of

the Michigan Election Code (and in some cases at the express direction of supervisors or Wayne County officials). *See supra* Section II.C.

181. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted. Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clause. Accordingly, the results for President in the November 3, 2020 election must be set aside, the State of Michigan should be enjoined from certifying the results thereof, and this Court should grant the other declaratory and injunctive relief requested herein.

## COUNT II

### **Governor Whitmer, Secretary Benson and Other Defendants Violated The Equal Protection Clause of the Fourteenth Amendment U.S. Const. Amend. XIV & 42 U.S.C. § 1983**

#### **Invalid Enactment of Regulations Affecting Observation and Monitoring of the Election & Disparate Implementation of Michigan Election Code**

182. Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

183. The Fourteenth Amendment of the United States Constitution provides “nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104 (2000) (having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over the value of another’s). *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 665 (1966) (“Once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.”). The

Court has held that to ensure equal protection, a problem inheres in the absence of specific standards to ensure its equal application. *Bush*, 531 U.S. at 106 (“The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary.”).

184. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

185. The disparate treatment of Michigan voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because “the right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds*, 377 U.S. at 555. *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc.*, 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at \*4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co.*, 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

186. In statewide and federal elections conducted in the State of Michigan, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process in each County to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. Moreover, through its provisions involving watchers and representatives, the Michigan Election Code ensures that all candidates and political parties in each County, including the Trump Campaign,

have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. *See, e.g.*, MCL § 168.730 & § 168.733(1).

187. Further, the Michigan Election Code provides it is a felony punishable by up to two years in state prison for any person to threaten or intimidate a challenger who is performing any activity described in Michigan law. MCL § 168.734(4). Defendants have a duty to treat the voting citizens in each County in the same manner as the citizens in other Counties in Michigan.

188. As set forth in Count I above, Defendants failed to comply with the requirements of the Michigan Election Code and thereby diluted the lawful ballots of the Plaintiffs and of other Michigan voters and electors in violation of the United States Constitution guarantee of Equal Protection.

189. Specifically, Defendants denied the Trump Campaign equal protection of the law and their equal rights to meaningful access to observe and monitor the electoral process enjoyed by citizens in other Michigan Counties by: (a) denying Republican poll challengers access to the TCF Center or physically removing them or locking them out for pretextual reasons; (b) denied Republican poll watchers meaningful access to, or even physically blocking their view of, ballot handling, processing, or counting; (c) engaged in a systematic pattern of harassment, intimidation, verbal insult, and even physical removal of Republican poll challengers; (d) systematically discriminated against Republican poll watchers and in favor of Democratic poll watchers and activists in enforcing rules (in particular, through abuse of “social distancing” requirements); (e) ignored or refused to record Republican challenges to the violations set forth herein; (f)

refused to permit Republican poll watchers to observe ballot duplication or to check if duplication was accurate; (g) unlawfully coached voters to vote for Biden and other democratic candidates, including at voting stations; and (h) colluded with other Michigan State, Wayne County and City of Detroit employees (including police) and Democratic poll watchers and activists to engage in the foregoing violations. *See generally supra* Section II.A.

190. Defendants further violated Michigan voters' rights to equal protection insofar as it allowed Wayne County and City of Detroit election workers to process and count ballots in a manner that allowed ineligible ballots to be counted, including: (a) fraudulently adding tens of thousands of new ballots and/or new voters to the QVF in two separate batches on November 4, 2020, all or nearly all of which were votes for Joe Biden; (b) systematically forging voter information and fraudulently adding new voters to the QVF (in particular, where a voter's name could not be found, assigning the ballot to a random name already in the QVF to a person who had not voted and recorded these new voters as having a birthdate of 1/1/1900); (c) fraudulently changing dates on absentee ballots received after 8:00 PM Election Day deadline to indicate that such ballots were received before the deadline; (d) changing votes for Trump and other Republican candidates; (e) adding votes to "undervote" ballots and removing votes from "Over-Votes"; (f) permitting illegal double voting by persons that had voted by absentee ballot and in person; (g) counting ineligible ballots – and in many cases – multiple times; (h) counting ballots without signatures, or without attempting to match signatures, and ballots without postmarks, pursuant to direct instructions from Defendants; (i) counting "spoiled" ballots; (j) systematic violations of ballot secrecy

requirements; (k) accepting unsecured ballots arrived at the TCF Center loading garage, not in sealed ballot boxes, without any chain of custody, and without envelopes, after the 8:00 PM Election Day deadline; (l) accepting and counting ballots from deceased voters; and (m) accepting and counting ballots collected from unattended remote drop boxes. *See generally infra* Section II.B. and II.C.

191. Plaintiffs have obtained direct eyewitness testimony confirming that certain of these unlawful practices were at the express direction of Wayne County election officials. With respect to (a) and (b), Affiant Cushman testified that election supervisor Miller informed him that the Wayne County Clerk's office had expressly instructed them to manually to enter thousands of ballots arriving around 9 PM on November 4, 2020, from voters not in the QVF, and to manually enter these unregistered voters in the QVF with the birthdate of 1/1/1900. Ex. 4, GLJC Complaint, Ex. D ¶¶ 14-17. With respect to (c), fraudulently back-dating absentee ballots, City of Detroit election worker Affiant Jacob affirmed that she was instructed by supervisors to "improperly pre-date the absentee ballots receive date ... to falsely show that absentee ballots had been received in time to be valid." *Id.* Ex. B ¶17. With respect to (h) (accepting ballots without signatures or postmarks), affiants testified that election workers did so at the express direction of Wayne County election officials. *See id.* ¶15.

192. Other Michigan county boards of elections provided watchers and representatives of candidates and political parties, including without limitation watchers and representatives of the Trump Campaign, with appropriate access to view the absentee and mail-in ballots being pre-canvassed and canvassed by those county election boards without the restrictions and discriminatory treatment outline above.

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, depriving them of the equal protection of those state laws enjoyed by citizens in other Counties.

193. Defendants have acted and will continue to act under color of state law to violate Plaintiffs' right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment, the corollary provisions of the Michigan Constitution, and the Michigan Election Code.

194. Plaintiffs seek declaratory and injunctive relief requiring Secretary Benson to direct that the Michigan Counties allow a reasonable number of challengers to meaningfully observe the conduct of the Michigan Counties canvassers and board of state canvassers and that these canvassing boards exercise their duty and authority under Michigan law, which forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden through the unlawful use of Dominion Democracy Suite software and devices.

195. In addition, Plaintiffs ask this Court to order that no ballot processed by a counting board in the Michigan Counties can be included in the final vote tally unless a challenger was allowed to meaningfully observe the process and handling and counting of the ballot, or that were unlawfully switched from Trump to Biden.

196. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted.

Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Michigan law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately.

197. In addition to the alternative requests for relief in the preceding paragraphs, hereby restated, Plaintiffs seek a permanent injunction requiring the Wayne County and other Michigan Election Boards to invalidate ballots cast by: (1) any voter added to the QVF after the 8:00 PM Election Day deadline; (3) any absentee or mail-in ballot received without a signature or postmark; (4) any ballot cast by a voter who submitted a mail-in ballot and voted in person; (5) any ballot cast by a voter not in the QVF that was assigned the name of a voter in the QVF; (6) voters whose signatures on their registrations have not been matched with ballot, envelope and voter registration check; and (7) all “dead votes”. *See generally supra* Section II.A-II.C.

### **COUNT III**

#### **Fourteenth Amendment, Amend. XIV & 42 U.S.C. § 1983**

##### **Denial of Due Process On The Right to Vote**

198. Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

199. The right of qualified citizens to vote in a state election involving federal

candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at 665. *See also Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the “the right of all qualified citizens to vote, in state as well as in federal elections.”). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (citing *Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

200. The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it “is preservative of other basic civil and political rights.” *Reynolds*, 377 U.S. at 562. Voters have a “right to cast a ballot in an election free from the taint of intimidation and fraud,” *Burson v. Freeman*, 504 U.S. 191, 211 (1992), and “[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

201. “Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted” if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). “[T]he right to have the vote counted” means counted “at full value without dilution or discount.” *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

202. “Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974); *see also Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes “debase[]” and “dilute” the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

203. The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. *See, e.g., Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be “protected from the diluting effect of illegal ballots.”); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) (“There is no question about the legitimacy or importance of the State’s interest in counting only the votes of eligible voters.”); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

204. The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States.” *Anderson*, 417 U.S. at 226 (*quoting Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff’d due to absence of quorum*, 339 U.S. 974 (1950)).

205. Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth

Amendment by leading to the dilution of validly cast ballots. See *Reynolds*, 377 U.S. at 555 (“[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.”).

206. Section II of this Complaint and the exhibits attached hereto describe widespread and systematic violations of the Due Process Clause described, namely: (A) Section II.A, Republican poll challengers were denied the opportunity to meaningfully observe the processing and counting of ballots; (B) Section II.B, election workers forged, added, removed or otherwise altered information on ballots, the QFV and other voting records; and (C) Section II.C, several other Michigan Election Code violations that caused or facilitated the counting of tens of thousands of ineligible, illegal or duplicate ballots.

207. Plaintiffs seek declaratory and injunctive relief requiring that Secretary Benson and Wayne County are enjoined from certifying the results of the General Election, or in the alternative, conduct a recount or recanvass in which they allow a reasonable number of challengers to meaningfully observe the conduct of the Michigan Board of State Canvassers and the Michigan county Boards of Canvassers and that these canvassing boards exercise their duty and authority under Michigan law, which forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden through the unlawful use of Dominion Democracy Suite software and devices.

## COUNT IV

### Wide-Spread Ballot Fraud

### Violations of Michigan Election Code (MCL §§ 168.730-738) &

### Michigan Constitution, Art. II § 4

208. Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

209. Plaintiffs contest the results of Michigan’s 2020 General Election. In 2018, the voters of Michigan enacted an amendment to Article II of the Michigan Constitution that conferred a number of rights on Michigan voters, and empowered the Michigan Legislature, to “enact laws ... to preserve the purity of elections, ... [and] to guard against abuses of the elective franchise ....” Mich. Const. Art. II § 4(2). Standing conferred under the Michigan Constitution, Art. II § 4(1), which provides that “[e]very citizen of the United States who is an elector qualified to vote in Michigan shall have the right,” among other things, “to have the results of statewide elections audited, ..., to ensure the accuracy and integrity of elections.”

210. Various provisions of the Michigan Election Code also give any citizen the right to bring an election challenge within 30 days of an election where, as here, it appears that a material fraud or error has been committed. *See, e.g., Hamlin v. Saugatuck Twp.*, 299 Mich. App. 233, 240-241 (2013) (*citing Barrow v. Detroit Mayor*, 290 Mich. App. 530 (2010)); MCL § 168.31a (setting forth election audit requirements); MCL § 168.861 (*quo warranto* remedy for fraudulent or illegal voting).

211. This Complaint has provided evidence from dozens of eyewitnesses who have detailed dozens of separate violations of the Michigan Election Code by election workers, acting in concert with government employees and Democratic operatives and activists, *see generally* Section II; reinforced by several expert witnesses, each testifying regarding distinct types statistical anomalies that, whether considered in isolation or in

combination with others, affect a sufficient number of ballots to affect the result of the election, *see generally* Section III; and combined fact and expert testimony regarding Dominion showing that Dominion, whether acting alone or in concert with domestic or foreign actors had the means, motive and opportunity to fraudulently manipulate votes and change the election results. *See generally* Section IV.

212. Plaintiffs are not, however, the only ones expressing grave concerns regarding the propriety of the 2020 General Election. In a concurring opinion issued just a few days ago in *Costantino v. City of Detroit*, 2020 WL 6882586 (Mich. Nov. 23, 2020), Justice Zahra of the Supreme Court of Michigan, in denying as moot a request to enjoin certification by Wayne County (but not the audit or other requested relief), stated that “Nothing said is to diminish the troubling and serious allegations of fraud and irregularities asserted by affiants ..., among whom is Ruth Johnson, Michigan’s immediate past Secretary of State.” *Id.* at \*2 (Zahra, J., concurring).

213. As here, plaintiffs in *Costantino*, presented “evidence to substantiate their allegations, which include claims of ballots being counted from voters whose names were not contained in the appropriate poll books, instructions being given to disobey election laws and regulations,” and several other categories of violations that overlap with those alleged in this Complaint and in affiants’ testimony. *Id.* This opinion further urged the trial court to schedule evidentiary hearing on an expedited basis. *Id.*

#### **Violation of MCL 168.765a.**

214. Absent voter ballots must only be counted when “at all times” there is “at least 1 election inspector from each major political party.” MCL 168.765a.

215. Per eyewitness accounts described in this Complaint and its attached sworn affidavits, Defendants habitually and systematically disallowed election inspectors from the

Republican Party, including Plaintiff, to be present in the voter counting place and refused access to election inspectors from the Republican Party, including Plaintiff, to be within a close enough distance from the absent voter ballots to be able to see for whom the ballots were cast. *See generally supra* Section II.A.

216. Defendants refused entry to official election inspectors from the Republican Party, including Plaintiff, into the counting place to observe the counting of absentee voter ballots. Defendants even physically blocked and obstructed election inspectors from the Republican Party, including Plaintiff, by adhering large pieces of cardboard to the transparent glass doors so the counting of absent voter ballots was not viewable.

#### **Violation of MCL 168.733**

217. MCL 168.733 sets forth the procedures for election challengers and the powers of election inspectors.

218. Per eyewitness accounts described in this Complaint and its attached sworn affidavits, Defendants habitually and systematically failed to provide space for election inspectors from the Republican party, including Plaintiff, to observe election procedure, failed to allow the inspection of poll books, failed to share the names of the electors being entered in the poll books, failed to allow the examination of each ballot as it was being counted, and failed to keep records of obvious and observed fraud. *See generally supra* Section II.A.

219. Poll challengers, including Plaintiff, observed election workers and supervisors writing on ballots themselves to alter them, apparently manipulating spoiled ballots by hand and then counting the ballots as valid, counting the same ballot more than once, adding information to incomplete affidavits accompanying absentee ballots, counting absentee

ballots returned late, counting unvalidated and unreliable ballots, and counting the ballots of “voters” who had no recorded birthdates and were not registered in the State’s Qualified Voter File or on any Supplemental voter lists.

**Violation of MCL 168.765(5) and 168.764a**

220. Michigan election law, MCL 168.765(5), requires Defendants to post the specific absentee voting information anytime an election is conducted which involves a state or federal office, in particular, the number of absentee ballots distributed to absent voters.

221. Upon information and belief, Defendants failed to post by 8:00 AM on Election Day the number of absentee ballots distributed to absent voters and failed to post before 9:00 PM the number of absent voters returned before on Election Day.

222. Per Michigan Election law, all absentee voter ballots must be returned to the clerk before polls close at 8 PM. MCL 168.764a. Any absentee voter ballots received by the clerk after the close of the polls on election day will not be counted.

223. Michigan allows for early counting of absentee votes prior to the closings of the polls for large jurisdictions, such as the City of Detroit and Wayne County.

224. Upon information and belief, receiving tens of thousands additional absentee ballots in the early morning hours after election day and after the counting of the absentee ballots had concluded, without proper oversight, with tens of thousands of ballots attributed to just one candidate, Joe Biden, indicates Defendants failed to follow proper election protocol. *See generally supra* Section II.B.1.

**Violation of MCL 168.730**

225. MCL 168.730 sets forth the rights and requirements for election challengers. MCL 168.734 provides, among other things:

Any officer or election board who shall prevent the presence of any such

challenger as above provided, or shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him, shall, upon conviction, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

226. Wayne County's and Secretary Benson's denial of Republican challengers' right to participate and observe the processing of ballots violates Michigan's Election Code and resulting in the casting and counting of ballots that were ineligible to be counted and diluted or canceled out the lawfully cast ballots of other Michigan voters.

227. Further, Secretary of State Benson and the election officials in Wayne County violated MCL 168.730-168.734 by denying Republican challengers' rights to meaningfully observe and participate in the ballot processing and counting process.

228. Based upon the above allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to order appropriate relief, including, but not limited to, enjoining the certification of the election results pending a full investigation and court hearing, ordering a recount of the election results, or voiding the election and ordering a new election, to remedy the fraud.

## **PRAYER FOR RELIEF**

229. Accordingly, Plaintiffs seek an emergency order instructing Defendants to decertify the results of the General Election for the Office of President.

230. Alternatively, Plaintiffs seek an order instructing the Defendants to certify the results of the General Election for Office of the President in favor of President Donald Trump.

231. In the alternative, Plaintiffs seek an emergency order prohibiting Defendants from including in any certified results from the General Election the tabulation of absentee and mailing ballots which do not comply with the Michigan Election Code, including, without limitation, the tabulation of absentee and mail-in ballots Trump Campaign's watchers were prevented from observing or based on the tabulation of invalidly cast absentee and mail-in ballots which (i) lack a secrecy envelope, or contain on that envelope any text, mark, or symbol which reveals the elector's identity, political affiliation, or candidate preference, (ii) do not include on the outside envelope a completed declaration that is dated and signed by the elector, (iii) are delivered in-person by third parties for non-disabled voters, or (iv) any of the other Michigan Election Code violations set forth in Section II of this Complaint.

232. Order production of all registration data, ballots, envelopes, etc. required to be maintained by law. When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Michigan and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Michigan cannot reasonably rely on the results of the mail vote. Relief sought is the elimination of the mail ballots from counting in the 2020 election.

Alternatively, the electors for the State of Michigan should be disqualified from counting toward the 2020 election. Alternatively, the electors of the State of Michigan should be directed to vote for President Donald Trump.

233. For these reasons, Plaintiffs ask this Court to enter a judgment in their favor and provide the following emergency relief:

1. An order directing Secretary Benson, Governor Whitmer, the Board of State Canvassers and Wayne County to de-certify the election results;
2. An order enjoining Secretary Benson and Governor Whitmer from transmitting the currently certified election results to the Electoral College;
3. An order requiring Governor Whitmer to transmit certified election results that state that President Donald Trump is the winner of the election;
4. An immediate order to impound all the voting machines and software in Michigan for expert inspection by the Plaintiffs.
5. An order that no votes received or tabulated by machines that were not certified as required by federal and state law be counted.
6. A declaratory judgment declaring that Michigan's failed system of signature verification violates the Electors and Elections Clause by working a de facto abolition of the signature verification requirement;
7. A declaratory judgment declaring that current certified election results violates the Due Process Clause, U.S. CONST. Amend. XIV;

8. A declaratory judgment declaring that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or sampling analysis shows a sufficient number of ineligible absentee ballots were counted;
9. An emergency declaratory judgment that voting machines be Seized and Impounded immediately for a forensic audit—by Plaintiffs’ experts;
10. A declaratory judgment declaring absentee ballot fraud occurred in violation of Constitutional rights, Election laws and under state law;
11. A permanent injunction prohibiting the Governor and Secretary of State from transmitting the currently certified results to the Electoral College based on the overwhelming evidence of election tampering;
12. Immediate production of 48 hours of security camera recording of all rooms used in the voting process at the TCF Center for November 3 and November 4.
13. Plaintiffs further request the Court grant such other relief as is just and proper, including but not limited to, the costs of this action and their reasonable attorney fees and expenses pursuant to 42 U.S.C. 1988.

Respectfully submitted, this 29th day of November, 2020.

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**DECLARATION OF** [REDACTED]

I, [REDACTED], hereby state the following:

1. [REDACTED]  
[REDACTED]  
[REDACTED]
2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct.
3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement. I have not participated in any political process in the United States, have not supported any candidate for office in the United States, am not legally permitted to vote in the United States, and have never attempted to vote in the United States.
4. I want to alert the public and let the world know the truth about the corruption, manipulation, and lies being committed by a conspiracy of people and companies intent upon betraying the honest people of the United States and their legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries all over the world. It is a conspiracy to wrongfully gain and keep power and wealth. It involves political leaders, powerful companies, and other persons whose purpose is to gain and keep power by changing the free will of the people and subverting the proper course of governing.
5. [REDACTED]  
[REDACTED] Over the course of my career, I specialized in the marines [REDACTED]  
[REDACTED]  
[REDACTED]
6. Due to my training in special operations and my extensive military and academic formations, I was selected for the national security guard detail of the President of Venezuela. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

7. [REDACTED]

[REDACTED] Señor Cabello was a long-time confederate of President Chavez and instrumental in his gaining power. In 2002, Señor Cabello had very briefly taken over the duties of the presidency while Hugo Chavez was imprisoned. Within hours of Señor Cabello taking over the presidency, Hugo Chavez was released from prison and regained the office of President. On December 11, 2011, Cabello was installed as the Vice-President of the United Socialist Party – the party of President Chávez and became the second most powerful figure in the party after Hugo Chávez. Cabello was appointed president of the National Assembly in early 2012 and was re-elected to that post in January 2013. After Hugo Chávez’s death, Cabello was next in line for the presidency of the country, but he remained president of the National Assembly and yielded to Nicolás Maduro holding the position of President of Venezuela.

8. [REDACTED]

[REDACTED] President Chavez was very precise and exacting in his instructions in the details about meetings he wanted, where the meeting was to occur, who was to attend, what was to be done. [REDACTED]

[REDACTED]

9. [REDACTED] I was witness to the creation and operation of a

sophisticated electronic voting system that permitted the leaders of the Venezuelan government to manipulate the tabulation of votes for national and local elections and select the winner of those elections in order to gain and maintain their power.

10. Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included [REDACTED]. The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes *against* persons running the Venezuelan government to votes *in their favor* in order to maintain control of the government.
11. In mid-February of 2009, there was a national referendum to change the Constitution of Venezuela to end term limits for elected officials, including the President of Venezuela. The referendum passed. This permitted Hugo Chavez to be re-elected an unlimited number of times.
12. After passage of the referendum, President Chavez instructed me to make arrangements for him to meet with Jorge Rodriguez, then President of the National Electoral Council, and three executives from Smartmatic. Among the three Smartmatic representatives were [REDACTED]  
[REDACTED] President Chavez had multiple meetings with Rodriguez and the Smartmatic team at which I was present. In the first of four meetings, Jorge Rodriguez promoted the idea to create software that would manipulate elections. Chavez was very excited and made it clear that he would provide whatever Smartmatic needed. He wanted them immediately to create a voting system which would ensure that any time anything was going to be voted on the voting system would guarantee results that Chavez wanted. Chavez offered Smartmatic many inducements, including large sums of money, for Smartmatic to create or modify the voting system so that it would guarantee Chavez would win every election cycle. Smartmatic's team agreed to create such a system and did so.
13. I arranged and attended three more meetings between President Chavez and the representatives from Smartmatic at which details of the new

voting system were discussed and agreed upon. For each of these meetings, I communicated directly with [REDACTED] on details of where and when to meet, where the participants would be picked up and delivered to the meetings, and what was to be accomplished. At these meetings, the participants called their project the “Chavez revolution.” From that point on, Chavez never lost any election. In fact, he was able to ensure wins for himself, his party, Congress persons and mayors from townships.

14. Smartmatic’s electoral technology was called “Sistema de Gestión Electoral” (the “Electoral Management System”). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter’s ballot. The voter’s thumbprint was linked to a computerized record of that voter’s identity. Smartmatic created and operated the entire system.
15. Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter’s name and identity as having voted, but that voter would not tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez.
16. After the Smartmatic Electoral Management System was put in place, I closely observed several elections where the results were manipulated using Smartmatic software. One such election was in December 2006 when Chavez was running against Rosales. Chavez won with a landslide over Manuel Rosales - a margin of nearly 6 million votes for Chavez versus 3.7 million for Rosales.
17. On April 14, 2013, I witnessed another Venezuelan national election in which the Smartmatic Electoral Management System was used to manipulate and change the results for the person to succeed Hugo Chávez

as President. In that election, Nicolás Maduro ran against Capriles Radonsky. [REDACTED]

[REDACTED] Inside that location was a control room in which there were multiple digital display screens – TV screens – for results of voting in each state in Venezuela. The actual voting results were fed into that room and onto the displays over an internet feed, which was connected to a sophisticated computer system created by Smartmatic. People in that room were able to see in “real time” whether the vote that came through the electronic voting system was in their favor or against them. If one looked at any particular screen, they could determine that the vote from any specific area or as a national total was going against either candidate. Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.

18. By two o'clock in the afternoon on that election day Capriles Radonsky was ahead of Nicolás Maduro by two million votes. When Maduro and his supporters realized the size of Radonsky's lead they were worried that they were in a crisis mode and would lose the election. The Smartmatic machines used for voting in each state were connected to the internet and reported their information over the internet to the Caracas control center in real-time. So, the decision was made to reset the entire system. Maduro's and his supporters ordered the network controllers to take the internet itself offline in practically all parts in Venezuela and to change the results.
19. It took the voting system operators approximately two hours to make the adjustments in the vote from Radonsky to Maduro. Then, when they turned the internet back on and the on-line reporting was up and running again, they checked each screen state by state to be certain where they could see that each vote was changed in favor of Nicholas Maduro. At that moment the Smartmatic system changed votes that were for Capriles Radonsky to Maduro. By the time the system operators finish, they had achieved a convincing, but narrow victory of 200,000 votes for Maduro.
20. After Smartmatic created the voting system President Chavez wanted, he exported the software and system all over Latin America. It was sent to Bolivia, Nicaragua, Argentina, Ecuador, and Chile – countries that were in alliance with President Chavez. This was a group of leaders who wanted to be able to guarantee they maintained power in their countries. When Chavez died, Smartmatic was in a position of being the only

company that could guarantee results in Venezuelan elections for the party in power.

21. I want to point out that the software and fundamental design of the electronic electoral system and software of Dominion and other election tabulating companies relies upon software that is a descendant of the Smartmatic Electoral Management System. In short, the Smartmatic software is in the DNA of every vote tabulating company's software and system.
22. Dominion is one of three major companies that tabulates votes in the United States. Dominion uses the same methods and fundamentally same software design for the storage, transfer and computation of voter identification data and voting data. Dominion and Smartmatic did business together. The software, hardware and system have the same fundamental flaws which allow multiple opportunities to corrupt the data and mask the process in a way that the average person cannot detect any fraud or manipulation. The fact that the voting machine displays a voting result that the voter intends and then prints out a paper ballot which reflects that change does not matter. It is the software that counts the digitized vote and reports the results. The software itself is the one that changes the information electronically to the result that the operator of the software and vote counting system intends to produce that counts. That's how it is done. So the software, the software itself configures the vote and voting result -- changing the selection made by the voter. The software decides the result regardless of what the voter votes.
23. All of the computer controlled voting tabulation is done in a closed environment so that the voter and any observer cannot detect what is taking place unless there is a malfunction or other event which causes the observer to question the process. I saw first-hand that the manipulation and changing of votes can be done in real-time at the secret counting center which existed in Caracas, Venezuela. For me it was something very surprising and disturbing. I was in awe because I had never been present to actually see it occur and I saw it happen. So, I learned first-hand that it doesn't matter what the voter decides or what the paper ballot says. It's the software operator and the software that decides what counts -- not the voter.
24. If one questions the reliability of my observations, they only have to read the words of [REDACTED] [REDACTED] [REDACTED] a time period in [REDACTED]



I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was prepared in Dallas County, State of Texas, and executed on November 15, 2020.

\_\_\_\_\_

\_\_\_\_\_

*[Faint, illegible text]*

\_\_\_\_\_

# Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters

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December 27, 2019

## Abstract

The complexity of U.S. elections usually requires computers to count ballots—but computers can be hacked, so election integrity requires a voting system in which paper ballots can be recounted by hand. However, paper ballots provide no assurance unless they accurately record the vote as the voter expresses it.

Voters can express their intent by indelibly hand-marking ballots, or using computers called ballot-marking device (BMDs). Voters can make mistakes in expressing their intent in either technology, but only BMDs are also subject to hacking, bugs, and misconfiguration of the software that prints the marked ballots. Most voters do not review BMD-printed ballots, and those who do often fail to notice when the printed vote is not what they expressed on the touchscreen. Furthermore, there is no action a voter can take to demonstrate to election officials that a BMD altered their expressed votes, nor is there a corrective action that election officials can take if notified by voters—there is no way to deter, contain, or correct computer hacking in BMDs. These are the essential security flaws of

# 1 Introduction: Criteria for Voting Systems

Elections for public office and on public questions in the United States or any democracy must produce outcomes based on the votes that voters *express* when they indicate their choices on a paper ballot or on a machine. Computers have become indispensable to conducting elections, but computers are vulnerable. They can be hacked—compromised by insiders or external adversaries who can replace their software with fraudulent software that deliberately miscounts votes—and they can contain design errors and bugs—hardware or software flaws or configuration errors that result in misrecording or mis-tabulating votes. Hence there must be some way, *independent* of any software in any computers, to ensure that reported election outcomes are correct, i.e., consistent with the expressed votes as intended by the voters.

Voting systems should be *software independent*, meaning that “an undetected change or error in its software cannot cause an undetectable change or error in an election outcome” [29, 30, 31]. Software independence is similar to tamper-evident packaging: if somebody opens the container and disturbs the contents, it will leave a trace.

The use of software-independent voting systems is supposed to ensure that if someone fraudulently hacks the voting machines to steal votes, we’ll know about it. But we also want to know *the true outcome* in order to avoid a do-over election.<sup>1</sup> A voting system is *strongly software independent* if it is software independent and, moreover, a detected change or error in an election outcome (due to change or error in the software) can be corrected using only the ballots and ballot records of the current election [29, 30]. Strong software independence combines tamper evidence with a kind of resilience: there’s a way to tell whether faulty software caused a problem, and a way to recover from the problem if it did.

*Software independence* and *strong software independence* are now standard terms in the analysis of voting systems, and it is widely accepted that voting systems should be software independent. Indeed, version 2.0 of the Voluntary Voting System Guidelines (VVSG 2.0) incorporates this principle [10].

an error? *What happens* when someone detects an error—does the election outcome remain erroneous? Or conversely: How can an election administrator *prove* that the election outcome not been altered, or prove that the correct outcome was recovered if a software malfunction was detected? The standard definition does not distinguish evidence available to an election official, to the public, or just to a single voter; nor does it consider the possibility of false alarms.

Those questions are not merely academic, as we show with an analysis of ballot-marking devices. Even if some *voters* “detect” that the printed output is not what they expressed to the BMD—even if some of *those* voters report their detection to election officials—there is no mechanism by which the *election official* can “detect” whether a BMD has been hacked to alter election outcomes. The questions of *who detects, and then what happens*, are critical—but unanswered by the standard definitions.

We will define the terms *contestable* and *defensible* to better characterize properties of voting systems that make them acceptable for use in public elections.<sup>2</sup>

A voting system is *contestable* if an undetected change or error in its software that causes a change or error in an election outcome can always produce *public* evidence that the outcome is untrustworthy. For instance, if a voter selected candidate A on the touchscreen of a BMD, but the BMD prints candidate B on the paper ballot, then this A-vs-B evidence is available to the individual voter, but the voter cannot demonstrate this evidence to anyone else, since nobody else saw—nor should have seen—where the voter touched the screen.<sup>3</sup> Thus, the voting system does not provide a way for the voter who observed the misbehavior to prove to anyone else that there was a problem, even if the problems altered the reported outcome. Such a system is therefore not *contestable*.

While the definition of software independence might allow evidence available only to individual voters as “detection,” such evidence does not suffice for a system to be contestable. Contestability is software independence, plus the requirement that “detect” implies “can generate public evidence.” “Trust me” does not count as public evidence. If a voting system is not contestable, then problems voters “detect” might never see the light of day, much less be addressed or corrected.<sup>4</sup>

Similarly, while strong software independence demands that a system be able to report the correct outcome even if there was an error or alteration of the software, it does not require *public evidence* that the (reconstructed) reported outcome is correct. We believe, therefore, that voting systems must also be *defensible*. We say that a voting system is defensible if, when the reported electoral outcome is correct, it is possible to generate convincing public evidence that the reported electoral outcome is correct—despite any malfunctions, software errors, or software alterations that might have occurred. If a voting system is not defensible, then it is vulnerable to “crying wolf”: malicious actors could claim that the system malfunctioned when in fact it did not, and election officials will have no way to prove otherwise.

By analogy with *strong software independence*, we define: A voting system is *strongly defensible* if it is defensible and, moreover, a detected change or error in an election outcome (due to change or error in the software) can be corrected (with convincing public evidence) using only the ballots and ballot records of the current election.

In short, a system is contestable if it can generate public evidence of a problem whenever a reported outcome is wrong, while a system is defensible if it can generate public evidence whenever a reported outcome is correct—despite any problems that might have occurred. Contestable systems are publicly tamper-evident; defensible systems are publicly, demonstrably resilient.

Defensibility is a key requirement for *evidence-based elections* [38]: defensibility makes it possible in principle for election officials to generate convincing evidence that the reported winners really won—if the reported winners did really win. (We say an election *system* may be defensible, and an *election* may be evidence-based; there’s much more *process* to an election than just the choice of system.)

**Examples.** The only known practical technology for contestable, strongly defensible voting is a system of *hand-marked paper ballots*, kept demonstrably physically secure, counted by machine, audited manually, and recountable by hand.<sup>5</sup> In a hand-

detected and corrected by audits.

That system is *contestable*: if an optical scan voting machine reports the wrong outcome because it miscounted (because it was hacked, misprogrammed, or miscalibrated), the evidence is *public*: the paper ballots, recounted before witnesses, will not match the claimed results, also witnessed. It is *strongly defensible*: a recount before witnesses can demonstrate that the reported outcome is correct, or can find the correct outcome if it was wrong—and provide public evidence that the (reconstructed) outcome is correct.

Some other paper-based systems such as Prêt-à-Voter [32] and Scantegrity [9] are also contestable and strongly defensible (provided the marked ballots are kept demonstrably secure through tabulation and posting). Scantegrity inherits these properties from the fact that it amounts to a cryptographic enhancement of hand-marked paper ballots. Prêt-à-Voter has these properties if the blank ballots are audited appropriately before the election.

Paper-based systems that rely on the “Benaloh challenge”—to ensure that the encryption of the vote printed on the ballot (by an electronic device) is correct—generally are neither contestable nor defensible.<sup>6</sup> The reason is that, while the challenge can produce public evidence that a machine did not accurately encrypt the plaintext vote on the ballot, if the machine prints the wrong plaintext vote and a correct encryption of that incorrect vote, there is no evidence the voter can use to prove that to anyone else. STAR-Vote [5] is an example of such a system.

Over 40 states now use some form of paper ballot for most voters [18]. Most of the remaining states are taking steps to adopt paper ballots. But *not all voting systems that use paper ballots are equally secure*.

Some are not even software independent. Some are software independent, but not strongly software independent, contestable, or defensible. In this report we explain:

- *Hand-marked paper ballot* systems are the only practical technology for contestable, strongly defensible voting systems

really won. Therefore BMDs should not be used by voters who are able to mark an optical-scan ballot with a pen.

- *All-in-one BMD or DRE+VVPAT voting machines* are not software independent, contestable, or defensible. They should not be used in public elections.

## 2 Background

We briefly review the kinds of election equipment in use, their vulnerability to computer hacking (or programming error), and in what circumstances risk-limiting audits can mitigate that vulnerability.

### Voting equipment

Although a voter may form an intention to vote for a candidate or issue days, minutes, or seconds before actually casting a ballot, that intention is a psychological state that cannot be directly observed by anyone else. Others can have access to that intention through what the voter (privately) *expresses* to the voting technology by interacting with it, e.g., by making selections on a BMD or marking a ballot by hand.<sup>7</sup> Voting systems must accurately record the vote as the voter *expressed* it.

With a *hand-marked paper ballot optical-scan* system, the voter is given a paper ballot on which all choices (candidates) in each contest are listed; next to each candidate is a *target* (typically an oval or other shape) which the voter marks with a pen to indicate a vote. Ballots may be either preprinted or printed (unvoted) at the polling place using *ballot on demand* printers. In either case, the voter creates a tamper-evident record of intent by marking the printed paper ballot with a pen.

Such hand-marked paper ballots may be scanned and tabulated at the polling place using a *precinct-count optical scanner* (PCOS), or may be brought to a central place to

be scanned and tabulated by a *central-count optical scanner* (CCOS). Mail-in ballots are typically counted by CCOS machines.

After scanning a ballot, a PCOS machine deposits the ballot in a secure, sealed ballot box for later use in recounts or audits; this is *ballot retention*. Ballots counted by CCOS are also retained for recounts or audits.<sup>8</sup>

Paper ballots can also be hand counted, but in most jurisdictions (especially where there are many contests on the ballot) this is hard to do quickly; Americans expect election-night reporting of unofficial totals. Hand counting—i.e., manually determining votes directly from the paper ballots—is appropriate for audits and recounts.

A *ballot-marking device* (BMD) provides a computerized user interface that presents the ballot to voters and captures their expressed selections—for instance, a touchscreen interface or an assistive interface that enables voters with disabilities to vote independently. Voter inputs (expressed votes) are recorded electronically. When a voter indicates that the ballot is complete and ready to be cast, the BMD prints a paper version of the electronically marked ballot. We use the term *BMD* for devices that mark ballots but do not tabulate or retain them, and *all-in-one* for devices that combine ballot marking, tabulation, and retention into the same paper path.

The paper ballot printed by a BMD may be in the same format as an optical-scan form (e.g., with ovals filled as if by hand) or it may list just the names of the candidate(s) selected in each contest. The BMD may also encode these selections into barcodes or QR codes for optical scanning. We discuss issues with barcodes later in this report.

An *all-in-one touchscreen voting machine* combines computerized ballot marking, tabulation, and retention in the same paper path. All-in-one machines come in several configurations:

- DRE+VVPAT machines—direct-recording electronic (DRE) voting machines with a voter-verifiable paper audit trail (VVPAT)—provide the voter a touchscreen (or other) interface, then print a paper ballot that is displayed to the voter under glass. The voter is expected to review this ballot and approve it, after which the machine

- BMD+Scanner all-in-one machines<sup>9</sup> provide the voter a touchscreen (or other) interface to input ballot choices and print a paper ballot that is ejected from a slot for the voter to inspect. The voter then reinserts the ballot into the slot, after which the all-in-one BMD+scanner scans it and deposits it into a ballot box. Or, some BMD+Scanner all-in-one machines display the paper ballot behind plexi-glass for the voter to inspect, before mechanically depositing it into a ballot box.

*Opscan+BMD with separate paper paths.* At least one model of voting machine (the Dominion ICP320) contains an optical scanner (opsan) and a BMD in the same cabinet,<sup>10</sup> so that the optical scanner and BMD-printer are not in the same paper path; no possible configuration of the software could cause a BMD-marked ballot to be deposited in the ballot box without human handling of the ballot. We do not classify this as an *all-in-one* machine.

## Hacking

There are many forms of computer hacking. In this analysis of voting machines we focus on the alteration of voting machine software so that it miscounts votes or mis-marks ballots to alter election outcomes. There are many ways to alter the software of a voting machine: a person with physical access to the computer can open it and directly access the memory; one can plug in a special USB thumbdrive that exploits bugs and vulnerabilities in the computer's USB drivers; one can connect to its WiFi port or Bluetooth port or telephone modem (if any) and exploit bugs in those drivers, or in the operating system.

“Air-gapping” a system (i.e., never connecting it to the Internet nor to any other network) does not automatically protect it. Before each election, election administrators must transfer a *ballot definition* into the voting machine by inserting a *ballot definition cartridge* that was programmed on election-administration computers that may have been connected previously to various networks; it has been demonstrated that vote-changing viruses can propagate via these ballot-definition cartridges [17].

gain remote access to voting-machine manufacturers' computers (and "hack" the firmware installed in new machines, or the firmware updates supplied for existing machines), and so on. Supply-chain hacks are also possible: the hardware installed by a voting system vendor may have malware pre-installed by the vendor's component suppliers.<sup>11</sup>

Computer systems (including voting machines) have so many layers of software that it is impossible to make them perfectly secure [23, pp. 89–91]. When manufacturers of voting machines use the best known security practices, adversaries may find it more difficult to hack a BMD or optical scanner—but not impossible. Every computer in every critical system is vulnerable to compromise through hacking, insider attacks or exploiting design flaws.

## **Election assurance through risk-limiting audits**

To ensure that the reported electoral outcome of each contest corresponds to what the voters expressed, the most practical known technology is a *risk-limiting audit* (RLA) of trustworthy paper ballots [34, 35, 22]. The National Academies of Science, Engineering, and Medicine, recommend routine RLAs after every election [23], as do many other organizations and entities concerned with election integrity.<sup>12</sup>

The *risk limit* of a risk-limiting audit is the maximum chance that the audit will not correct the reported electoral outcome, if the reported outcome is wrong. "Electoral outcome" means the political result—who or what won—not the exact tally. "Wrong" means that the outcome does not correspond to what the voters expressed.

A RLA involves manually inspecting randomly selected paper ballots following a rigorous protocol. The audit stops if and when the sample provides convincing evidence that the reported outcome is correct; otherwise, the audit continues until every ballot has been inspected manually, which reveals the correct electoral outcome if the paper trail is trustworthy. RLAs protect against vote-tabulation errors, whether those errors are caused by failures to follow procedures, misconfiguration, miscalibration, faulty

engineering, bugs, or malicious hacking.<sup>13</sup>

The risk limit should be determined as a matter of policy or law. For instance, a 5% risk limit means that, if a reported outcome is wrong solely because of tabulation errors, there is at least a 95% chance that the audit procedure will correct it. Smaller risk limits give higher confidence in election outcomes, but require inspecting more ballots, other things being equal. RLAs never revise a correct outcome.

RLAs can be very efficient, depending in part on how the voting system is designed and how jurisdictions organize their ballots. If the computer results are accurate, an efficient RLA with a risk limit of 5% requires examining just a few—about 7 divided by the margin—ballots selected randomly from the contest.<sup>14</sup> For instance, if the margin of victory is 10% and the results are correct, the RLA would need to examine about  $7/10\% = 70$  ballots to confirm the outcome at 5% risk. For a 1% margin, the RLA would need to examine about  $7/1\% = 700$  ballots. The sample size does not depend much on the total number of ballots cast in the contest, only on the margin of the winning candidate's victory.

RLAs assume that a full hand tally of the paper trail would reveal the correct electoral outcomes: the paper trail must be trustworthy. Other kinds of audits, such as *compliance audits* [6, 22, 38, 36] are required to establish whether the paper trail itself is trustworthy. Applying an RLA procedure to an untrustworthy paper trail cannot limit the risk that a wrong reported outcome goes uncorrected.

Properly preserved hand-marked paper ballots ensure that expressed votes are identical to recorded votes. But BMDs might not record expressed votes accurately, for instance, if BMD software has bugs, was misconfigured, or was hacked: BMD print-out is not a trustworthy record of the expressed votes. Neither a compliance audit nor a RLA can possibly check whether errors in recording expressed votes altered election outcomes. RLAs that rely on BMD output therefore cannot limit the risk that an incorrect reported election outcome will go uncorrected.

A paper-based voting system (such as one that uses optical scanners) is systematically more secure than a paperless system (such as DREs) only if the paper trail is

calibration caused the recorded-on-paper votes to differ from the expressed votes, an RLA or even a full hand recount cannot not provide convincing public evidence that election outcomes are correct: such a system cannot be *defensible*. In short, paper ballots provide little assurance against hacking if they are never examined or if the paper might not accurately reflect the votes expressed by the voters.

### 3 (Non)Contestability/Defensibility of BMDs

**A BMD-generated paper trail is not a reliable record of the vote expressed by the voter.** Like any computer, a BMD (or a DRE+VVPAT) is vulnerable to bugs, misconfiguration, hacking, installation of unauthorized (fraudulent) software, and alteration of installed software.

If a hacker sought to steal an election by altering BMD software, what would the hacker program the BMD to do? In cybersecurity practice, we call this the *threat model*.

The simplest threat model is this one: In some contests, not necessarily top-of-the-ticket, change a small percentage of the votes (such as 5%).

In recent national elections, analysts have considered a candidate who received 60% of the vote to have won by a landslide. Many contests are decided by less than a 10% margin. Changing 5% of the votes can change the margin by 10%, because “flipping” a vote for one candidate into a vote for a different candidate changes the difference in their tallies—i.e., the margin—by 2 votes. If hacking or bugs or misconfiguration could change 5% of the votes, that would be a very significant threat.

Although public and media interest often focus on top-of-the-ticket races such as President and Governor, elections for lower offices such as state representatives, who control legislative agendas and redistricting, and county officials, who manage elections and assess taxes, are just as important in our democracy. Altering the outcome of smaller contests requires altering fewer votes, so fewer voters are in a position to notice

spent *an average of 4 seconds* examining it to verify that the eighteen or more choices they made were correctly recorded. That amounts to 222 milliseconds per contest, barely enough time for the human eye to move and refocus under perfect conditions and not nearly enough time for perception, comprehension, and recall [27]. A study by other researchers [7], in a simulated polling place using real BMDs deliberately hacked to alter one vote on each paper ballot, found that only 6.6% of voters told a pollworker something was wrong.<sup>1516</sup> The same study found that among voters who examined their hand-marked ballots, half were unable to recall key features of ballots cast moments before, a prerequisite step for being able to recall their own ballot choices. This finding is broadly consistent with studies of effects like “change blindness” or “choice blindness,” in which human subjects fail to notice changes made to choices made only seconds before [19].

Suppose, then, that 10% of voters examine their paper ballots carefully enough to even *see* the candidate’s name recorded as their vote for legislator or county commissioner. Of those, perhaps only half will remember the name of the candidate they intended to vote for.<sup>17</sup>

Of those who notice that the vote printed is not the candidate they intended to vote for, what will they think, and what will they do? Will they think, “Oh, I must have made a mistake on the touchscreen,” or will they think, “Hey, the machine is cheating or malfunctioning!” There’s no way for the voter to know for sure—voters do make mistakes—and there’s *absolutely* no way for the voter to prove to a pollworker or election official that a BMD printed something other than what the voter entered on the

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<sup>15</sup>You might think, “the voter really *should* carefully review their BMD-printed ballot.” But because the scientific evidence shows that voters *do not* [13] and cognitively *cannot* [16] perform this task well, legislators and election administrators should provide a voting system that counts the votes *as voters express them*.

<sup>16</sup>Studies of voter confidence about their ability to verify their ballots are not relevant: in typical situations, subjective confidence and objective accuracy are at best weakly correlated. The relationship between confidence and accuracy has been studied in contexts ranging from eyewitness accuracy [8, 12, 40] to confidence in psychological clinical assessments [14] and social predictions [15]. The disconnect is particularly severe at high confidence. Indeed, this is known as “the overconfidence effect.” For a lay discussion, see *Thinking, Fast and Slow* by Nobel economist Daniel Kahnemann [20].

screen.<sup>1819</sup>

Either way, polling-place procedures generally advise voters to ask a pollworker for a new ballot if theirs does not show what they intended. Pollworkers should void that BMD-printed ballot, and the voter should get another chance to mark a ballot. Anecdotal evidence suggests that many voters are too timid to ask, or don't know that they have the right to ask, or are not sure whom to ask. Even if a voter asks for a new ballot, training for pollworkers is uneven, and we are aware of no formal procedure for resolving disputes if a request for a new ballot is refused. Moreover, there is no sensible protocol for ensuring that BMDs that misbehave are investigated—nor can there be, as we argue below.

Let's summarize. If a machine alters votes on 5% of the ballots (enabling it to change the margin by 10%), and 10% of voters check their ballots carefully and 50% of the voters who check notice the error, then optimistically we might expect  $5\% \times 10\% \times 50\%$  or 0.25% of the voters to request a new ballot and correct their vote.<sup>20</sup> This means that the machine will change the margin by 9.75% and get away with it.

In this scenario, 0.25% of the voters, one in every 400 voters, has requested a new ballot. You might think, “that's a form of *detection* of the hacking.” But it isn't, as a practical matter: a few individual voters may have detected that there was a problem, but there's no procedure by which this translates into any action that election administrators can take to correct the outcome of the election. Polling-place procedures *cannot correct or deter hacking, or even reliably detect it*, as we discuss next. This is essentially the distinction between a system that is merely software independent and one that is contestable: a change to the software that alters the outcome might generate evidence for an alert, conscientious, individual voter, but it does not generate public evidence that an election official can rely on to conclude there is a problem.

**Even if some voters notice that BMDs are altering votes, there's no way to correct the election outcome.** That is, BMD voting systems are *not contestable, not defen-*

<sup>18</sup>You might think “the voter can prove it by showing someone that the vote on the paper doesn't

*sible* (and therefore *not strongly defensible*), and *not strongly software independent*. Suppose a state election official wanted to detect whether the BMDs are cheating, and correct election results, based on actions by those few alert voters who notice the error. What procedures could possibly work against the manipulation we are considering?

1. How about, “If at least 1 in 400 voters claims that the machine misrepresented their vote, void the entire election.”<sup>21</sup> No responsible authority would implement such a procedure. A few dishonest voters could collaborate to invalidate entire elections simply by falsely claiming that BMDs changed their votes.
2. How about, “If at least 1 in 400 voters claims that the machine misrepresented their vote, then investigate.” Investigations are fine, but then what? The only way an investigation can ensure that the outcome accurately reflects what voters expressed to the BMDs is to void an election in which the BMDs have altered votes and conduct a new election. But how do you know whether the BMDs have altered votes, except based the claims of the voters?<sup>22</sup> Furthermore, the investigation itself would suffer from the same problem as above: how can one distinguish between voters who detected BMD hacking or bugs from voters who just want to interfere with an election?

This is the essential security flaw of BMDs: few voters will notice and promptly report discrepancies between what they saw on the screen and what is on the BMD printout, and even when they do notice, there’s nothing appropriate that can be done. Even if election officials are convinced that BMDs malfunctioned, *there is no way to determine who really won*.

Therefore, BMDs should not be used by most voters.

**Why can’t we rely on pre-election and post-election logic and accuracy testing, or parallel testing?** Most, if not all, jurisdictions perform some kind of *logic and accuracy testing* (LAT) of voting equipment before elections. LAT generally involves voting on the equipment using various combinations of selections, then checking whether the

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<sup>21</sup>Note that in many jurisdictions, far fewer than 400 voters use a given machine on election day

equipment tabulated the votes correctly. As the Volkswagen/Audi “Dieselgate” scandal shows, devices can be programmed to behave properly when they are tested but misbehave in use [11]. Therefore, LAT can never prove that voting machines performed properly in practice.

Parallel or “live” testing involves pollworkers or election officials using some BMDs at random times on election day to mark (but not cast) ballots with test patterns, then check whether the marks match the patterns. The idea is that the testing is not subject to the “Dieselgate” problem, because the machines cannot “know” they are being tested on election day.<sup>23</sup> As a practical matter, the number of tests required to provide a reasonable chance of detecting outcome-changing errors is prohibitive: it would leave no time for actual voting [37]. Moreover, it would require additional staff, infrastructure, and other resources.

Suppose, counterfactually, that it was practical to perform enough parallel testing to guarantee a large chance of detecting a problem if BMD hacking or malfunction altered electoral outcomes. Suppose, counterfactually, that election officials were required to conduct that amount of parallel testing during every election, and that the required equipment, staffing, infrastructure, and other resources were provided. Even then, the system would not be *strongly defensible*; that is, if testing detected a problem, there would be no way to determine who really won. The only remedy would be a new election.

**Don’t voters need to check hand-marked ballots, too?** It is always a good idea to check one’s work, but there is a substantial body of research (e.g., [28]) suggesting that preventing error as a ballot is being marked is a fundamentally different cognitive task than detecting an error on a previously marked ballot. In cognitively similar tasks, such as proof reading for non-spelling errors, ten percent rates of error detection are common [28, pp 167ff], whereas by carefully attending to the task of correctly marking their ballots, voters apparently can largely avoid marking errors.

A fundamental difference between hand-marked paper ballots and ballot-marking

correcting *their own errors*, while if BMDs are used, voters are also responsible for catching *machine errors, bugs, and hacking*. Voters are the *only* people who can detect such problems with BMDs—but, as explained above, if voters do find problems, there's no way they can prove to poll workers or election officials that there were problems and no way to ensure that election officials take appropriate remedial action.

## 4 Other tradeoffs, BMDs versus hand-marked opscan

Supporters of ballot-marking devices advance several other arguments for their use.

- **Mark legibility.** A common argument is that a properly functioning BMD will generate clean, error-free, unambiguous marks, while hand-marked paper ballots may contain mistakes and stray marks that make it impossible to discern a voter's intent. However appealing this argument seems at first blush, the data are not nearly so compelling. Experience with statewide recounts in Minnesota and elsewhere suggest that truly ambiguous handmade marks are very rare.<sup>24</sup> For instance, 2.9 million hand-marked ballots were cast in the 2008 Minnesota race between Al Franken and Norm Coleman for the U.S. Senate. In a manual recount, between 99.95% and 99.99% of ballots were unambiguously marked.<sup>25 26</sup> In addition, usability studies of hand-marked bubble ballots—the kind in most common use in U.S. elections—indicate a *voter* error rate of 0.6%, much lower than the 2.5–3.7% error rate for machine-marked ballots [16].<sup>27</sup> Moreover, modern image-based opscan equipment (*digital scan machinery*) is better than older

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<sup>24</sup>States do need clear and complete regulations for interpreting voter marks.

<sup>25</sup>“During the recount, the Coleman and Franken campaigns initially challenged a total of 6,655 ballot-interpretation decisions made by the human recounters. The State Canvassing Board asked the campaigns to voluntarily withdraw all but their most serious challenges, and in the end approximately 1,325 challenges remained. That is, approximately 5 ballots in 10,000 were ambiguous enough that one side or the other felt like arguing about it. The State Canvassing Board, in the end, classified all but 248 of these ballots as votes for one candidate or another. That is, approximately 1 ballot in 10,000 was ambiguous enough that the bipartisan recount board could not determine an intent to vote.” [1] See also

“marksense” machines at interpreting imperfect marks. Thus, mark legibility is not a good reason to adopt BMDs for all voters.

- **Undervotes, overvotes.** Another argument offered for BMDs is that the machines can alert voters to undervotes and prevent overvotes. That is true, but modern PCOS systems can also alert a voter to overvotes and undervotes, allowing a voter to eject the ballot and correct it.
- **Bad ballot design.** Ill-designed paper ballots, just like ill-designed touchscreen interfaces, may lead to unintentional undervotes [24]. For instance, the 2006 Sarasota, Florida, touchscreen ballot was badly designed. The 2018 Broward County, Florida, opscan ballot was badly designed: it violated three separate guidelines from the EAC’s 2007 publication, “Effective Designs for the Administration of Federal Elections, Section 3: Optical scan ballots.” [39] In both of these cases (touchscreens in 2006, hand-marked optical-scan in 2018), undervote rates were high. The solution is to follow standard, published ballot-design guidelines and other best practices, both for touchscreens and for hand-marked ballots [3, 24].
- **Low-tech paper-ballot fraud.** All paper ballots, however they are marked, are vulnerable to *loss*, *ballot-box stuffing*, *alteration*, and *substitution* between the time they are cast and the time they are recounted. That’s why it is so important to make sure that ballot boxes are always in multiple-person (preferably bipartisan) custody whenever they are handled, and that appropriate physical security measures are in place. Strong, verifiable chain-of-custody protections are essential.

Hand-marked paper ballots are vulnerable to alteration by anyone with a pen. Both hand-marked and BMD-marked paper ballots are vulnerable to substitution: anyone who has poorly supervised access to a legitimate BMD during election day can create fraudulent ballots, not necessarily to deposit them in the ballot box immediately (in case the ballot box is well supervised on election day) but with the hope of substituting it later in the chain of custody.<sup>28</sup>

All those attacks (on hand-marked and on BMD-marked paper ballots) are fairly low-tech. There are also higher-tech ways of producing ballots indistinguishable from BMD-marked ballots for substitution into the ballot box if there is inadequate chain-of-custody protection.

is typically a BMD or a DRE. When the accessible voting technology is not the same as what most voters vote on—when it is used by very few voters—it may happen that the accessible technology is ill-maintained or even (in some polling places) not even properly set up by pollworkers. This is a real problem. One proposed solution is to require all voters to use the same BMD or all-in-one technology. But the failure of some election officials to properly maintain their accessible equipment is not a good reason to adopt BMDs for *all* voters. Among other things, it would expose all voters to the security flaws described above.<sup>29</sup> Other advocates object to the idea that disabled voters must use a different method of marking ballots, arguing that their rights are thereby violated. Both HAVA and ADA require reasonable accommodations for voters with physical and cognitive impairments, but neither law requires that those accommodations must be used by all voters. To best enable and facilitate participation by all voters, each voter should be provided with a means of casting a vote best suited to their abilities.

- **Ballot printing costs.** Preprinted optical-scan ballots cost 20–50 cents each.<sup>30</sup> Blank cards for BMDs cost up to 15 cents each, depending on the make and model of BMD.<sup>31</sup> But optical-scan ballots must be preprinted for as many voters as *might* show up, whereas blank BMD cards are consumed in proportion to how many voters *do* show up. The Open Source Election Technology Institute (OSET) conducted an independent study of total life cycle costs<sup>32</sup> for hand-marked paper ballots and BMDs in conjunction with the 2019 Georgia legislative debate regarding BMDs [26]. OSET concluded that, even in the most optimistic (i.e., lowest cost) scenario for BMDs and the most pessimistic (i.e., highest cost) scenario for hand-marked paper ballots and ballot-on-demand (BOD) printers—which can print unmarked ballots as needed—the total lifecycle costs for BMDs would be higher than the corresponding costs for hand-marked paper ballots.<sup>33</sup>
- **Vote centers.** To run a vote center that serves many election districts with different ballot styles, one must be able to provide each voter a ballot containing

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<sup>29</sup>Also, some accessibility advocates argue that requiring disabled voters to use BMDs compromises their privacy since hand-marked ballots are easily distinguishable from machine marked ballots. That issue can be addressed without BMDs-for-all: Accessible BMDs are already available and in use that mark ballots with marks that cannot easily be distinguished from hand-marked ballots.

<sup>30</sup>Single-sheet (one- or two-side) ballots cost 20–28 cents; double-sheet ballots needed for elections

the contests that voter is eligible to vote in, possibly in a number of different languages. This is easy with BMDs, which can be programmed with all the appropriate ballot definitions. With preprinted optical-scan ballots, the PCOS can be programmed to *accept* many different ballot styles, but the vote center must still maintain *inventory* of many different ballots. BOD printers are another economical alternative for vote centers.<sup>34</sup>

- **Paper/storage.** BMDs that print summary cards rather than full-face ballots can save paper and storage space. However, many BMDs print full-face ballots—so they do not save storage—while many BMDs that print summary cards (which could save storage) use thermal printers and paper that is fragile and can fade in a few months.<sup>35</sup>

Advocates of hand-marked paper ballot systems advance these additional arguments.

- **Cost.** Using BMDs for all voters substantially increases the cost of acquiring, configuring, and maintaining the voting system. One PCOS can serve 1200 voters in a day, while one BMD can serve only about 260 [33]—though both these numbers vary greatly depending on the length of the ballot and the length of the day. OSET analyzed the relative costs of acquiring BMDs for Georgia’s nearly seven million registered voters versus a system of hand-marked paper ballots, scanners, and BOD printers [26]. A BMD solution for Georgia would cost taxpayers between 3 and 5 times more than a system based on hand-marked paper ballots. Open-source systems might eventually shift the economics, but current commercial universal-use BMD systems are more expensive than systems that use hand-marked paper ballots for most voters.
- **Mechanical reliability and capacity.** Pens are likely to have less downtime than BMDs. It is easy and inexpensive to get more pens and privacy screens when additional capacity is needed. If a precinct-count scanner goes down, people can still mark ballots with a pen; if the BMD goes down, voting stops. Thermal

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<sup>34</sup>Ballot-on-demand printers *may* require maintenance such as replacement of toner cartridges. This is readily accomplished at a vote center with a professional staff. Ballot-on-demand printers may be a less attractive option for many small precincts on election day, where there is no professional staff—but on

printers used in DREs with VVPAT are prone to jams; those in BMDs might have similar flaws.

These secondary pros and cons of BMDs do not outweigh the primary security and accuracy concern: BMDs, if hacked or erroneously programmed, can change votes in a way that is not correctable. BMD voting systems are not contestable or defensible. Audits that rely on BMD printout cannot make up for this defect in the paper trail: they cannot reliably detect or correct problems that altered election outcomes.

## Barcodes

A controversial feature of some BMDs allows them to print 1-dimensional or 2-dimensional barcodes on the paper ballots. A 1-dimensional barcode resembles the pattern of vertical lines used to identify products by their universal product codes. A 2-dimensional barcode or QR code is a rectangular area covered in coded image *modules* that encode more complex patterns and information. BMDs print barcodes on the same paper ballot that contains human-readable ballot choices. Voters using BMDs are expected to verify the human-readable printing on the paper ballot card, but the presence of barcodes with human-readable text poses some significant problems.

- **Barcodes are not human readable.** The whole purpose of a paper ballot is to be able to recount (or audit) the *voters'* votes in a way independent of any (possibly hacked or buggy) computers. If the official vote on the ballot card is the barcode, then it is impossible for the voters to verify that the official vote they cast is the vote they expressed. Therefore, before a state even *considers* using BMDs that print barcodes (and we do not recommend doing so), the State must ensure by statute that recounts and audits are based *only* on the human-readable portion of the paper ballot. Even so, audits based on untrustworthy paper trails suffer from the verifiability the problems outlined above.
- **Ballot cards with barcodes contain two different votes.** Suppose a state does ensure by statute that recounts and audits are based on the human-readable portion

the risk that the input-processing software can be vulnerable to attack via deliberately ill-formed input. Over the past two decades, many such vulnerabilities have been documented on *each* of these channels (including barcode readers) that, in the worst case, give the attacker complete control of a system.<sup>36</sup> If an attacker were able to compromise a BMD, the barcodes are an attack vector for the attacker to take over an optical scanner (PCOS or CCOS), too. Since it is good practice to close down all such unneeded attack vectors into PCOS or CCOS voting machines (e.g., don't connect your PCOS to the Internet!), it is also good practice to avoid unnecessary attack channels such as barcodes.

## End-to-End Verifiable BMDs

In all BMD systems currently on the market, and in all BMD systems certified by the EAC, the printed ballot or ballot summary is the only channel by which voters can verify the correct recording of their ballots, independently of the computers. The analysis in this paper applies to all of those BMD systems.

There is a class of voting systems called “end-to-end verifiable” (E2E-V), which provide an alternate mechanism for voters to verify their votes [2]. Some E2E-V systems incorporate BMDs, for instance STAR-Vote<sup>37</sup> [5]. As we discuss above in Section 1, such systems are not contestable, defensible, or strongly software independent. In any event, no E2E-V system is currently certified by the EAC, nor to our knowledge is any such system under review for certification, nor are any of the 5 major voting-machine vendors offering such a system for sale.<sup>38</sup>

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<sup>36</sup>An example of a barcode attack is based on the fact that many commercial barcode-scanner components (which system integrators use to build cash registers or voting machines) treat the barcode scanner using the same operating-system interface as if it were a keyboard device; and then some operating systems allow “keyboard escapes” or “keyboard function keys” to perform unexpected operations.

<sup>37</sup>The STAR-Vote system is actually a DRE+VVPAT system with a smart ballot box, rather than a BMD system: voters interact with a device that captures their votes electronically and prints a paper record that voters can inspect, but the electronic votes are held “in limbo” until the paper ballot is deposited in the smart ballot box. The ballot box does not read the votes from the ballot; rather, depositing

## 5 Insecurity of All-in-One BMDs

Some voting machines incorporate a BMD interface, printer, and optical scanner into the same cabinet. Other DRE+VVPAT voting machines incorporate ballot-marking, tabulation, and paper-printout retention, but without scanning. These are often called “all-in-one” voting machines. To use an all-in-one machine, the voter makes choices on a touchscreen or through a different accessible interface. When the selections are complete, the BMD prints the completed ballot for the voter to review and verify, before depositing the ballot in a ballot box attached to the machine.

Such machines are especially unsafe: like any BMD described in Section 3 they are not contestable or defensible, but in addition, if hacked they can print votes onto the ballot *after* the voter last inspects the ballot.

- The ES&S ExpressVote (in all-in-one mode) allows the voter to mark a ballot by touchscreen or audio interface, then prints a paper ballot card and ejects it from a slot. The voter has the opportunity to review the ballot, then the voter redeposits the ballot into the same slot, where it is scanned and deposited into a ballot box.
- The ES&S ExpressVoteXL allows the voter to mark a ballot by touchscreen or audio interface, then prints a paper ballot and displays it under glass. The voter has the opportunity to review the ballot, then the voter touches the screen to indicate “OK,” and the machine pulls paper ballot up (still under glass) and into the integrated ballot box.
- The Dominion ImageCast Evolution (ICE) allows the voter to deposit a hand-marked paper ballot, which it scans and drops into the attached ballot box. *Or*, a voter can use a touchscreen or audio interface to direct the marking of a paper ballot, which the voting machine ejects through a slot for review; then the voter redeposits the ballot into the slot, where it is scanned and dropped into the ballot box.

In all three of these machines, the ballot-marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up

and ExpressVoteXL, the normal software indicates an undervote with the words NO SELECTION MADE on the ballot summary card. Hacked software could simply leave a blank space there (most voters wouldn't notice the difference), and then fill in that space and add a matching bar code after the voter has clicked "cast this ballot."

An even worse feature of the ES&S ExpressVote and the Dominion ICE is the *auto-cast* configuration setting (in the manufacturer's standard software) that allows the voter to indicate, "don't eject the ballot for my review, just print it and cast it without me looking at it." If fraudulent software were installed in the ExpressVote, it could change *all* the votes of any voter who selected this option, because the voting machine software would know *in advance of printing* that the voter had waived the opportunity to inspect the printed ballot. We call this auto-cast feature "permission to cheat" [4].

Regarding these all-in-one machines, we conclude:

- Any machine with ballot printing in the same paper path with ballot deposit is not *software independent*; it is *not* the case that "an error or fault in the voting system software or hardware cannot cause an undetectable change in election results." Therefore such all-in-one machines do not comply with the VVSG 2.0 (the Election Assistance Commission's Voluntary Voting Systems Guidelines). Such machines are not contestable or defensible, either.
- All-in-one machines on which all voters use the BMD interface to mark their ballots (such as the ExpressVote and ExpressVoteXL) *also* suffer from the same serious problem as ordinary BMDs: most voters do not review their ballots effectively, and elections on these machines are not contestable or defensible.
- The auto-cast option for a voter to allow the paper ballot to be cast without human inspection is particularly dangerous, and states must insist that vendors disable or eliminate this mode from the software. However, even disabling the auto-cast feature does not eliminate the risk of undetected vote manipulation.

**Remark.** The Dominion ImageCast Precinct ICP320 is a precinct-count optical scanner (PCOS) that also contains an audio+buttons ballot-marking interface for disabled

## 6 Conclusion

**Ballot-Marking Devices** produce ballots that do not necessarily record the vote expressed by the voter when they enter their selections on the touchscreen: hacking, bugs, and configuration errors can cause the BMDs to print votes that differ from what the voter entered and verified electronically. Because outcome-changing errors in BMD printout do not produce public evidence, BMD systems are not *contestable*. Because there is no way to generate convincing public evidence that reported outcomes are correct despite any BMD malfunctions that might have occurred, BMD systems are not *defensible*. Therefore, BMDs should not be used by voters who can hand mark paper ballots.

**All-in-one voting machines**, which combine ballot-marking and ballot-box-deposit into the same paper path, are even worse. They have all the disadvantages of BMDs (they are not contestable or defensible), and they can mark the ballot after the voter has inspected it. Therefore they are not even *software independent*, and should not be used by those voters who are capable of marking, handling, and visually inspecting a paper ballot.

When computers are used to record votes, the original transaction (the voter's expression of the votes) is not documented in a verifiable way.<sup>39</sup> When pen-and-paper is used to record the vote, the original expression of the vote *is* documented in a verifiable way (if demonstrably secure chain of custody of the paper ballots is maintained). Audits of elections conducted with hand-marked paper ballots, counted by optical scanners, can ensure that reported election outcomes are correct. Audits of elections conducted with BMDs *cannot* ensure that reported outcomes are correct.

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# **EXHIBIT 3**

Alexandra Seely, being Sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if Sworn as a witness, am competent to testify to them as well.

2. I am a registered voter in the State of Michigan

3. I was a ~~vote~~ <sup>POLL</sup> challenger for Wayne County MI at TCF Center on November 4<sup>th</sup> 2020, ~~at~~ from 10am - 3:30pm

4. I challenged 10 votes at table 23, they would not take out the log to record my challenges. I had to write names and ballot numbers on my own.

5. I ~~requested~~ <sup>asked</sup> to make incident reports they would not allow me and said they will make a note in the computer, they did not and proceeded to keep counting

6. I was harassed and threatened to be thrown out multiple times. Accused of taking photos when I never did and told I would be thrown out. No one had name tag except GOP challengers.

7. They told everyone to go to lunch if they haven't ate. Only the ballot centers could stay in the room to eat. Challengers and others had to leave the room to eat. Then they would not allow them back in and said they were at max capacity. Prior to this the room was packed after it was almost less than half.

8. After they ejected them it was half full

8. They wouldn't let anyone in for almost 2 hours after.

9. People started to notice and become upset. They were banging off the <sup>windows</sup> ~~doors~~ and doors. Then trump <sup>resident</sup> released the <sup>Statement</sup> ~~law suit~~ and they covered up the windows and doors.

10. I had 6 ballots that were sent to the wrong precinct. They made duplicate ballots on spot and had everyone witness then took the originals to go to the correct "precinct".

11. 5 ballots wouldn't scan into the computer and the officiator said to keep scanning them then took them from the table I don't know where they went from there. They also would not put them in the spoiled <sup>ballot bin</sup>.

12. They wouldn't let any other GOP people near the table to be an observer of my challenges. They would threaten to throw me and GOP lawyers out that would come up to me to ask how I was doing.

13. I was called a bigot and a cunt. She covered her <sup>name tag</sup>.

14. There was backpacks and suitcases that were <sup>Swan</sup> wrapped. In the back of the <sup>counting</sup> room over by escalators.

15. The ballot numbers did not match the envelope ballot number I would challenge they would not record it or allow me to make an incident report they would put a piece of tape over the ballot number attached to ballot and write the number on

<sup>envelope</sup> ~~envelope~~. Then would count it. I would get yelled at for challenging and saying I can't speak out. Then they would try to hide the ballot numbers

from me. I had a man scream in my face to back up and be 6ft away when I already was or he'd throw me out.

16. Two GOP lawyers were thrown out trying to help me and they said because they weren't wearing masks ~~correctly~~ correctly.

17. Before I started challenging at my table there was a man who took a photo of the monitor with the birthdays 1/1/1900. They ejected him after and would not document his challenges. Everyone was cheering and yelling. I personally witnessed this <sup>including</sup> ~~the picture~~.

18. I was ~~the~~ trying to leave at 3:30 pm because I had to be at work by 4. They locked us in, had the windows all covered and my table at that moment in time said they had 5,000 votes left to count and no one in the room had started military votes yet. Fifteen minutes later they called for Joe Biden winning Michigan.

19. They made all GOP challengers wear their credentials on a long, narrow white piece of paper when democrats' challengers only had a <sup>small</sup> lime green circle sticker. Then democrats pretended to be GOP so there would be less GOP and more democrats. It was visible that there was people with more green circle stickers than white lanyards.

20. In reference to #14 I was standing with my father and my father asked a security guard

000138

About the Saran wrapped bags and the Security guard said Dont worry about it and that we needed to walk away. My dad asked again what are those? Security guard said if we did not walk away he would call the police over to arrest us.

21. I had a persons ~~bag~~ whose had two different ballots and they counted both would not let me document. They said they documented in the computer

22. There was covers, backpacks, duffle bags every where even at the counting tables.

23. When the military ballots came in they came through back double doors at the counting room then I left the room. They were <sup>packing in barrels</sup> squared ~~shipped~~ <sup>to the tubes in</sup> ~~bags~~

~~24.~~ with an open top on wheels and navy color. The did not match suitcases in the back but unsure if they were pulled from there

24. When ~~the~~ people were trying to leave they tried to make us go out a different door & not sign the book to signat by the main door. I signed the signout book and when I exited the main doors and people were screaming and asking me questions & cameras in my face.

X Alexandra Seely <sup>NOV 8/2020</sup>  
Alexandra Seely  
Print

Barbara Harrell  
Notary Public

BARBARA A. HARRELL  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 4, 2025  
ACTING IN COUNTY OF Wayne

Abbie Helminen, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan
3. On Wednesday November 4<sup>th</sup> 2020 from 10am to 330pm I was at the TCF center in Detroit, MI. When I arrived, we were not denied access, signed in at a table and indicated that I was a republican. Upon returning from lunch, most people were being denied, but I was allowed back in because they recognized myself & two friends.

4. ~~At the table~~ I witnessed at table 88 <sup>were</sup> ~~was~~ many indications of duplicate ballots on the computer screen. The ballots were then passed to the next person at the table. When I questioned this many times, I was told they have their own process and dont interrupt it. I then ~~proce~~ proceeded to write down the number of the ballot. Each time the

000140

4 continued.

Computer indicated this, the worker would quickly scan the next ballot. Several times I would try to move a little closer to the computer to read better I was shooed & even <sup>physically</sup> pushed <sup>by a poll worker</sup> once. The democrat standing there was also telling me the ballots had matched. During these same instances I had a democrat over my shoulder and intimidating wherever I went.

5. ~~On 11/29/20~~ I noticed while also watching this table 88 was the passing of ballots that didn't come up on the computer. They were passed to another worker at the table who was checking the pile of papers for the name. The worker would separate into ~~two~~ 3 different piles. ~~Since they were~~ since they were separated, the names didn't match the list. When I asked to verify and why there were separate piles, the woman screamed at me to "Get away and don't worry, we have a different process than other tables." ~~On 11/29/20~~ I then asked the woman in the black shirt (officiator)

told me I wasn't allowed to challenge the process. I simply told her I wanted to observe where they were being passed and she again told me to step away from the table. Not one of these ballots were put in the spoiled ballots box. ~~Table 88~~ Table 88 had a different order of passing ballots and opening them than ~~all~~ the other tables. ~~Table 88~~ The ballots were then picked up and carried around the table to be taken out of the envelopes. ~~Table 88~~

6. I thought signatures were supposed to be matched from the ballot to the applications, however I never saw any applications at any station.

7. There were a lot of coolers & suitcases throughout the room. A few times I tried to take pictures I was threatened to be kicked out. I have pictures that I emailed to [miedo@donaldtrump.com](mailto:miedo@donaldtrump.com).

8. When I was moving from a couple tables to another area, I noticed several  
3 of 6

tables that were empty with ballots sitting there. ~~At~~<sup>At</sup> other times, all the ~~Poll~~<sup>Poll</sup> workers at the tables were on their phones. ~~It~~ It seemed odd since we were getting yelled at all the time for phones.

9. Around 2pm, ~~the~~ the room began to get very intimidating. There was a large police presence that moved into the room. At this point, people began to put cardboard on the windows to prevent others from ~~seeing~~ seeing in. It felt closed in and the room also began to get loud. All the sudden, there was a loud roar from a table where a man was using his phone. I did not witness him taking a picture but he was hauled away by police with no trouble. The alarming thing was that the whole room erupted in claps & cheers. This included ~~the~~ the poll workers.

10. There was a break from the time most tables were done and the time the military ballots arrived. It seemed quite chaotic at this point and people

were everywhere. People walked into the room from the back doors with mail trays full of ballots. People were pulling ballots from the bins and just carried here & there.

11. I observed suitcases & boxes saran wrapped in the rear of the room. It was not indicated ~~what~~ what they were, but there was a couple times that I was asked to get away from them.

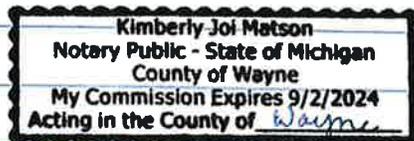
12. At the point that boxes were over the windows, no one was being allowed in. Democrats outnumbered republicans by ~~about~~ <sup>at least</sup> 2:1. We were all trying to stay and cover many tables because we didn't have enough watchers.

13. At 3:45, myself & a friend tried to leave at the doors we came in from. The police were lined up and said to go out the side doors. It was very intimidating & uneasy. No one was

at that door, so there was no place to check out.

14. From the time they stopped allowing people in the room, the amount of occupants was a lot less than there were earlier in the day. It did not seem like capacity was ~~reached~~ at ~~any more~~ any more to reach a room capacity.

Abbie Helminen  
Abbie Helminen  
11/8/2020



Sworn before me on:  
11/8/2020

Kimberly J Matson  
Acting in the state  
of Michigan, County  
of Wayne. Commission  
expires 9/2/2024

**AFFIDAVIT OF ANDREW JOHN MILLER**

Andrew John Miller, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a poll challenger on Tuesday, November 3, 2020 and Wednesday, November 4, 2020.
4. The table I was at was duplicating ballots and had about 25 ballots to duplicate.
5. One poll worker held the original ballot and a second poll worker duplicated the ballot.
6. The poll worker who duplicated the ballot hovered over the ballot and blocked me from being able to see the duplication process.
7. A third worker was blocking anyone from being able to see this duplication process.
8. I informed a supervisor that I was denied access to see the duplication process and need to review the ballots for accuracy. I was informed that I “couldn’t because the duplication process was personal like voting.”
9. I watched them duplicate 3 or 4 ballots and this happened on each ballot I watched.
10. I challenged these 3 or 4 ballots and the table worker refused to acknowledge my challenge.
11. Additionally, the poll workers refused to enter my challenge into the computer and also refused to enter my challenge into the poll log.
12. On both November 3, 2020 and November 4, 2020, I was instructed to back up 6 feet from the table and I was unable to see what was happening with the ballots from 6 feet away from the table.

000146

1. At one point on November 4, 2020, a democrat challenger was standing between myself and the table where the poll worker was processing the ballots
2. I was instructed to back up 6 feet from the table, however, the democrat challenger, who stood in between where I was standing and the poll worker at the table, was not told they needed to back up.
3. I saw roughly 24 computers on November 3, 2020 and every computer I saw had a red error messages in the lower right-hand corner saying "update overdue." Additionally, not all of the computers indicated the correct time, with some being off by approximately 5 hours. All computers with the incorrect time were synchronized to show the same incorrect time.

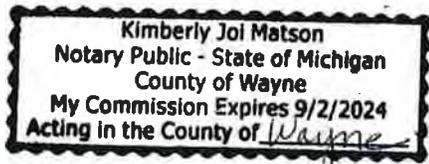
Dated: November 8, 2020

*Andrew J. Miller*  
*Andrew J. Miller*  
 Andrew John Miller 11/8/20

Subscribed and sworn to before me on:

*Kimberly Matson 11/8/2020*  
 Notary public, State of Michigan, County of:

My commission expires: *9/2/2024*



**AFFIDAVIT OF ANNA PENNALA**

Anna Pennala, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan and in the Township of Brighton
3. I observed several irregularities including an unattended ballot box, unidentified people coming in and out of the TCF Center, and a chaotic ballot counting process.
4. There were several instances in which the poll workers used their bodies to prevent me from watching and observing the ballot counting process.
5. Throughout the day, I witnessed a pattern of chaos, intimidation, secrecy, and hostility by the poll workers. Poll workers would cheer, jeer and clap when poll challengers were escorted out of the TCF Center. There seemed to be collaboration between the democratic poll challengers and the City of Detroit poll workers.

Dated: November 8, 2020



Anna Pennala

Subscribed and sworn to before me on:

/s/ *Leslie M Persin*

Notary public, State of Michigan, County of:

My commission expires: *9-9-2026*



**AFFIDAVIT OF ARTICIA BOMER**

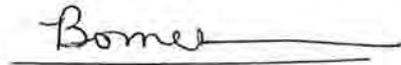
Articia Bommer, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3, 2020 I was a Republican challenger at the TCF Center in Detroit, Michigan. I arrived at approximately 9:30pm and left the next morning at approximately 6:30am.
4. When I arrived I, along with other Republican challengers, were told we needed to remain standing in one place and be six feet away from everyone. Eventually we were told we could move around the counting room.
5. I observed tables 123 and 120. At both table 123 and 120 I noticed USPS boxes of ballots beneath the table. I was able to observe that many of these ballots in the boxes were either straight ticket Republican or had votes for Donald Trump. These ballots seems to be separated from the rest of the ballots being counted.

6. I witnessed a meeting between election worker “team leads” where they gathered together and spoke, this meeting ended in a cheer. Many of these team leads wore mask or other materials supporting “Black Lives Matter” or other political causes.
7. At approximately 11:43pm I heard one of the team leads yell “this is our house tonight!” At approximately midnight, I heard this same man say racist remarks about black people who support Donald Trump. I believe these remarks were directed at me.
8. I witnessed election workers open ballots with Donald Trump votes and respond by rolling their eyes and showing it to other poll workers. I believe some of these ballots may not have been properly counted.
9. I observed a station where election workers were working on scanned ballots that had issues that needed to be manually corrected. I believe some of these workers were changing votes that had been cast for Donald Trump and other Republican candidates.
10. I observed ballots with cursive writing notes at the top right hand corner. I observed approximately 500 ballots with this writing. These ballots did not have ballot codes on them.
11. At approximately 4:03am a poll worker announced that 50 boxes of ballots were coming in. Election workers loudly cheered this announcement.

- 12. At approximately 4:50am I witnessed a man spraying a chemical on a ballot counting machine. He then placed twenty-seven ballots into the machine and I noticed tape on the top of the ballot where a ballot number would normally be. Throughout the night I witnessed him insert these same 27 ballots at least five times.
- 13. At approximately 5:15am an announcement came in for counters to clean their tables. Ballots were still throughout the counting room.
- 14. In between the announcing at 4:03am of 50 new boxes and the announcement at 5:15am for workers to clean their tables, I did not observe the 50 new boxes coming in or counted.
- 15. There were no "bag checks" for anyone taking or bringing ballots into the TCF Center.
- 16. On November 4, 2020 I returned to the TCF Center at approximately 10:30am. I was not allowed in.
- 17. I took notes documenting these issues while I was at the TCF Center.

Dated: November 8, 2020



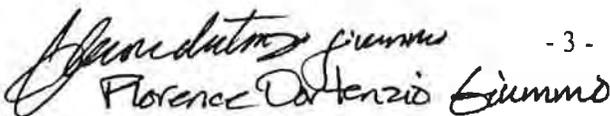
Articia Bomer  
Articia Bomer

Subscribed and sworn to before me on:

/s/ 08 November, 2020

Notary public, State of Michigan, County of: Wayne

My commission expires: 06-14-2022



Florence Cortezio Giunni

## Affidavit of

Betty Tyson being sworn, declares under penalty of law

1. I am personally familiar with the facts stated in this affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan
3. Arrived 9:30<sup>PM</sup> at TCF/COBDO to work as Challenger 11/3/20 for 10:30PM-3AM shift
4. Passed thru tables for Covid Testing
5. At escalators they took our temperatures ~~and~~ and checked credentials - no id required
6. Went down escalator & entered doors to inspection counting area
7. They checked credential
8. Got instructions from GOP regarding what we would be checking
9. No ballots were currently at any tables
10. Some time later ballots arrived at tables
11. We weren't allowed by the area of the table where envelopes were scanned nor could we hear their conversations
12. We only were allowed at a corner of the table where a computer screen was located with their poll workers at least 6ft from the screen and we were 6ft behind screen with workers coming between us and the screen blocking our view

000152

Betty Tyson

- 13. We could not get close enough to view signature or date on ballot envelope or any pertinent information
- 14. Kept track of # of ballots processed before they were taken to tabulator machine
- 15. Poll worker said he wouldn't take ballots to be tabulated until he had 200, but surprised us when he then got up to take 50 - my partner followed him then to machines
- 16. I also tried to watch area where ballots that kicked out were being reviewed, again at least 6 ft ~~ft~~ behind those viewing ballots on computer screen with being constantly blocked by workers going between me + poll workers at computer screens
- 17. Poll workers reviewing these ballots went over X's & V's to make ballot vote valid and some added votes where there was no X or V
- 18. I previously sent an email with statement to Shawn Flynn reporting irregularities on November 6

November 8, 2020

MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

Betty Tyson  
 Betty Tyson

Margaret Lear Erle

**AFFIDAVIT OF BEVERLY BALLEW**

Beverly Ballew, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan and the City of St. Clair Shores.
3. I was a Republican Poll Challenger on November 4, 2020.
4. I began observing on November 4, 2020 at approximately 8:30 am.
5. While observing at Table 50, I witnessed several irregularities where ballot numbers did not match what was in the voter files. I was approximately six feet away from the table except when I needed to get closer to observe.
6. I proceeded to take down my own personal notes when a floor supervisor immediately approached me and in an authoritative manner and told me I was not social distancing. I responded that he was also not social distancing.
7. With little explanation, the floor supervisor proceeded to threaten me with ejection if I did not follow his rules. I backed away and continued to observe.
8. There were several instances in which the poll workers used their bodies to prevent me from watching and observing the ballot counting process.
9. Throughout the day, I witnessed a pattern of intimidation, secrecy, and hostility by the poll workers. Poll workers would cheer, jeer and clap when poll challengers were escorted out of the TCF Center. There seemed to be collaboration between the democratic poll challengers and the City of Detroit poll workers.

Dated: November 8, 2020

*Beverly Ballew*  
Beverly Ballew

Beverly Ballew

Subscribed and sworn to before me on:

/s/ 08 November, 2020

Notary public, State of Michigan, County of:

My commission expires: 06-14-2022

*Florence Dorazio Giunno*  
Florence Dorazio Giunno

State of Michigan

Affidavit

#43-1:10

1) I, Bonnie Pettibone, am a Michigan Voter registered at 1933 Downham Dr Wixom

2) I have been serving November 3, 2020 as an Poll Challenger for the Trump for President Campaign Committee + the Michigan Republican Party, at the TCF, Detroit Canvass

3) at approx. 1:10P I observed a ballot being duplicated at AUCB 43 + I approached the supervisor and asked if there was a republican there to witness this duplication? He said he didn't know. The inspectors continued to duplicate the ballot.

signed by: Bonnie Pettibone Printed name:

date 11-3-20

Bonnie Pettibone

Susan L. Mills, Public Notary

Susan L. Mills

exp. October 27, 2025

## AFFIDAVIT OF BRADEN GAICOBAZZI

Braden Gaicobazzi being sworn, declares under penalty of perjury:

I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.

1. I am a registered voter in the State of Michigan.

2. I had the following experiences at TCF (COBO) Hall on 11/4/2020

3. I experienced: Intimidation countless times, persistent lies from some table supervisors and managers regarding rules that prohibited me from doing my job, and threats of assault. I was escorted from the room by police after about 9 or 10 hours of peacefully doing my job for simply standing my ground at a table with people who were denying me access to see ballots and threatening me. I did not resist police in any way and left peacefully.

4. I saw an online note from someone within my GOP network of friends that 35,000 ballots had been received in the middle of the night and that they needed poll watchers on November 4th. I arrived in the late morning to be trained.

5. The first thing I noticed was that at least one person outside the ballot room entrance had a BLM mask on. She appeared to be doing temperature checks. Once inside, it was apparent that many and probably most tables in the room were hostile towards people with GOP lanyards.

6. I initially worked with an honest table, but after a few hours, I moved to another table because we were low on GOP Challengers. This is because they kept kicking out GOP challengers, using the police in the room to physically remove them. In fact, early in the afternoon or later morning, someone came into the room, made an announcement, and several people appeared to be

removed from the room as the doors were locked and the windows were boarded up with cardboard. I was informed that no GOP people were allowed in and that, if we left, we could not get back in. I asked several of the 'independent' lawyers and law students who were acting as challengers and none of them seemed to believe this to be an issue.

7. I talked with several of these 'independent' lawyers/law students at length in casual, friendly conversation and, based upon their answers to basic questions about the news, it was evident that EVERY single one of the lawyers/law students that I talked to was ideologically far-left, supporting things like CHAZ/CHOP in Seattle and condoning the crime skyrocketing around the country or wanting to work in Brooklyn because they support 'progressive' changes to law to 'not prosecute rioters,' etc. Yet, they all claimed to be independent. Anyway, every time a GOP staffer was removed from the room, most of the entire room would erupt in cheers and laughter and oftentimes derogatory insults as GOP Challengers were walked out by police.

8. Throughout the day, I was on numerous occasions told that I was not allowed within 6 feet of the tables. I told them I had to step in for a moment for each ballot to ensure that numbers or names matched and assured them that it would be brief and that the lawyers said this was by lawful, but table supervisors and their broader supervisors would often step in the way and prevent me from seeing ballots while claiming I was trying to kill or endanger their ballot counters with Covid. This was obviously incorrect and even when lawyers would tell the whole table this, they would often argue with the lawyer. After the lawyer would leave, sometimes the behavior would continue.

9. For much of the day I was with one good table. However, as the night drew long I was bouncing between several tables, mostly near the back of the room, because there were not enough GOP challengers remaining in the room and many tables had no challengers watching them at all. At around 8pm at one of the tables in the second-to-last row near the right corner, a specifically egregious moment occurred.

10. The table was counting a stack of about 35 ballots that all appeared to have pink challenge stickers on them. None of these ballots appeared to be in the digital database of voters, so the people at the table were simply entering names and addresses into the computer with birthdates of 1/1/1900. I personally was able to observe the 1/1/1900 birthdates on the computer. There were also addresses and names which I could not verify because I wasn't allowed close enough to the table for long enough to compare anything. I told the table I was challenging every one of these ballots. They laughed and said I can't just do that. I then noticed that at least one of the ballots and envelopes was mismatched based on the numbers. I waited to see if the table checker (at I believe station 2) would catch this and he did not, so I spoke up requested that the ballot be reviewed/challenged. I could not see any political affiliation information on the ballot, including voting; just the numbers on the envelope and ballot.

11. At some point, another GOP volunteer went to grab a lawyer for me because a debate ensued over this. There weren't nearly enough lawyers in the room to act on our behalf. When I would try to verify the names on the envelope or check the ballot number against the envelope number to ensure everything was okay, I was given the Covid runaround and separated from the table. (I cannot tell you by whom because, throughout the day, I recall very few people at these tables were ever willing to give me their name and party affiliation or even their job title. Everyone else stonewalled and said I wasn't allowed to talk with anyone at the table and that no one at those tables was required to tell me anything, often including the table supervisors and their managers.

12. The table supervisor came over and began giving me the same speech and, while I was politely telling him I was just doing my job, another GOP staffer went to find a lawyer for me. In this time, the table swarmed with, I assume, Democrat operatives getting very close to me and then yelling at me to back off 6 feet from him for Covid and complaining about the way I was wearing my mask moving because I was being forced to talk to him so much. The

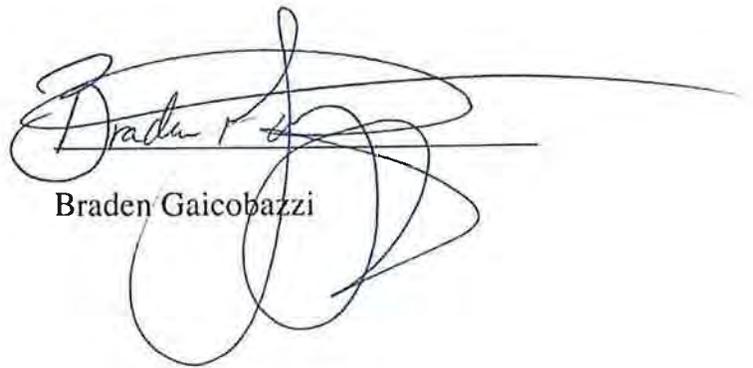
supervisors and table had no problem with these people being close to the table and seemed to be familiar with one another, as though they were all on the same team. The antagonistic staffers invented any kind of reason to prevent me from doing my job and get me agitated. Finally, a lawyer showed up who told them I was allowed to do my job; like other tables, they simply argued with him as well. Having missed several ballots due to the arguing, I stepped in for a moment to verify the next ballot number matched its envelope.

13.The table supervisor, his supervisor and several other operatives (none of them would give their names or credentials) swarmed in and began intimidating me. I was separated from the table at one point by the table supervisor's supervisor and told to stand back. He stepped closer and closer to me as I backed further away to the other side of the table. I asked him what his name and job title was and he, along with the rest of the intimidators, refused to give me any information. He made some kind of innuendo about 'playing with' him that made me uncomfortable and he then told me something to the effect that he would either 'kick my ass or kick me out'.

14.In disbelief, I asked him if he was truly threatening me because I was just doing my job. He repeated his mantras multiple times and called the cops over and had me forcibly removed. The police questioned nothing and I didn't fight them at all and left peacefully. However, I had to grab my coat and gave my unfinished notes to another GOP volunteer, Andrew, so I do not have them as I write this affidavit and don't recall if I was able to write down the table number of this final event of my evening. Once escorted out of the building, I held the door for a brief moment to ask the police how to get to my car because I had no idea where I was in relationship to the parking deck, and they said they had no idea.

15.As a final note, I did find it odd that, throughout the day/night, I saw a few dozen military ballots be counted. Although I cannot provide specific numbers or names, I can estimate that at least 80% of the military ballots I saw were straight ticket democrat or simply had Joe Biden's name filled in on them. I had always been told that military personnel tended to be more conservative, so this stuck out to me as the day went on.

Dated: November 8, 2020

  
Braden Gaicobazzi

Subscribed and sworn to before me on:

/s/ 08 November, 2020

Notary public, State of Michigan, County of: Wayne

My commission expires: 06-14-2022

  
Florence Portenzio Giunno

State of Michigan  
Affidavit

I, Brett Kinney am a Michigan registered voter at 15845 Knurlwoode Romulus, MI 48174

I have been serving on Nov. 3, 2020 as a poll challenger for the Trump for President campaign committee and Michigan Republican Party at the TCF center in Detroit canvass

At approximately 1:20 pm I observed a ballot being duplicated at AVCB 37 and I approached Elections supervisor I asked him "Is there a Republican supervisor present to witness this ballot duplication. He said "It's not required and he does not have to look for one. The supervisor continued to duplicate the ballot I was challenging

I have witnessed this at approximately 1:20 on Nov. 3 2020  
Signed by Brett Kinney 11-3-2020

Susan L. Mills

Susan L. Mills, Notary Public

I am a registered voter at 2421 S. Hares Rd in  
Birmingham Michigan - 48114

I am working as an official election challenger  
approved by the Michigan Republican party. at  
the TCF center in Detroit

Today, November 3, 2020, I witnessed a duplication  
of voter ballots in ICC # AUB #112 at  
1350 Mrs. Whitaker a residential property. When  
I asked to validate they asked to ~~stop~~ <sup>stop</sup> ~~be~~ <sup>be</sup> ~~come~~ <sup>come</sup>. When  
supervisor came, the reason given ~~was~~ <sup>is</sup> was the  
ballots 46 in total were rejected. They were  
processed at AUB 121 instead of 112. They processed  
46 ballots, realized they had errors and started  
to reprocess 46 ballots. Some appeared to be  
dupes already because of initials, original  
numbers are missing.

No electronic record keeping was done.

Respectfully,

Cheyl Wasilowski  
2421 S. Hares Rd

Birmingham, MI 48114  
Cheyl Wasilowski

Susan L. Mills  
Susan L. Mills

Notary Public  
Exp October 27, 2025

**AFFIDAVIT OF CHRISTOPHER SCHORNAK**

Christopher Schornak, being sworn, declares under penalty of perjury:

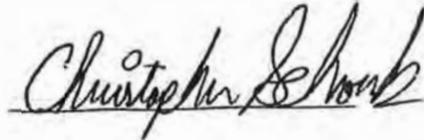
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I went to the TCF Center in Detroit to be a poll challenger, Election Integrity Fund, Non Partisan Participant on November 4, 2020. I arrived at approximately 10:30am.
4. At each counting board, the poll workers attempted to block me from observing. I was verbally abused and intimidated by not only the Democratic poll challengers but the ACLU and other organizations.
5. I primarily attempted to observe counting board 88 and 89.
6. I observed ballots that were not in the electronic log or the paper poll log. These would be considered spoiled ballots . I observed these ballots be counted.
7. I observed a poll worker attempt to match the voter to the paper log. When she was unable to make the match, she would put the spoiled ballots into a separate pile and go away from the counting board for a while. She would return approximately 20-30 minutes later and return the spoiled ballots to the pile of ballots to be counted.
8. I observed this same poll worker do this same process over many tables and over many hours.
9. I attempted to challenge these ballots to a supervisor and was told "We are not talking to you, you cannot challenge this".

10. I went back and spoke to the attorney of the Election Integrity Fund and was instructed to challenge. After much opposition, I was finally able to log challenges.
11. Ballot #7909 was reassigned to Ballot #0976 at counting board 88 @ 11:35 am, the ballot number did not match the electronic record. The voter's name was
12. Another poll challenger Abbie Heilmanen also observed this challenge.
13. Ballot # 5748, reassigned to ballot #505 Board #89, the ballot number did not match the ballot book or electronic record. The voter's name was
14. Another poll challenger Abbie Heilmanen also observed this challenge.
15. I attempted to make other challenges but was denied access to ballot numbers or names.
16. There was a stack of at least 40 ballots that could not be authenticated with the ballot book or electronic record, but was told they would not be challenged because they just had to be counted.
17. This was similar amongst the eight tables that I observed.
18. I observed that the military ballot duplication process was only performed by two Democrats rather than one Democrat and one Republican.
19. I also observed that none of the poll workers had any identification as to their name or party affiliation as required by regulation. I asked if there were any Republicans present and was told "no".

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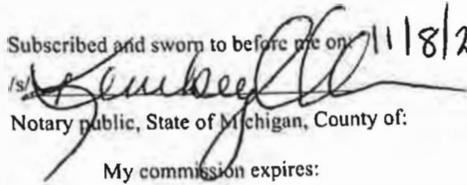
20. When I asked for the number of ballots that had been counted or processed at each counting board, I was denied information. I was told I had to get it online. I requested a print out and was told to access it online. Therefore, I was unable to get a total vote count from each counting board.

Dated: November 8, 2020



Christopher Schornak

Subscribed and sworn to before me on 11/8/20

  
Notary public, State of Michigan, County of:  
My commission expires:

**Kimberly A. Moin**  
**NOTARY PUBLIC - STATE OF MICHIGAN**  
**County of Wayne**  
**My Commission Expires 10/23/2024**  
**Acting in the County of \_\_\_\_\_**



**AFFIDAVIT OF Colleen Schneider**

Colleen Schneider, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.

I was down at TCF building to help with the absentee ballot counting. When I arrived, they said they could not allow any republicans in due to it being their maximum count. I don't know how many republicans vs democrats there were because we didn't get in. We waited upstairs and eventually just said we'd all just go down together and go in, which we did. When we got in there, I walked over to the people I thought were in charge and asked what I should be doing. I was assigned a table to monitor but they were not doing anything so I went to the table across from it because no one was there. In fact I didn't see any republicans around me at all. I raised my hand to challenge and get an attorney over there and the woman who I assume is in charge of the table started yelling at me and telling me I can only challenge something that is on the computer screen. They were finding several ballots that were scanned but they wouldn't allow me to see the pages they were looking through to confirm the name was on there.

After being called several derogatory names by the entire table (there was a girl video taping it even though video was not allowed) a man came over to me and told them he was my attorney. Then they started screaming that two republicans cannot be at the same table, called the police and the police escorted him out to loud cheers from ALL of the workers. Then she told me she was calling the police on me because I "told them they had to stop the count". I told her that I did not say that, but only told HER, the supervisor, to have them stop the count because I was

challenging. She told her table to continue counting the votes. Then she said that I didn't intimidate her, to which I replied that she didn't intimidate me either.

Eventually I moved away from the table. There was not one republican that I could see and at this time the doors were locked to all republicans coming in. We could not leave to go get food or drink in our assigned room because we were told we would not be let back in. (The people employed in the room had food and water available to them).

I also witnessed the people putting ballots into the scanning machine and they would get jammed and they would run them through again. I asked the first set of women if they were getting counted twice and they said no. I moved down the line and asked again and I was told to pretty much mind my own business. I cannot remember the exact words. I did tell someone about it though and they said they would look in to it.

We finally gave up and left the building because we could see that we were not able to challenge anything that we saw.

Dated: November 7, 2020

*Colleen Schneider*  
Colleen Schneider

*Sandy Rashed*  
Subscribed and sworn to before me on:

/s/ November 7, 2020

Notary public, State of Michigan, County of: Oakland

My commission expires: 3/26/2024

### AFFIDAVIT OF CYNTHIA BRUNELL

CYNTHIA BRUNELL, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a Republican Party poll challenger for the November 3<sup>rd</sup> presidential election.
4. Prior to election day, I volunteered and participated in on-line training through the Republican Party.
5. On election day, I was assigned as a Republican poll challenger to a late-night shift (9pm to 5am) at the TCF Center in Detroit.
6. I arrived at the TCF Center a few minutes before 9pm on Tuesday November 3, 2020 with my husband, David Brunell, an attorney volunteer for the Republican Party.
7. I was assigned to table 21.
8. Table 21 consisted of a circle of separate work tables, staffed by five (5) individuals who performed designated functions for the opening and reviewing of absentee ballots.
9. There was also supervisor who oversaw the ballot review for Table 21 and a number of others Tables.
10. When I arrived, I was directed by the election official supervisor to sit in the center of the aisleway, 6 to 8 feet away from the circle of tables where the absentee ballots were being reviewed.

11. The election workers sitting at the circle of tables for Table 21, refused to speak to me, only occasionally stating that I should move away, that I was too close or that they weren't allowed to talk to me.
12. No one would tell me their names. One of them invited me to sit near him at his work station but the other workers quickly admonished him – leaving me sitting in the aisleway.
13. Election worker in position #1, slit open the envelope. Position #2 verified the ballot number against the voter registration data base using a lap top computer. Position #3 would pull out the inner envelope containing the ballot and re-verify the name and ballot number. Position #4 opened the ballot, removed the perforated top of the ballot and reviewed the ballot. Position #5 flattened the reviewed ballots and assembled them in bundles of 50 for actual processing.
14. Over the course of time, I was trying to keep track of ballot issues that were identified, but I couldn't see what was going on so I eventually left my aisle seat and started walking around the election workers performing their jobs in the circle of tables.
15. The ballot issues that were identified by the election workers, included ballot numbers not matching, lack of signatures, unregistered voters and ballots which indicated straight ticket selection for both political parties.
16. When I heard of an irregularity, I would write down the issue in order to keep track. As the night wore on, I started writing down names and ballot numbers.
17. Some of the irregularities that I recorded were as follows:
  - a. Voter Denise Brooks didn't sign the envelope or ballot. Her ballot was processed through the electronic ballot counter.

- b. Voter Dervorna Wilson didn't sign the envelope or ballot. Her ballot was processed through the electronic ballot counter.
  - c. Voter Kevin Douglas Merriweather II ballot numbers didn't match. His ballot was processed through the electronic ballot counter.
  - d. Voter Miles Whitfield numbers on envelope and ballot did not match. White tape was placed on his ballot. His ballot was processed through the electronic ballot counter.
  - e. Voter Stacy Denise Prichart didn't sign envelope or ballot . Her ballot was processed through the electronic ballot counter.
  - f. Voter Steven Alante Ousley Scott born in 1929 was not a registered voter. His ballot was processed through the electronic ballot counter.
18. I was never afforded an opportunity to look at any of the ballots at any point in the process, in order to ascertain for myself, if there were irregularities. I was forced to keep a distance. When the election workers identified a problem with a ballot, I would try to observe it, but was constantly told to keep a distance and if I asked to see something, they told me that were not permitted to talk to me.
19. On eleven (11) occasions, irregularities were identified. Those ballots were not segregated. On a number of occasions, the supervisor directed that some of the flagged ballots be returned to the election worker in position #3 who was instructed to place white tape over some portion of the flagged ballot. I could not identify what specific information was covered by the tape. I assumed that the white tape indicated that the ballot was flagged and would not be processed. The ballots with white tape were not separated or segregated but were bundled with the other ballots for processing and counting.
20. There was a box for rejected ballots on one of the tables, but no ballots were ever placed into the box. The supervisor instructed the worker at position #3 not

to use the rejection box because the process for dealing with flagged or irregular ballots had changed.

- 21. Twice during my shift, the supervisor removed a stack of ballots from Table 21 after they were opened at position #1 but before they were verified at position #2. I don't know what she did with those ballots but I know they were not verified or reviewed by Table 21.
- 22. To my surprise, all of the 268 ballots reviewed by the workers at Table 21 were electronically processed and only 4 were rejected. Based on the irregularities that were identified by the election workers, I had expected that at least eleven ballots would have been rejected.

Dated: November 8, 2020

  
 CYNTHIA BRUNELL  
 29251 Broadmoor  
 Livonia, MI 48154

Subscribed and sworn to before me on: *November 8, 2020.*

/s/ *Philip Needham*

Notary public, State of Michigan, County of: *Macomb*

My commission expires: *June 12, 2026*

*Acting in County of Wayne*

PHILIP NEEDHAM  
 NOTARY PUBLIC, STATE OF MI  
 COUNTY OF MACOMB  
 MY COMMISSION EXPIRES Jun 12, 2026  
 ACTING IN COUNTY OF *WAYNE*

**AFFIDAVIT OF DAVID LANGER**

DAVID LANGER being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. AT TCF on Wednesday arrived at approx. 12:30 pm prohibited entry to the counting floor. Told to wait. Kept door closed. Waited until approx. 10:30 pm when returned home.

Dated: November 8, 2020

*David Langer*

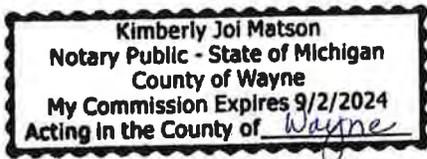
David Langer  
DAVID LANGER  
586 214-5507

*11/09/2020*

Subscribed and sworn to before me on: *11/8/2020*

*Kimberly J Matson*  
Notary public, State of Michigan, County of: *Wayne*

My commission expires:  
*9/2/2024*



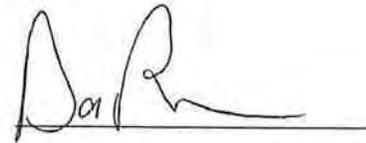
**AFFIDAVIT OF DAVID PIONTEK**

David, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan, in the city of Livonia.
3. I was a Republican Poll Challenger on November 4, 2020 at the TCF Center in Detroit Michigan.
4. I began observing at approximately 10:30 am at table 51.
5. There was a bin marked “problem ballots” and I asked the table captain where those ballots were going. The table captain stated those ballots were going to be further looked at. I asked if I could get the numbers of those ballots, and the table captain stated that he would only allow me to get the number of the top ballots, because he wasn’t going to allow me to slow the process down. I followed the “problem ballots” and observed a poll worker drop them on the central processing table with no supervision.
6. The table captain, George, stated there were 32 “problem ballots.” I stated that I wanted to challenge those ballots that they refused to allow me to inspect. I further stated that I would like the challenged ballots to be recorded in the poll back, but George refused and said “we will put it in the computer.”
7. I proceeded to write an incident report and handed it off to the Michigan Republican Party at the TCF Center.
8. After a lengthy break, the poll workers returned to begin counting the overseas military absentee ballots.

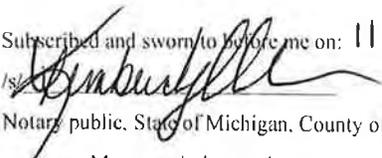
- 9. On two separate occasions, I witnessed a poll worker make a mistake while duplicating a ballot. The poll worker set the invalid ballots aside. The table captain George brought two new ballot and the poll workers began duplicating the ballots, but did not properly secure the two spoiled ones. I repeatedly asked where those spoiled ballots would go, and George had no answer.
- 10. At approximately 7:52 pm, the problem ballots that were sent to the central processing table came back to table 51, where I was a poll challenger. The poll worker began scanning a problem ballot and a computer prompt with the words "unlisted person" came up. I witnessed the poll worker manually enter six of these ballots into the system and assign each one a fictitious birth date of 01-01-1900. Since, the poll workers were moving so quickly, I was able to capture just one name, "\_\_\_\_\_." Her ballot number was 5430.
- 11. Throughout the day, I witnessed a pattern of intimidation, secrecy, and hostility by the poll workers. Poll workers would cheer, jeer and clap when poll challengers were escorted out of the TCF Center. There seemed to be collaboration between the democratic poll challengers and the City of Detroit poll workers.

12. Dated: November 7, 2020  
8 05P



David Piontek



Subscribed and sworn to before me on: 11/8/20  
/s/   
Notary public, State of Michigan, County of:  
My commission expires:

**Kimberly A. Moin**  
**NOTARY PUBLIC - STATE OF MICHIGAN**  
**County of Wayne**  
**My Commission Expires 10/23/2024**  
**Acting in the County of \_\_\_\_\_**

AFFIDAVIT OF

Dyanna Papsdorf being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.

2. I am a registered voter in the State of Michigan.

3. November 4 - TCF center around 2-10 PM

- no republican representation for poll workers during transferring military ballots
- differences between numbers on the ballot as on the envelope
- a number of people / ballots entered in the system that were not on the computer system or the paper list.
- denied access to the ~~room~~ processing room
- processing a ballot that had tabs ripped off
- a vast difference between the treatment of the dems/non partisan vs GOP
- many of my friends that wanted to help were locked out of the building
- entire room erupting in applause when a GOPer kicked out

Dated: November 8, 2020

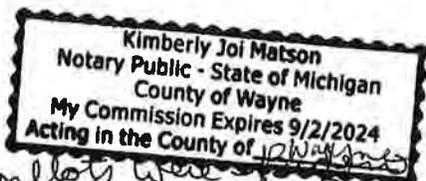
Dyanna Papsdorf  
914-294-9513  
Nov. 8, 2020  
Dyanna Papsdorf

Subscribed and sworn to before me on: 11/8/2020

Kimberly Matson  
Notary public, State of Michigan. County of: Wayne

My commission expires:

9/2/2024



- Military ballots 24 out of 26 ballots were for Biden RP

AFFIDAVIT OF Elizabeth Williamson

Elizabeth Williamson, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3.
  1. On the morning of Wednesday, November 5, 2020 I went to TCF in Detroit to assist with the mail-in ballots being counted. After a brief training, I was sent into a large room. I stood by a table of ballot counters. I was told I could not stand next to another Republican and we were to stand next to a democrat.
  2. It took me about 20 minutes to understand the process of scanning the ballots. I realized many of the ballots did not register on the computer screen. I asked about the process. A ballot counter, the supervisor, explained these people were not in the system but were on the paper generated list.
  3. I could not see anything that was on the envelope or the paper generated list as we were told to stand back 6 feet. I asked if I could see it. The scanner at the table yelled at me and told me I could NOT talk with her, only the supervisor. So another Republican came with me and we challenged the ballot we could not see. The person scanning stood up immediately and told us to get back so she could talk to the supervisor privately without all us staring at her.
  4. We walked away. Finally we were given the ballot number. I wrote it down to challenge it. I am not certain where the ballot went after the challenge. There were many, many more like that. Names of people not in the system, checked off from the paper generated list, and moved on.
  5. I was not allowed to stand within 6 feet to see what was on the list, the envelope or the ballot. It was all very mysterious. There was a high level of intimidation and it was evident they did not want anyone to witness the way they counted the ballots.

*Elizabeth Williamson*

Dated: November 7, 2020  
Elizabeth Williamson

Subscribed and sworn to before me on: 11/7/2020

/s/ \_\_\_\_\_  
Notary Public, State of Michigan, County of: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

*[Handwritten signature of Notary Public]*



### AFFIDAVIT OF EMILY A. STEFFANS

EMILY A. STEFFANS, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I volunteered as a poll challenger for the GOP.
4. I arrived at the TCF convention center between 8 and 8:30 am.
5. After a temperature check at the entrance, I was given directions to room 260 which is the room where GOP volunteers went to become credentialed as a challenger.
6. After about 20 minutes of training I received my credentials and paperwork and wristband for entry.
7. I entered the ABC board room.
8. A gentleman with the GOP walked me around the room and explained the process and what to look for.
9. There were not enough GOP volunteers present to have one at each table.
10. I went table to table witnessing the process.
11. I was told during my training that only one volunteer per party was allowed to observe a table at any given time.
12. In many instances there were more than one democrat volunteer challenger at a table.
13. When I moved from table to table I was followed by two to three democrat volunteers.
14. I know they were democrat volunteers because they had green dot stickers on their clothing.
15. Within the first hour I observed poll workers duplicate a ballot.

16. During the process two workers used their bodies to block seeing the duplication process.
17. On numerous occasions I was told by poll workers that I needed to stay six feet from them. When I asked if I could come closer because I could not see the screen to verify whether the voter and ballot numbers matched I was told I could not.
18. On numerous occasions, I was told I could only stand at the screen while democrat observers were permitted to move freely around the table.
19. When I asked a question about why a ballot was being placed in a particular box I was told I was not allowed to talk to the poll worker and did not receive an answer.
20. Democrat volunteers were verbally aggressive with me.
21. I was accused by a democrat volunteer of being part of a "cult" for my support of Trump.
22. I witnessed this individual putting large pieces of cardboard over the window so people trying to get in could not see what was happening on the inside where I was.
23. I observed a republican contender being prevented from watching during a duplication. He tried to get closer to the table and move around so he could see, but when he did, three people swarmed him to block his view. The table leader told him to move back and that he was close enough. He said repeatedly that he needed to see the duplication but they would not let him. A man with an election watcher badge told the poll workers they needed to let him see it and the poll workers responded by telling the man with the badge that he needed to go away.
24. A worker arrived at the table and joined the group of people pushing the GOP challenger back. At that point, I intervened and said to the poll workers that they

needed to let the GOP challenger see the duplication. In response, that worker went and got the police. When he returned with them he said I needed to stop talking and that if I did not I would be escorted out.

25. At that point I had watched two GOP people escorted out by the police. When they were escorted out democrat volunteers and poll workers at the table cheered.

26. This made me afraid to further pursue the issue with the duplication any further and to challenge any ballots.

Dated: November 7, 2020

*Emily Steffans*  
Emily Steffans

Subscribed and sworn to before me on:

/s/ *Leslie M Persin*

Notary public, State of Michigan, County of:

My commission expires: *9-9-2026*



State of MI

EUGENE G. JIFON

Affidavit

I, Eugene Jifon, a registered voter  
at 3532 Hall Ln., Bloomfield Hills  
MI,

At Appx. 1pm. I observed two  
ballots being duplicated at ICC# 11, 51  
Inspector did not know party  
affiliation at table and the two  
ballots were duplicated by 3 people  
who initialed the 2 original ballots  
and placed them in the manila envelope.  
The new ballots were then placed in  
the tray for tabulating.

Eugene Jifon  
Nov. 3, 2020

Susan L. Mills, Notary Public  
Susan L. Mills  
Exp. October 27, 2025

11/08/2020 Francis Cizmar, being sworn under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit, and if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I went to the TCF Center as a poll challenger. I was issued credentials when I signed into work.
4. I arrived at 6:00am and left at approx 8:30pm.
5. While I was in the counting area, I <sup>personally</sup> observed the following:
  - A) Provisional ballots were put into a box labeled "votes to be tabulated." I filed an incident report and turned it into the supervisor in the Republican poll challenger office. This incident took place at table 1CC12, Absentee Voter Counting Board 58 at 12:30pm.
  - B) "Problem ballot" boxes containing ballots were left unattended at tables 46, 48, 61, and 62. No election supervisors or poll workers were present.

c) At approximately 3pm, at table 55, a poll worker was seated ~~the~~ at inspector station 5. I personally observed this poll worker shuffling and re-arranging the ballots to be tabulated. This went on for at least 5 minutes. ~~For~~ I did not understand why this was needed, and I did not see the ballots being put into the box labeled "votes to be tabulated."

D) I was present when poll challengers were forcibly removed from the counting room. I recall this taking place about an hour after I was informed that ~~the~~ President <sup>Trump</sup> requested that the counting be stopped when he learned that poll challengers were being denied entry. When these ejections took place, there was a lot of shouting of approval and applause ~~in the~~ from the poll workers and election supervisors in the room.

E) At approximately 1pm, I was standing near the entrance to the counting room. About 15 feet in front of me was a group of three men, one of whom had a crutch. The men were about 6 feet tall. The man with the crutch took out his phone, held it up above his head, and began videotaping the area where the tabulating machines were located.

E) continued. The man took a video of about 10 seconds, then put the phone in his pocket. The group of three men turned to face me. I did not see any type of identification or party affiliation on any of them. I walked swiftly to an election worker and reported what I saw, which was the video taping in the area where pictures and videos were forbidden. When the three men came close to this election worker and me, the election worker told the men that videos and pictures were not allowed in the counting room. One of the men replied in a harsh tone "we didn't take any pictures or videos." The election worker replied "don't do it again" but did not ask the man to delete the video.

F) I witnessed a poll worker at inspection station 2 locating the record of an absentee voter using the Electronic Poll Book on a laptop computer. I was standing approximately 3 feet behind her to her right. After she scanned the envelope, no record came up. She then started typing the voter's name into the electronic poll book. The date of birth field was blank. The poll worker

F) Continued: typed 01/01/1900 into the date of birth field. This would indicate that the voter would be 120 years old. Certainly possible, but improbable. I challenged this record. The Election Supervisor came to the table and told the poll worker to delete the record. I could not confirm if the record had been deleted. The ballot number was 06366.

G) When the military ballots were starting to be transcribed, it was about 7pm. I was at a table where a military ballot was being transcribed. There was one person speaking the vote choice on the military ballot to another poll worker to her right who was copying the vote choices onto a standard ballot. There was a person without any identification and dressed as a regular person without a department of elections shirt/blouse on. One of the table poll workers came to my right and told me to maintain a 6 foot distance. I replied that the 6 foot order was relaxed. She insisted that I back away. I asked who this person standing between me reader and copier was. I was told she is a poll worker who needed to monitor the process. The person without poll worker credentials had both

G) Continued: elbows out to her side, preventing me from observing the ballot copying. The person who told me to keep a six foot distance said that if I did not comply I would be evicted. I left ~~the~~ the table to find another one so I could remain in the counting room. I felt very intimidated.

H) When the military ballots began to be distributed to the counting tables, Election Supervisors would grab 2, 3, maybe 4 at a time, which made it impossible for us to cover all of ~~the~~ the ballot transcribing. I believe that this was done on purpose.

I) The counting room supervisor would announce over the PA system that he needed to meet with Election Supervisors and Table Leads many times during the time I was in the counting room. This was very distracting to those of us trying to concentrate on what was going on at the tables we were trying to monitor.



Francis J. Cizmar

248 989 3013

francisjczmar@gmail.com

5 of 6

Subscribed and sworn to before me on  
11/8/2020 Frances Cizmar

Deana Beapel, Esq LP(2626)  
Deana Beapel  
Notary public  
State of Michigan  
County of Wayne  
Act in Wayne  
Expires 9/16/25

GEORGE L. BOLLER, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them as well.
2. I am <sup>a</sup> registered voter in the State of Michigan.
3. On Wednesday Nov. 4 I was present inside the TC Center as a challenger for the RIGOP.
4. I identified myself to <sup>a</sup> Robert who was issuing credentials for ~~the~~ challengers.
5. I was issued a credential and after a ~~wait~~ <sup>wait</sup> of about one hour, went with a group of GOP challengers to an entrance of the ~~the~~ vote counting area.
6. ~~the~~ ~~wait~~ ~~at~~ ~~the~~ ~~counting~~ ~~area~~ I stood outside <sup>wait</sup> waiting to be ~~admitted~~ <sup>admitted</sup> for ~~about~~ ~~about~~ ~~15~~ ~~to~~ ~~20~~ ~~minutes~~. <sup>the counting area for about 15-20 minutes</sup>

7. Finally a lady opened the door in the ~~presence~~ presence of a <sup>female</sup> poll worker.
8. I heard the lady tell the poll worker that <sup>she</sup> was a challenge for MiGOP and was leaving the counting area for an extended time.
9. ~~By the way~~ I mentioned to the lady and the poll worker that I was a challenge for the MiGOP.
10. The poll worker said that as soon as the lady left the counting area, I would be let in to replace her.
11. The lady left the counting area but held the door open for me to enter.
12. I entered the counting area and was directed by the poll worker to a table where I would be registered.
13. I stood in front of that table when another female poll worker came over and in the presence of the first poll worker, ~~was told~~ told me that I would have to leave the counting area.

14. I explained to this other poll worker that I was simply replacing a challenger who had left the counting ~~room~~ area.

15. This other poll worker ~~then~~ repeated that I would have to leave.

IN GOOD STANDING

16. I AM A MEMBER OF THE STATE BAR OF MICHIGAN, ATTORNEY NO. P10971.

17. I DID LEAVE THE COUNTING AREA, AND OBSERVED POLL WORKERS COVERING AREAS ~~OF~~ OF THE COUNTING AREA <sup>which I</sup> GLASS TO BLOCK VIEWS OF THE INSIDE

18. I HAVE PHOTOS, ~~which~~ I took from outside the counting area, and I forwarded them to Ryan ~~Leppert~~ Leppert.

*George L. Boller*

GEORGE L. BOLLER

rellob@prodigy.net

248.476-3296

734.432-7900

DATED: Nov. 8, 2020

Subscribed and sworn to before me on 11/8/2020  
George L. Boller,

Dana Beard Esq (Plat 20)  
Dana Beard  
Notary Public  
State of Michigan

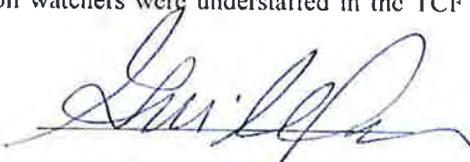
County of Wayne  
Acting in Wayne County.

**AFFIDAVIT OF Gina Paschke**

Gina Paschke, being sworn, declares under penalty of perjury:

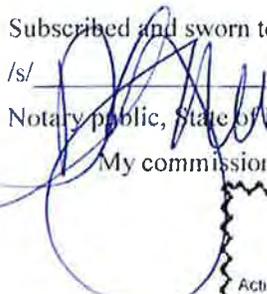
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I arrived at the TCF Center at approximately 12:30pm on November 4, 2020. I was assigned table numbers 110 and 111. Two precincts. I was told that I was not allowed to come closer than 6 feet from the tables or the screens. I was also told that I could not walk between the tables, only around them. This made viewing the screens that were supposed to be available to me impossible to view.
4. I was told that I could not speak to the poll workers at any time. The only question I could ask is what their party affiliation was. I did ask one of my tables this question and was promptly told that I was in violation by speaking to them. I cordially told them I was told I was in accordance with the rules and they responded by saying that they refused to answer my question.
5. Upon exiting and signing out of the TCF Center, I and two other Republican poll watchers asked that 3 other Republican representatives be allowed access upon our departure and they refused to allow that access based on they're count of number of watchers in the room at the time. I contend that the Republican poll watchers were understaffed in the TCF Center poll room.

Dated: November 7, 2020



Gina Paschke

Subscribed and sworn to before me on: 11/7/2020

/s/   
 Notary public, State of Michigan, County of:

My commission expires:

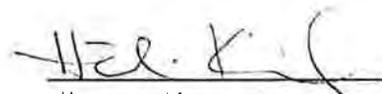


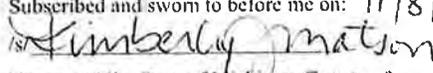
**AFFIDAVIT OF HEIDI KIILUNEN**

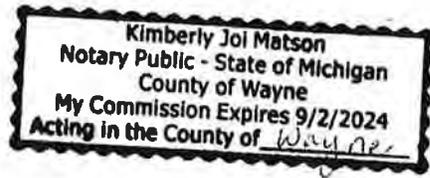
Heidi Kiilunen, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I went to the TCF Center in Detroit to be a GOP poll challenger. I arrived at approximately 11:30am.
4. I reported to the GOP room to obtain my credentials.
5. I entered the Center where the counting was occurring. I observed GOP poll challengers being escorted out of the room to the cheers and clapping of all the poll workers.
6. I was only in the room 2 hours.
7. When I left, I inquired as to signing out and was told we I not need to sign out and to exit through a side door. This prevented replacement workers due to there being no record of the number of GOP poll challengers signed in versus the number of GOP poll challengers signed out.

Dated: November 8, 2020

  
 Heidi Kiilunen  
 Heidi Kiilunen

Subscribed and sworn to before me on: 11/8/2020  
 by   
 Notary public, State of Michigan, County of:  
 Kimberly J. Matson  
 My commission expires:  
 9/2/2024



State of Michigan  
Affidavit

My name is Hima Kolanagireddy. I am a Michigan voter and am serving as a poll challenger at ACVB @ Cobo Hall. I witnessed a ballot duplication at counting board #51. I asked the supervisor if there is a Republican present during the duplication process and he refused to answer and the two Democrats tried to argue with me.

I am a registered Michigan voter living @ 18152 Shagbark Drive, Northville, MI 48168.

Signed by: Hima Kolanagireddy Print name: Hima Kolanagireddy  
Date: 11/03/20

Susan L. Mills, Notary Public  
Susan L. Mills  
expires: October 27, 2025

**AFFIDAVIT OF HOLLY SPALDING**

Holly Spalding, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was credentialed as a GOP poll watcher for the November 3 and November 4, 2020.
4. I was a poll challenger in Milford at precinct 2 from 7am to 1pm on November 3, 2020.
5. I then went to the TCF Center in Detroit.
6. While at the TCF Center, I observed several violations of voting law.
7. I observed the counting board for precinct 29. I observed a “spoiled” ballot that should have stayed at the clerk’s office at the precinct. The poll workers attempted to process this ballot, but the supervisor saw that it was spoiled and put it in the problem bin.
8. I observed that the ballot numbers were not being verified with the E-poll. I asked the supervisor why the correct procedure was not being followed and the supervisor stated that they were “not following that procedure this year”. This procedure was violated on all the ballots at this table from 10:30pm to 5am. I did go to lunch from 1:00 to 1:45, otherwise I can confirm that the procedure was not followed.
9. While I was at lunch, votes were tabulated so I was not able to observe the tabulation.
10. I observed ballots that should have been duplicated due to being torn, stained or damaged. A supervisor instructed the workers to run damaged ballots through the tabulator and only to duplicate rejected ballots.
11. I observed ballots numbers that did not match from the outside of the envelope with the ballot number on the inside envelope. I observe the poll worker cover the number on

the outside envelope with white post it tape and re-write the number on the outside envelope to match the inside envelope. I observed this on several occasions.

12. At 2:00am on November 4, two groups of Democrat poll challengers came in, but they had no credentials, only BLM masks and other political message markings. I attempted to apprise them of the irregularities that I observed. They did not appear interested in my report; it was clear they were only there to observe me.
13. I observed a ballot that had a signature on the outside of the envelope, but did not have a signature on the inside envelope. So for one ballot there were 2 outside envelopes.
14. From approximately 4am on, a majority of the ballots that were being tabulated were not on the E-poll, but they were on the AV list. Earlier in the evening if a ballot was not on the E-poll, but was on the AV list, it would be noted on the E-poll message. Later however, as more and more ballots appeared, these ballots that were not listed on the E-poll, was not noted on the E-poll message. Thus they abandoned the recording of these ballots.
15. I observed ballots that had already been opened and then stored in a bin under the table to not be processed and merely stored for the next shift. I believe these ballots were supposed to go to a secure location.
16. I observed ballots processed that had already been opened at an earlier time.
17. I observed that the table behind me had two poll workers at the table. There was a third person at the table that had a patch identifying him as an Election Board Member. I understood this official to be a supervisor of many tables. He was wearing black and white shirts with embroidered identification. The two workers at the table were not participating in any ballot processing. The third person scanned the ballots and put them

in piles. It is unclear what happened to these piles. Earlier in the evening, this table was processing ballots according to the processing procedure and had an observer. There was no observer when the supervisor was singly scanning ballots and putting them in piles.

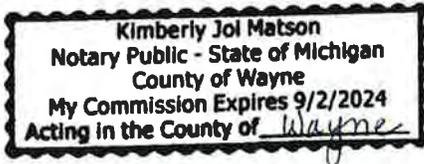
- 18. Later, I observed at this same table, a female with the embroidered credential, scanning ballots and putting them in piles, while the two poll workers sat at the table doing nothing. There was no observer.

Dated: November 8, 2020

*Holly Spalding*  
 Holly Spalding  
 Holly Spalding

Subscribed and sworn to before me on: *11/8/2020*  
*Kimberly Matson*  
 Notary public, State of Michigan, County of: *Wayne*  
 My commission expires:  
*9/2/2024*

*11/08/2020*



**AFFIDAVIT OF ILIE ANTONIE**

ILIE ANTONIE, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. AT TCF on Monday 6-8 pm, Tuesday from 6:00 am until Wednesday 2:00 am. Acting as a poll challenger. Submitted challenge reports at the TCF which will provide details.

**Incidents:**

Name on the envelop and the name on the poll sheet did not match more than once.

Persistent issue even after moving to alternate counting tables.

Scanning envelope number also did not match per observations on the screen

Moved to the adjuster area, supposed to both parties represented, many lacked a GOP representative. Observed ballot on screen if mismarked person determined voter intent.

Persistent hostility from workers.

Witnessed duplication with only 1 person, not both parties.

Dated: November 8, 2020

*ILIE ANTONIE*

*[Handwritten Signature]*

Printed Name:

*NOV 8 2020*

Subscribed and sworn to before me on:

*/s/ November 8, 2020*

Notary public, State of Michigan, County of:

My commission expires: *07-22-2026*

*Margaret Lear Erle*

**MARGARET LEAR ERLE**  
**Notary Public, State of Michigan**  
County of Wayne

My Commission Expires **07-22-2026**  
Acting in the County of *Wayne*

### AFFIDAVIT OF JACQUELINE ZAPLITNY

Jacqueline Zaplitny, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was credentialed as a Ballot Box Inspector and a poll challenger. I was assigned to Precinct 205 at Mason Elementary School in Detroit as the Ballot Box Inspector.
4. I arrived at approximately 5:45 am on November 3, 2020.
5. I observed multiple voters inquire about straight party voting. The Precinct Chairperson instructed these voters on how to vote straight ticket Democrat, but did not mention straight ticket Republican and directed the voters to the Democratic straight ticket box on the ballot.
6. I attempted to intervene, however it was clear that the Precinct Chairperson was directing the voters to the straight ticket Democrat option.
7. At the end of the voting, I printed out the tabulator tapes. I attempted to electronically send the tabulator record to 2 locations, the Department of Elections and Wayne County.
8. The electronic record was successfully sent to the Department of Elections.
9. The electronic record to Wayne County was unsuccessful and I received a message “unable to connect to server”. The Precinct co-chair instructed me to resend the electronic record, but the same “unable to connect to server” message was received again. It is unclear if the records were ever received or if they were duplicated.

10. It is unclear how many votes were recorded from this precinct that day, but I can attest that there were only 111 ballots processed.
11. There were 7 voters that appeared to vote in person even though they had requested absentee ballots. These voters were permitted to vote in person. I called the Department of Elections to report this, it is unclear if these absentee ballots were spoiled.
12. I left the precinct at 9:30pm and went to the TCF Center in Detroit as a poll challenger.
13. I was told to observe the computers that were identifying ballots that showed "error". I was told to view the people that were "determining the intent of the voter". There were multiple ballots that were "corrected" on ballots that should have been overvoted and not counted.
14. I tried to determine the identity or party affiliation of the people changing the votes on these ballots. I was told I could not speak with them. They wore no credentials or any identifying badges.
15. When I spoke to a supervisor about my concerns, I was summarily dismissed and the supervisor motioned me to stand back. She then stood in front of me, blocking me from further observation and unable to hear what she was saying to the people changing the ballots.
16. This occurred on several occasions.
17. I was able to observe closely for only a couple of minutes. An AP reporter then took my photograph and confirmed that I was with the GOP. I was then asked to leave the area.
18. A Democratic poll challenger then approached me and told me I could not observe this process or speak with the poll workers changing the votes.

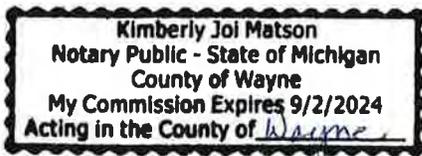
- 19. I observed many counting boards throughout the evening. There did not seem to be any uniformity amongst the poll workers as to how they were processing the ballots. There did not appear to be any compliance with ballot verification.
- 20. I experienced intimidation by poll workers wearing BLM face masks and another man of intimidating size with a BLM shirt on, very closely following challengers, including myself, even though there was supposed to be social distancing going on.
- 21. At 2:30am November 4, 2020, all of the ballots appeared to have been processed. There were no ballots on counting board tables and no more ballots appeared to be in circulation. I asked if counting was concluded. The supervisor then stated that a big door would open for a new delivery.
- 22. I then left the TCF Center.

Dated: November 8, 2020

*Jacqueline Zaplitny* 11/8/2020  
Jacqueline Zaplitny

Subscribed and sworn to before me on: 11/8/2020  
*Kimberly Matson*  
Notary public, State of Michigan, County of: *Wayne*  
My commission expires:  
*9/2/2024*

*JACQUELINE ZAPLITNY*  
*11/8/2020*



### AFFIDAVIT OF JAMES P. FREGO

JAMES P. FREGO, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I am an attorney, licensed to practice in the State of Michigan, with a valid and active Michigan Bar number of P55727. I am also admitted to practice in the Federal Court for the Eastern District of Michigan.
4. I was a credentialed Poll Challenger of the GOP for the 2020 election.
5. On November 4, 2020 I was called to Cobo Hall (TCF Center) to act as a challenger on behalf of the Republican Party, and arrived at approximately 2:30 p.m. I was to replace someone else who had been there since the early morning hours.
6. I was inside the Atrium of Cobo/TCF, and the doors were locked to the larger area of vote counting, where I was to report.
7. There were approximately 50 other people in the atrium area, all indicating they were credentialed poll challengers as well.
8. Uniformed Detroit Police Officers were being used as security for the room.
9. An individual stepped out and announced to the crowd that each political party had been allotted a certain number of "spots" as challengers, and both parties had met their maximum number. As a result, no persons would be allowed inside.

10. While this individual was speaking, a woman next to me yelled out "I was INSIDE, and when I briefly stepped out, you refused me re-entry!!". Another individual yelled out "I am an INDEPENDENT poll challenger, and you are not letting me in either!".
11. While we were in the Atrium area, people inside began taping cardboard and paper to the inside of the windows, which kept us all from seeing inside the room itself. These papers included used pizza boxes and anything they could find, which further agitated the crowd.
12. After they had opened the doors to let members of the Press Corps inside the counting room, and as the Police were closing the locking security door to that large counting room, I put my foot in the doorway, which kept it from closing. The officer asked me to remove it. I said "Sir, I will remove it as soon as you tell me HOW MANY challengers are inside". He insisted I remove my foot, and I insisted I would do it as soon as I was given an exact COUNT of the number of challengers inside the room itself.
13. The Officer trying to close the door insisted "Sir, the number of challengers are MAXED OUT in there". I persisted asking for a specific number before I removed my foot. Finally, he said to me in a frustrated tone: "I don't KNOW how many people challengers are in there", to which I replied "If you don't know the number, then you are NOT 'maxed out'".
14. At this point, an officer in charge pointed at me and indicated the other officers should pull me inside, which they did. Two police officers then escorted me across the counting area to a side hallway, where they handcuffed me and led me to the back of a patrol car.

- 15. After about 20 minutes in the back of the patrol car, I was driven approximately ¼ mile away to a staging area for the police, where I was issued a Misdemeanor Citation for Disturbing the Peace, and released to walk back to Cobo.
- 16. At no time did I swear at the officers, and up to this point had never been arrested in my life (I am 57 years old).
- 17. I was consistently respectful, but insistent on receiving information, as I was acting in my Official Capacity as a Poll Challenger, and an Officer of the Court in the State of Michigan.

Dated: November 7, 2020



James P. Frego

Subscribed and sworn to before me on:

/s/ Leslie M Persin

Notary public, State of Michigan, County of:

My commission expires: 9-9-2026

<p>LESLIE M PERSIN          Notary Public, State of Michigan          County of Oakland          My Commission Expires Sep. 09, 2026          Acting in the County of <u>Wayne</u></p>
--

## State of Michigan

JEAN KORDENBROCK

## Affidavit

1. I, JEAN KORDENBROCK, AM A Michigan voter registered at 2520 Lake Lansing, Apt. 5, Lansing Michigan.
2. I have been serving on Nov. 3, 2020 as an attorney for the Trump for President Campaign Committee and the Michigan Republican Party at the TCF Center, Detroit Concess.
3. At approximately 12:30 p.m. I observed a ballot being duplicated at ANCB 47 (IC #10) and I approached the supervisor. I asked him "Is there a Republican present to witness this duplication?" He answered, "I have no idea." The inspectors continued reproducing the duplicate ballot.
4. I have witnessed this since approximately 8:00 am, and multiple poll challengers have indicated they have witnessed duplicate ballots being prepared without a

# Republican Party

signed: Jean E. Kordenbeck JEAN KORDENBECK

date: 11/3/2020 FRANKLIN

Susan L. Mills, Notary Public

Susan L. Mills

exp. October 27, 2025

I have been serving on the Executive Committee of the Republican Party of Franklin County since 2012. I am pleased to have been elected to the position of Secretary of the Republican Party of Franklin County for the term ending on 11/3/2020.

I am pleased to have been elected to the position of Secretary of the Republican Party of Franklin County for the term ending on 11/3/2020. I have been serving on the Executive Committee of the Republican Party of Franklin County since 2012. I am pleased to have been elected to the position of Secretary of the Republican Party of Franklin County for the term ending on 11/3/2020.

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AFFIDAVIT OF  
JEFFREY A. GORMAN

JEFFREY A. GORMAN, BEING  
SWORN, DECLARES UNDER PENALTY  
OF PERJURY:

1. I AM PERSONALLY FAMILIAR WITH  
THE FACTS STATED IN THIS  
AFFIDAVIT AND, IF SWORN AS  
A WITNESS, AM COMPETENT TO  
TESTIFY TO THEM AS WELL

2. I AM A REGISTERED VOTER IN  
THE STATE OF MICHIGAN.

3. I WAS ON FACEBOOK AND OBSERVED  
THAT FRIENDS REGARDING CALL AFTER  
ELECTION <sup>WERE</sup> LOOKING FOR VOLUNTEERS.  
I AGREED TO VOLUNTEER

4. I WENT TO THE TCF CENTER ON  
WEDNESDAY, NOVEMBER 4, 2020 AT  
12:30 PM

5. THERE WAS ABOUT A TEN MINUTE INSTRUCTION GIVEN FOR ALL VOLUNTEERS:

- 1) THERE HAD TO BE A REGISTERED VOTER IN EITHER THE ELECTRONIC BOOK OR WRITTEN BOOK, IF NOT CHALLENGE IT; AND
- 2) IF THERE WERE DUPLICATE BALLOTS OR XEROX'D / COPIED BALLOTS (i.e., IF MILITARY FAX VERSION), THERE MUST BE TWO PAID WITNESSES (DEMOCRAT AND REPUBLICAN), IF NOT CHALLENGE IT.

6. I TRIED TO ENTER AROUND 2:00 PM / 2:30 PM. I WAS IN THE SECOND GROUP OF ABOUT TEN PEOPLE.

7. I KNEW THAT PEOPLE HAD LEFT, BUT THEY WOULD NOT LET REPLACEMENT POLL CHALLENGERS IN.

8. THAT OUR GROUP WAS TOLD THAT IT WAS DUE TO COVID-19 WHY PEOPLE WERE NOT BEING LET IN. THIS WAS TOLD BY THE PEOPLE AT THE DOOR.

9. THERE WAS A REPRESENTATIVE THAT IDENTIFIED HIMSELF AS A HEALTH OFFICIAL AND SAID NO ONE COULD GO IN DUE TO COVID-19 RESTRICTIONS.

10. I FINALLY SIGNED IN AT 6:06 PM ON NOVEMBER 4, 2020 TO GO IN. I WAS PUT IN BOOK 1.

11. I WAS AT TCF CENTER UNTIL APPROXIMATELY 8:30 PM ON NOVEMBER 4, 2020.

12. I WAS WORKING BETWEEN TWO (2) TABLES.

13. I WOULD FOLLOW THE MILITARY BALLOTS TO THE TABLE AND WATCHED HOW IT WAS PROCESSED.

14. AT BOTH TABLES I OBSERVED NO WITNESSES AS REQUIRED.

15. I CHALLENGED THE FIRST BATCH OF BALLOTS AND THEN MORE BALLOTS CAME TO THE SECOND TABLE.

16. THERE WAS A FEMALE AT THE SECOND TABLE AND WHEN I QUESTIONED THE WITNESS ISSUE, SHE STATED SHE DID NOT KNOW WHAT THEIR AFFILIATION WAS AND I SHOULD GO ASK

17. BASED UPON THE REQUEST, I WENT TO ASK THE AFFILIATION OF THE ONE WOMAN CLAIMING TO BE A WITNESS AND SHE WOULD NOT TELL ME.

18. I THEN SPOKE TO A WOMAN IDENTIFIED AS A DEMOCRAT LAWYER AND TOLD ME THAT I DID NOT KNOW WHAT I WAS TALKING ABOUT WHEN I QUESTIONED THE BALLOTS. THIS WOMAN REFUSED TO GIVE ME HER NAME.

19. I HAD CHALLENGED THE FIRST BATCH OF ABOUT TWO TO THREE BALLOTS AS WELL AS CHALLENGED THE SECOND BATCH OF ABOUT SIX TO EIGHT BALLOTS THESE WERE ALL MILITARY ABSENTEE BALLOTS.

20. I HAD FILED AN INCIDENT REPORT IMMEDIATELY FOLLOWING MY TIME ON THE FLOOR, WHICH WAS AROUND 8:30 P.M.

21. WHILE I WAS CHALLENGING BALLOTS, I OBSERVED BALLOTS BEING BROUGHT BY A SUPERVISOR.

22. AFTER THE SUPERVISOR BROUGHT THESE BALLOTS OVER, A RED FLAG WAS RAISED DUE TO THE ISSUES WITH THE BALLOTS.

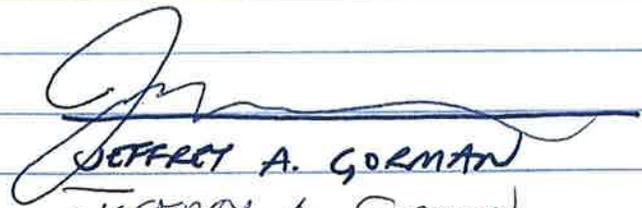
23. THEREAFTER, A WOMAN CAME IN FROM SOME OTHER LOCATION AND TOLD THE DATA WORKER, "I MADE SURE THEY WERE REGISTERED" EVEN THOUGH THE NAMES WERE NOT IN EITHER ELECTRONIC OR WRITTEN BOOK.

24. I THEN OBSERVED THEY WERE INPUTTING IN THE SYSTEM THESE NAMES AS REGISTERED (ALTHOUGH NOT IN EITHER ELECTRONIC OR WRITTEN BOOK) OR AS APPEARED ON THE PAPERWORK FOR THE BALLOT.

25. THESE AFOREMENTIONED ACTIONS WERE AGAINST THE RULES.

26. ADDITIONALLY, THEY WERE INPUTTING FICTITIOUS BIRTH DATES WITH THE NAMES ON THE PAPERWORK FOR THE BALLOT AND I OBSERVED THIS OCCUR.

DATED: NOVEMBER 8, 2020

  
JEFFREY A. GORMAN  
JEFFREY A. GORMAN

SUBSCRIBED AND SWORN TO  
BEFORE ME ON: 11/8/2020

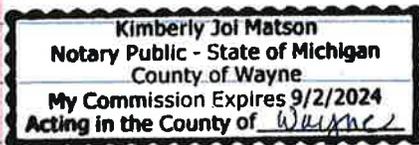
NOTARY PUBLIC, Kimberly J. Matson

STATE OF MICHIGAN;

COUNTY OF Wayne

MY COMMISSION EXPIRES: 9/2/2024

ACTING IN THE COUNTY OF: Wayne

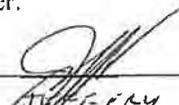


**AFFIDAVIT OF JEFFERY MOSS**

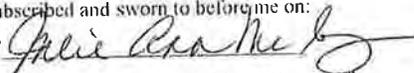
Jeffery Moss, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Monday November 2, 2020 from 10:00am to 8:00pm I was a Republican challenger at the TCF Center in Detroit, Michigan. I was a challenger at Table 68. I was told by election workers to back away from the table and stay six feet away from the table. I was able to move closer at times, but was told to stay six feet away.
4. On Tuesday November 3, 2020 from 10:00pm to 5:00am on Wednesday November 4, 2020 I was a Republican Challenger at the TCF Center in Detroit, Michigan. I observed a group of men walking around and intimidating Republican challengers and observers.
5. At approximately 4:00am on Wednesday November 4, I overheard that there only 16,000 outstanding ballots to count at the TCF Center.

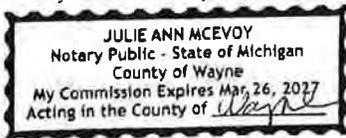
Dated: November 8, 2020

  
 \_\_\_\_\_  
 JEFFERY MOSS  
 [Print name]

Subscribed and sworn to before me on:

/s/   
 Notary public, State of Michigan, County of:

My commission expires:



I am a registered voter at this address in Michigan - 22453 Maple Avenue Farmington, MI 48336

I am working as an official election challenger approved by the Michigan Republican Party at the TCF Center in Detroit.

Today, November 3, 2020, I witnessed a duplication of a voter ballot in ICC #6, AVCB #26 at 1455 hrs without a Republican present. I asked if the table had requested Republican witness and they answered "no". The reason given for duplicate ballot was that it was returned from the scanner as being unreadable. The ballot number from the new ballot was 02038, and the number had already been removed from the old ballot. I was only able to witness the non-partisan side duplication.

Susan L. Mills  
SUSAN L. MILLS  
Notary Public  
Exp. October 27, 2025

Respectfully,  
Jennifer L. Seidl  
Jennifer L. Seidl  
22453 Maple Avenue  
Farmington, MI 48336

State of New Jersey )  
County of Monmouth ) ss:

John M. Downing, Jr. being duly sworn, deposes and says:

1. I am a volunteer with Lawyers for Trump. I was in Detroit on November 3 and 4, 2020. I called about 60 volunteer poll challengers on November 4, 2020 to ask them to go to Cobo Convention Center to act as vote-count watchers, known as "poll challengers."

2. At about 2:30 p.m. Eric Torrison, another Republican volunteer and I went to Cobo Convention Hall because one of the poll challengers, Karen, had called me several times from 10:30 am to 2:00 p.m. to say that about 20 poll challengers were on the rooftop waiting go in, but were being denied access to the building. Karen was upset. They were all on the roof top parking deck (where they parked because there was free parking) of the Convention Center, and were not being allowed into the building.

3. At 3:20 pm on Nov. 4, 2020 Mr. Torrison and I went to the rooftop of the Convention Center via elevator that was manned by a security guard on the main floor. There were at least 19 Republican challengers waiting on the roof and asking to be let in to the building.

4. I spoke to a security guard, Daniel Sims, who was guarding the door.

5. I asked Mr. Sims three times to allow the people on the roof in. Each time he refused. I video-taped the requests in a 10- minute video that I have on my cell phone.

6. Mr. Sims said that he could not let the volunteers in because his bosses had told him that they could not come in due to "Covid regulations." I asked what Covid regulations, and he said "no comment."

7. The people on the roof all wore masks and all said that they had no symptoms and had not been near anyone with Covid symptoms in the past several days.

8. I suggested to Mr. Sims that if Covid restrictions were the reason that the Republicans were not allowed in, then Mr. Sims should allow Republicans in alternately with Democrats coming out. Mr. Sims did not respond to this request.

9. Mr. Sims said that he was instructed by his supervisors, the Cobo Convention Center general manager, Claude Molinari, and building public safety manger, Bruce Smith, that he was not to allow people in because of Covid restrictions.

10. We went to the main floor and asked security guard Bridgit Sewell if we could see Mr. Molinari. She called Mr. Molinari's assistant, Ms. Leece, who told Ms. Sewell that Mr. Molinari was not available. Officer Sewell called Mr. Smith. In about 30 minutes Mr. Smith arrived on a Segway machine.

11. When we asked to Mr. Smith why the people on the roof were not being admitted. Mr. Smith first said they were not allowed in because they did not use the Level A, Washington Street basement parking garage. He provided no reason why they should use the basement parking garage. Neither Mr. Smith nor Mr. Sims had tried to re-direct the people to the Level A, Washington Street parking area, despite the volunteers' repeated requests to come in from 10:30 to about 3:21 p.m.

12. We asked Mr. Smith whether the people on the rooftop would be admitted to the building if they used the Washington Street entrance. He said they would be let in.

13. Mr. Smith did not say anything about any Covid restrictions, as Mr. Sims kept repeating to the people on the roof from about 10:30 a.m to 3:21 p.m.

14. Mr. Torrison and I went to the Level A Parking garage through an elevator and spoke and spoke to security guard Mr. Bryce (a slim black male, about 30 years old, who had been there at about 3:15 pm).

15. Mr. Bryce said that no one was allowed in through the Garage A, Washington Street entrance. We said that Mr. Smith said they could enter through Garage A. Mr. Bryce then said that if Mr. Smith said it was OK, then it was OK with Mr. Bryce.

16. At about 4:45 Mr. Torrison and I returned to the rooftop to tell the volunteers on the roof that they should come in through the Garage A, Washington Street. But the volunteers were gone. Only two people were on the rooftop-- Officer Pryde, a black female officer and officer Van Sickle a white male officer who were then stationed on the rooftop. (They had not been there at 3:20 pm.)

17. Officer Pryde and Van Sickle were uncooperative and refused to tell us when the challengers had left the roof, despite our persistent questioning.

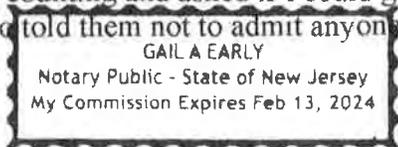
18. We spoke again to Daniel Sims to pinpoint exactly when the police arrived on the roof-top.

19. Officer Pryde said that it was actually Mr. Bruce Smith who locked the door to the roof.

20. At about 5:00 p.m on November 4, 2020 were told in the staging room that they were letting lawyers into the counting room via Garage A. We tried to find a garage but could not find it.

21. We returned to the main door of the counting room. Three or four heavily armed Detroit police were guarding the front door. Approximately 4 large windows had cardboard on the inside of the windows to block the view into the counting room.

22. I advised the white female and two black males in heavily armed gear that I was an attorney and wanted to observe the counting and asked if I could go in. They refused. They said that it was that their sergeant who told them not to admit anyone.



*John M. Downing Jr.*  
John M. Downing, Jr.

*On 11/7/2020 JOHN M. DOWNING JR. appeared & PWORN to the document in my presence.*

**AFFIDAVIT OF JOYCE SANKEY**

Joyce Sankey, being sworn, declares under penalty of perjury:

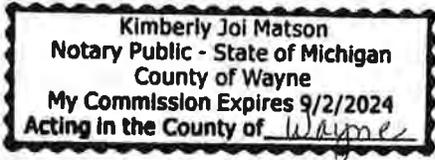
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I went to TCF Center in Detroit, MI at approximately 1:30 pm on November 4, 2020.
4. I was directed to room 260 to get trained to be a poll challenger.
5. I was denied access to the room where the votes being counted.
6. I was denied access for 5 hours.
7. I observed that as a group of GOP observers would approach the room, the doors were closed and access was denied.
8. I observed Democratic observers approach the room and permitted access.
9. The GOP observers were forced to wait in room 260 up the stairs from the room far from the room where the votes were being counted.
10. The Democratic observers were allowed to remain at a table just outside the room where the votes were being counted.
11. At 4:00pm, I was informed to take off the green band that identified me as a GOP observer because those of us with the green bands were being harrassed. I was also told the Democratic challengers were putting on green bands posing as GOP.
12. I was informed that the only way I would get in to observe would be as an "independent".
13. I never gained access.

14. A "health inspector" claimed the room was at capacity. This was disputed and that is when the people inside blocked the windows.

Dated: November 8, 2020

*Joyce M. Sankey*  
Joyce M. Sankey  
Joyce Sankey 11/8/20

Subscribed and sworn to before me on: 11/8/2020  
*Kimberly J. Matson*  
Notary public, State of Michigan, County of: Wayne  
My commission expires:  
9/2/2024



**AFFIDAVIT OF KAREN OSTIN**

Karen Ostin, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 2, 2020 I was a challenger at the TCF Center in Detroit, Michigan for the Republican Party. I was there from 9:00am until 9:00pm.
4. I was at table 20 and challenged a ballot and was told the ballot number was all 0's and then ending with 212. Approximately fifteen minutes later I challenged another ballot and was given the same ballot number. The names on these two ballots were different. I was given no explanation for this duplicate number.
5. On Wednesday November 4, 2020 I returned to the TCF Center at approximately 11:00am. I was told, along with other Republican challengers, that we could not enter the counting room. The election workers stated that the room was full.
6. After being told the room was full, I observed people leaving the room. When asked about this, election workers would not explain why more Republican challengers

could not enter. The election workers would not show us the sign-in book to be able to determine how many Republican challengers were in the counting room.

7. I stayed at TCF Center from until 3:00pm on November 4, 2020 and was never allowed to enter the counting room.

Dated: November 8, 2020



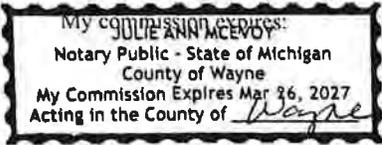
[Print name]

KAREN OSTIN

Subscribed and sworn to before me on:

/s/ *Jessica M. G.* 11-8-2020

Notary public, State of Michigan, County of:



**AFFIDAVIT OF Kathleen Daavettila**

I, Kathleen Daavettila , being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On September 23, 2020 my husband and I filled out and sent in applications to work in the Detroit election for the November 3, 2020 presidential election. On the application we specified that we are not flexible to work at any polling site and would like to work at the TCF center absentee voter count board.

On October 1, 2020 both my husband and I received a voicemail from Will Griffin at the City of Detroit Elections Department, calling to let us know that our training was scheduled for October 6, 2020 at 1:30pm, and that the location of the training was the northwest Wayne County Community College Campus located at 8200 West Outer Drive, Southfield, MI and that I would be in room 101G.

On October 1, 2020 I arrived for the training at said location. Upon arrival I was told that the training was moved to a different building, which it was. When I got to the training location, I was asked where I was told to go, and I told them room 101G, so I was sent to the coordinating room at the new location. At the introduction of the training the instructor informed us that we will be working as Electronic Poll Inspectors. I raised my hand, and I asked, "What about absentee ballot counting at the TCF center, that is what I signed up for." The instructor then told me that they needed 1,100 people to work at the absentee counting board TCF center and they filled them right away, so there is no need for them right now. But that I could call 313-876-0227 and tell them when I signed up and ask where I am on the list. After this I left the training. As soon as I got out to my car, I called the number, and it rang and rang and

rang with no answer. I called multiple more times that day, and the next day, each time with no answer, and no going to voicemail.

On Wednesday November 4, 2020 my husband and I went down to the TCF absentee counter board in response to the call for more Republican poll watchers/challengers. After getting our credentials we went into the absentee counter board room. The room was larger than a football field with people everywhere. While I was in line in to check-in in the counting room, I started talking to someone in a group that was wearing our yellow GOP wristband. They had a packet of instructions with the heading relating to, "Tactics to Distract GOP Challengers", which he let me borrow to read, unfortunately I didn't get time to read anything else on it. Another man in the group started telling me, "our main job is to distract and disrupt the GOP challengers," then a woman in the group grabbed the packet of papers from my hands and said, "no, no, no, she's a republican, she doesn't need that, bye, bye."

When we checked in, we had to write our party affiliation, our name, and the time that we checked in, looking at the sign in sheet, there were over 10 times the amount of democrats than there were republicans (this was verified as we checked out later, when the person working at the table had to flip through many pages to find my name to check me out.)

The atmosphere in the room was very hostile towards me. Numerous times I had poll workers and democrat challengers screaming at me, if I took a step closer to the table to get a better view of the ballot, if another republican walked by the table or stopped to ask me a question, if my mask started to slip and show the top part of my nostril, multiple times I was told I was going to get kicked out if any of those things happened again. At one point when I was challenging a ballot where the ballot number in the computer did not match the ballot number on the ballot and envelope, the poll worker did not write that I challenged the ballot in the remarks, so I kindly asked if they needed to write my name that I challenged the ballot, as they had previously. When I

asked, about 4 or 5 democrats that happened to be right next to the table (remember I was hollered at if even one other republican even walked close to the table while I was standing next to it) started screaming at me that I am not allowed to talk to the workers at the table. A couple of minutes later a male supervisor came to our table and started hollering at me that I am not allowed to talk to the workers or interfere with the process, and that I am going to be kicked out if I do that again. I kindly apologized to him and I did not say a single word nor even make eye contact with anyone at the table for the remainder of the time that I was there.

On the contrary, multiple other democrats stopped to visit with the democrat challenger at the table, one even stood right next to her as they both watched the screen together and talked about the ballot. Nothing was said by ANYONE to them about having more than one democrat at the table. I did not say anything as I did not feel safe to (I am a small (5'3" 130lb) pregnant white woman), for fear of getting screamed and hollered at if I opened my mouth. Also, about a half an hour after the supervisor stopped to holler at me about saying something to the table worker, both the "non-partisan" and democrat challengers huddled next to the worker at the computer who was scanning the ballots, and talked to them for at least a minute. Again, I did not say anything for fear of being screamed at.

I found it interesting that every ballot that I challenged where the computer ballot number and the ballot and envelope number did not match up, the partisan challenger nor the democrat challenger ever challenged the ballot.

Each ballot that I challenged, a remark was noted in the computer that the numbers did not match up, and then the ballot was processed anyway.

Also, the entire time that I was at the TCF center, I did not see a single signature verified by any registration document.

Around 3pm more and more police officers started to show up. Around this time the doors

to the room were closed and they would not let anyone else into the room, and the windows into the room started getting covered with cardboard and paper. It was also around this time that the GOP issued a lawsuit to stop counting ballots. It started to feel more unsafe in the room, people started chanting, "stop the count!" while others chanted, "keep the count!". They continued to count ballots, I let the supervisor know that every ballot counted past the time of the lawsuit I am challenging. The supervisor said that after the process all of the ballots, they will make a blanket remark stating that all ballots after that time are being challenged.

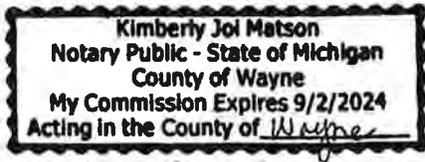
I was not treated with respect by a single person that I had interaction with (whether I wanted that interaction or not, with random democrat challengers hollering at me) except for one male supervisor, that I spoke with when I was challenging every ballot after the lawsuit was filed.

Let it be known, that I did not respond to a single person who hollered or screamed at me except for when I kindly apologized to the supervisor after I had spoken to the poll worker who had not written that I challenged the ballot.

Between 3pm and 3:57pm I witnessed three white males being thrown out by the police (all on separate occasions,) each time it happened, the entire room burst out into cheering and clapping. The outbursts that I heard around me when this happened was, "must be a Trump supporter!"

My husband and I checked out at 3:57pm, as I was in fear of safety for myself and my unborn baby. We wanted to leave before the hostility escalated any further. After we checking out, we had to leave through a back exit, directed by police.

Dated: November 8, 2020



Kathleen Daavettila 11/8/20  
Kathleen Daavettila

906 281-1635

Subscribed and sworn to before me on: 11/8/2020

by Kimberly Matson

Notary public, State of Michigan, County of:

My commission expires:

9/2/2024

PHONE:

NAME:

KIM TOCCO

ISSUE:

- Was a Poll Challenger at TCF on Wed. 11/4 from 9am - @ 3pm
- Significant intimidation by Poll Worker
  - insults, political bias comments, intimidation when Kim approached the table to survey
  - Poll worker verbally combative and (ie profanity) open admitted she would be "sneaky".

1.) To resolve she spoke w/ 1 female Dept. of Election Supervisor and she advised that everyone had to be respectful of the poll workers and blew the incident off

- Intimidation continued

2.) A second DOE Supervisor was approached and advised of the intimidation + harassment and he also repeated the importance of everyone being respectful. He advised someone was ~~being~~ talking to the poll worker about it. Kim witnessed laughter between the two.

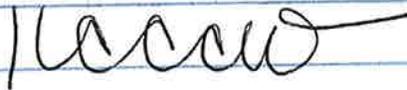


\* See Wynetta for any add'l details.

Poll worker continued to intimidate, harass, curse, etc. until she took a break. Upon her return she stared at Kim with ~~the~~ disdainful looks. She didn't speak to Kim any further.

- Kim then went to leave and ~~realized~~ assuming add'l GOP challengers would be coming in.

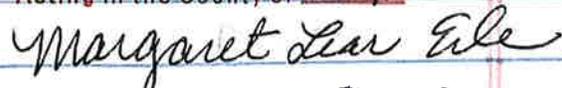
Same table - DOE Supervisor and a unidentified poll challenger questioned Kim ~~multiple~~ times on what she was doing there, grilling her w/ questions.



KIM TOCCO

11-8-2020

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne

  
November 8, 2020

AFFIDAVIT OF [insert name] <sup>W</sup> Kimberly Valice

Kimberly Valice, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. See Below

Dated: November 7, 2020

[signature] *Kimberly Valice*  
Kimberly Valice

Subscribed and sworn to before me on: 11/7/2020

*[Signature]*  
 Notary public, State of Michigan, County of Wayne  
 Patricia G. Groezinger  
 My Commission Expires 04/12/2023  
 Acting in the County of Wayne

1. On November 4, 2020 at TCF Convention Center, Detroit, I was assigned to observe two tables, table 111 and 113. The monitors weren't on and the ballots weren't at the tables, poll workers were sitting at their tables reading, napping and just waiting in their seats. At one point, an announcement came on asking pollsters who were counting ballots to raise their red flag, in the entire room of hundreds of pollster tables, I only saw three flags raise and they weren't at the tables I was assigned to. The table next to my assigned table that didn't raise a flag had a group of young men at it and on the table was a green sign marked as 11. On occasion, my friend and I would catch these men looking up at us and stopping what they were doing if they saw us watching them. We would randomly see them shuffling through what we assumed to be a list of names and stack of ballots that they kept in front of them. They two young men looked suspicious because they kept looking our way. The monitors weren't on for us to observe. I went to bring this attention to the attention of a Supervisor. The Supervisor told us they were just prepping before the count began and that it was okay.
2. About two hours later, after standing around waiting for the observation, we noticed the men were passing a stack of the orangey-yellow ballot envelopes over to the pollster's table lead. The lead then passed the stack on to a woman who took them and walked off. At this point we had been briefed that we could challenge things because of pending litigation. When I challenged the person walking with the ballots, she ignored my request to challenge her and kept walking. I called over a supervisor. At that moment a Civil Rights person came over and said I have no right to challenge and asked on what basis I was challenging. I explained that it was allowed and he said I was wrong, meanwhile the ballots were walked

off to the podium - unobserved. I was told we couldn't do a thing about it other than write it down on a piece of paper.

**AFFIDAVIT OF Linda Cavaliere**

Linda Cavaliere, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Wednesday, November 4<sup>th</sup>, I arrived at 11:30 am to work as a Republican Poll approximately 50 people that were being instruction on being a Poll Challenger. The last direction given by the leader “was to make sure the Republicans were following the rules and not nit picking, harassing and interrogating us” I soon realized that “us” were the DEMOCRATS. They were all escorted in freely without any inference. I was told to report to room 260, which was located on the other side of the building. Nowhere near the auditorium where the ballots were being counted. Upon arriving to room 260, I was given instruction again in a very civilized manner. I waited about 30 minutes in room 260 with about another 50 Republican Poll Challengers. Our leader instructed us that we needed to wait to be called in because the room was at capacity. How could this be when I just witnessed at least 50 Democratic Poll Challengers go in without any hesitation??? This is when I took it upon myself to go down and attempt to get into the ballot area. I was allowed in. This is where I realized what was happening. I notified several leaders that there was many other GOP’s waiting to be admitted. I kept seeing more and more Democrat workers arrive. I felt outnumbered and intimidated. There were many more Democratic Poll Challengers in the arena than Republican Poll Challengers. I was assigned 2 stations to watch over. The stations were to have 5 Poll workers at each table, this was rarely the case. At times there was only 2 people there.

There were loose ballots everywhere, on tables even on the floor. No organization whatsoever. When I questioned this, I was basically shut down. I witnessed questionable ballots being entered, instead of being held for review. I tried to get a reporter to let me explain what I was seeing, but she told me that I needed to step aside. People from my party were being escorted out for no good reason, while the Democrats applauded and cheered. After 6 hours, I decided to leave. The environment was very unprofessional, unorganized and frankly very disappointing. I can honestly say that there was nothing right about what was going on there.

Dated: November 7, 2020

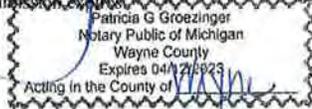


Subscribed and sworn to before me on:

/s/

Notary public, State of Michigan, County of:

My commission expires:



### AFFIDAVIT OF LINDA SAWYER

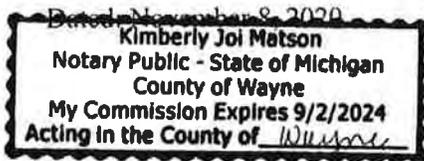
LINDA SAWYER being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. PRECINCT 144 operating as a poll challenger. Two poll workers were both democrats. As a challenger not 6' table to made to sit on a couch. Requested printout refused to provide.
4. Two voters in front of me did not surrender their absentee ballots. There were given regular ballots and not challenged ballots which I had questioned as I was surrendering mine. Only made to sign an affidavit.
5. Attended TCF from 10:00pm until approx. 6:00 am. Table challenger felt persistent intimidation by workers at counting table #123. Initially attempted to follow a ballot around table, supervisor restricted access and ordered you to occupy a distance space that obscured my ability to properly observe. A second election official kept stepping between me and the monitor to further obscure her ability to observe. Inspector #1 scanned label so quick I was unable to observe the numbers. Inspector #2 yelled at table #120 to not talk to me during a downtime, came to threatening removal.
6. At TCF table #118, single ballot returned to the table after processing, official examined ballot then placed it into a secrecy envelope in front of inspectors 3 & 4, until I left. #3 opened the secrecy envelops for processing. Then given to #4 to roll and flatten to be run through tabulator. This was an attempt to re-run this ballot. It should have been entered into the problem balloting for re-processing and I question why it was brought back to the table.

7. Also TCF counting #123 I challenged a name not on the supplemental list, table supervisor took the suppl list to the command center, came back a told me the particular voter had registered the day prior and I was told I could not challenge. I questioned that was the purpose of the supplemental list and she said they may still not show. I disagreed. She still refused my challenged.

8. Also TCF counting table #118, A bin of ballots that were never handed to Inspector #5 to tabulate they remained on the table for hours and not sent to tabulation. Still there when I left.

9. Also at TCF counting table # 123 I was observing counting table noticed box of ballots on table to be processed, left for 15 minutes upon return to table #123 notice the box of ballots were gone as well as inspector #4. Inspector 5 was still present who normally takes them to be tabulated. Went to tabulation 123 to look for inspector #4 with ballots, she was not present. Return to counting table #123 noticed earlier procedure had changed. Inspector #2 would remove ballot from secrecy envelope to verify the number, but now inspector #3 did the exact same thing and did not tear off the number, the ballot went to inspector #4 who did same thing as inspector #2, no one was visually removing ballot to process for tabulation. Ballots were stacked in their secrecy sleeves after inspector #4. Unsure of what happened to stacked ballots, as they could not be tabulated as stacked.



*Linda Sawyer*

LINDA SAWYER

702 449-5915

*Linda Sawyer*

*11.08.2020*

Subscribed and sworn to before me on: *11/8/2020*

/s/ *Kimberly J Matson*

Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*

**AFFIDAVIT OF MARK KERSTEIN**

MARK KERSTEIN, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan
3. ICC#23 Supervisors did not allow a challenge to open bin of approx. a dozen problem ballots and would not allow me to document any ballot numbers (AV-116. Ballots were not in EPollbook - I believe that is why they were putting them in the problem ballot bin. I was surrounded by 4-5 Dem challengers and intimidated when attempting to get the name of the supervisor who denied me the challenge. Supervisor refused to give him his name. Attempted to deflect him to a different person. That is when the D-challengers swarmed him. Supervisor then directed him to a female supervisor, who would not give him her name either and also refused to accept his challenge. D's were making a concerted effort to distract him and his fellow Republican challengers and fellow challengers were reporting the same thing.
4. At a separate table ICC#24, CB #25, I also saw two poll workers recording a duplicate ballot possibly without including a GOP counterpart. (Ballots I was able to notice #02168 and 02170)

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne

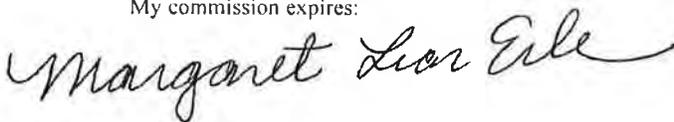


Mark KERSTEIN  
*Mark Kerstein*

Subscribed and sworn to before me on:  
1st 11-08-2020

Notary public, State of Michigan, County of:

My commission expires:



### AFFIDAVIT OF MARK MODLIN

Mark Modlin, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Tuesday November 3, 2020 I was a Republican challenger at the TCF Center in Detroit, Michigan.
4. While acting as a challenger, I observed a ballot that I wanted to challenge and told an election worker. The election worker told me not to talk to her and to get her supervisor. Her supervisor was not nearby. I wanted to ensure that I had the ballot number and information in order to challenge the ballot. I walked closer to the station the election worker as working at. At that time, a male election worker stepped in my way and physically blocked me. The male election worker pushed me backwards. This impeded by ability to observe and challenge. The ballot I wished to challenge was processed.
5. I then spoke to a supervisor about the challenging process. There was an option on the election computer system to “quarantine” ballots, but the supervisor told me that this

000234

option did not work. The supervisor told me there was no way to separate a challenged ballot and stop it from being processed.

- 6. The male election worker who physically blocked me was later assigned to walk around the room. He attempted to walk in front of me and block me view. He blocked the view of other challengers as well. This impeded by ability to properly observe and challenge. This election worker continued to attempt to block my view and others for approximately two hours until an announcement was made for election workers to not block the view of challengers.

Dated: November 8, 2020

*Mark Modlin*

[Print name] MARK MODLIN

Subscribed and sworn to before me on:

/s/ 11-08-2020

Notary public, State of Michigan, County of:

My commission expires: 07/22/2026

MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

*Margaret Lear Erle*

AFFIDAVIT OF Mercedes

Wirsing, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.

2. I am a registered voter in the State of Michigan.

When the GOP challenger left the counting board room I asked if my husband and I could replace them with the two GOP challengers by the outside door and the police officer said they were not letting GOP replace GOP despite numerous tables without GOP challengers. On Nov. 4th, there were more Democrat challengers in the counting board.

On Nov. 3rd the supervisor announced "Are there any Republican workers here working today?" I couldn't see anyone raise their hand. However the Supervisor (on stage) announced "We have two Republican workers here."

Then the next day I asked the table supervisor "Are there any Republican workers here at this table?" The table supervisor reported "I don't know their political party." I didn't see the ladies there in front of me they never reported. Then I said aloud "There should be one Republican worker at this table." One supervisor was very aggressive and hostile, would not let me get close enough to see ballots or monitor.

4 I witnessed numerous bins unsupervised and unlabeled even until 2:00 AM when we left. On Nov 3rd I witnessed opened ballot envelopes without sleeves.

Mercedes Wirsing

Printed Name:  
Mercedes Wirsing  
11-8-2020

Subscribed and sworn to before me on:  
/s/ \_\_\_\_\_  
Notary public, State of Michigan. County of:  
My commission expires:

000236

MERCEDES WIRSING

All of the military ballots were opened before they arrived at counting board. <sup>More than</sup> Several birthdates were listed as 1900. I asked the supervisor "Why 1900?" She said "it was because they were in the wrong precincts." At one point #46 monitor (at <sup>the</sup> table) showed the wrong time and some of dates of military citizens had the wrong birthdates 1900 and some had 1940 at table #3.

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne

Margaret Lear Erle

Mercedes Wirsing  
Mercedes Wirsing  
11-8-2020

Subscribed and sworn to before me on:  
1st November 8, 2020

Notary public, State of Michigan, County of:

My commission expires:  
07-22-2026

### AFFIDAVIT OF MICHAEL CASSIN

Michael Cassin, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was credentialed as an independent challenger at Cobo Hall on Wednesday, November 4.
4. I was outside the ballot counting door for approximately 4 to 5 hours, Wednesday afternoon. At one point during this time, I was told 10 people could get into the counting area. Nine were let in. The 10th person in line, Adam Chesney, said he was number 10 and was told by the gatekeeper: “[o]h, you’re a mathematician, and you’re not getting in”. The gatekeeper closed the door and refused access to Mr. Chesney.
5. I was later allowed into the counting area.
6. I made approximately 6 documented challenges. There was no Republican assisting with duplicating ballots. The poll workers would not accept any of these challenges and would not write them in the book. I asked a poll worker if there was a Republican available. The poll worker said they did not know. I said: “[d]you ask for one?” The poll worker said: “[n]o, you can ask if you want..” Because I didn’t want to be put into a compromising position and risk being ejected from the counting area, I said “[n]o, how about if you ask, I cannot ask.” I believe the poll worker was trying to get me kicked out from the counting area.

7. I observed poll workers entering birthdates of 1-1-1900 while manually entering voters into the system. The computer screen displayed a voter not in precinct alert. The poll worker entered the name anyway.
8. I believe none of my challenges were accepted while I was in the counting area.
9. I observed a Republican military ballot transfer. Poll workers refused to allow an Election Integrity Fund (EIF) challenger and me to view this transfer. All 5 poll workers were crowded around the ballot, blocking our access and refused the challenge. One of the poll workers, very irate, summoned the police to have the EIF challenger ejected. The officer said the EIF challenger was not doing anything wrong. I took the EIF challenger's place and the poll workers deliberately blocked me from viewing. Three poll workers, shoulder to shoulder, had their hands on the ballot at all times. I finally asked supervisor Yolanda to look at the ballot and transfer, and she grudgingly showed it to me.
10. Every time a challenger got ejected from the counting area (as a result of poll workers getting under the challenger's skin, for example), many poll workers cheered, waved, yelled obscenities, etc. Supervisors were waving a red flag as a taunting device and were extending the middle finger to these challengers who were being ejected. The

only challengers I witnessed getting ejected were Republicans and Independents.

Dated: November 8, 2020

*Michael J. Cassin* n.

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne

Michael J. Cassin

*Margaret Lear Erle*

MICHAEL CASSIN

Subscribed and sworn to before me on:  
/s/ November 8, 2020

*11/08/2020*

Notary public, State of Michigan, County of:  
My commission expires: 07-22-2026

**AFFIDAVIT OF MORDECHAI MANDELBAUM**

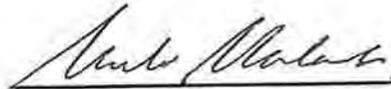
Mordy Mandelbaum, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a credentialed Republican challenger at Cobo Hall Tuesday night, November 3 and Wednesday, November 4.
4. I observed a poll worker completing a ballot without a spoiled ballot present. I asked: “[w]hat are you doing?” The poll worker did not respond.
5. I believe poll workers were duplicating ballots to incorrect precincts in order to run two ballots through for the same person. This was very common throughout the night. I observed this approximately 20-30 times at the table I was watching.
6. Duplicate of ballot #00239 at Table AVCB 8 ( ballot # 01570) was duplicated to the wrong ballot. The poll worker brought a precinct #6 ballot instead of the correct precinct. The new duplicate ballot was # 01571. Because of this suspected mismatch, I asked to see these ballots side by side and was denied access to view these ballots.

000241

- 7. I spoke to a fellow challenger, who overheard poll workers talking about ganging up on her by strongly discouraging her to challenge.
- 8. An absentee ballot challenger representing the Democratic party approached me and asked if I wanted her to relieve me since "we are here for the same job" and then proceeded to tell me that she was going to go back to watching me. I replied that we were here to watch the ballots and not the other challengers.

Dated: November 8, 2020



Mordechai Mandelbaum

Mordechai Manzelbaum

Subscribed and sworn to before me on: *November 8, 2020*

by: *Philip Needham*

Notary public, State of Michigan, County of: *Macomb*

My commission expires: *06/12/2026*

PHILIP NEEDHAM  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF MACOMB  
MY COMMISSION EXPIRES Jun 12, 2026  
ACTING IN COUNTY OF *WAYNE*

**Affidavit of Patricia Rose**

State of Michigan

County of Oakland

The undersigned, Patricia Rose, being duly sworn, hereby deposes and says:

1. I am over the age of 18, and am a resident and registered voter of the State of Michigan, and
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. On November 4<sup>th</sup>, 2020, in response to a request from the Michigan Republican Party, I, along with my husband, Gary T. Rose, volunteered to become Official Election Challengers at the TCF Center in Downtown Detroit to watch the process of handling and counting Absentee Voter Ballots in the 2020 Presidential Race.
4. While randomly observing the Tabulation area, where ballots from the various Precinct Pre-Processing Counting Boards were sent to be tallied, we noticed a female election worker feeding ballots in stacks of about 50, into one of the many Canon scanner tabulators in the area.
5. **The ballot stack she was feeding in kept getting jammed. Rather than stop and go seek the assistance of a supervisor or technical support person, she removed the remaining ballots in the in-feed tray, and kept taking the scanned ballots off the top feed and adding them back to the stack, reinserting the whole stack again, and scanning them in again.**
6. **That process happened 3 times in a row at that one scanner. My husband raised his hand at about the same time as I observed some other Challengers around me raising their hand as well.**
7. **No supervisor came to our aid. We observed her feeding in the same stack a fourth time.**
8. At that point, my husband and I walked down to the center of the long Tabulation area to an elevated platform where the supervisor was likely to be. We located the area supervisor and told him of the problem.
9. **He then summoned a "tech guy" who came and stood next to him. I started describing the problem to the tech guy who stopped me and said he couldn't talk to me. So, I turned a few degrees and addressed these concerns to the supervisor who then repeated those same concerns to the tech guy.**
10. The supervisor asked which tabulator was involved. We walked back down to the area and identified Tabulator ICC#8.
11. Many moments later, the tech guy opened up the top of her tabulator, apparently cleaned or adjusted some parts, closed the top and walked away, as did the Supervisor, with no more words to us. They just walked away.
12. After the batch was tallied by the tabulator, the scanned ballots were rubber banded together with an identifying sheet on the top of the stack and placed into a precinct steel box with a lid on top.
13. I asked the woman if I could have some identifying numbers for that batch because I was concerned about how many times that batch had been put through the tabulator. The numbers

000243

involved were: ICC#8, Batch #50 into Box 38. She showed me the identifying numbers. Then she placed the stack into the box.

14. I observed other batches being rerun at ICC#4: Batch#48, into Box#18; Also, at ICC#4, Batch #44 going into Box #18 and Batch#39 going into Box #18.
15. No technical or supervisory assistance was offered to the election worker at ICC#4, despite the fact that multiple batches had to be re-run through the tabulator.
16. While trying to observe the numbers attached to the batches at ICC#4, I asked the election worker is she could read the numbers to me. At that point, another election worker and 2 Democrat Challengers yelled that I cannot talk to the election worker. So, I took one step forward into the work space to collect the data I needed to identify the batches, the same 3 women pounced on me again verbally and said I was not allowed to get near the election worker either. At that point, other GOP Challengers surrounded me and informed me that I was within my rights to obtain that identifying data. I followed the rules by taking one step into the restricted area, and stepped back out all within one minute's time. I found the comments made by the other election worker and the Democratic challengers to be very hostile and threatening. They were speaking loudly and moving aggressively toward me. I believe they were trying to intimidate me, and mislead me into believing that I could not legally obtain this data. A GOP attorney came to my assistance and told me that I was allowed to do this and that I should fill out an incident report and file it with the Michigan GOP, which I did at about 2:30 pm and left at Room 260 upon my departure.
17. The reasons for re-running the batches of ballots through the tabulator remains unknown to me.
18. At around 2:30, I saw some police officers gathered in front of the entrance door, where other Election Challengers were attempting to get inside to observe the absentee ballot counting process, but they were not let in due to having reached excess capacity from a Covid-19 formula, we were told by police.
19. I asked the police captain that, if my husband and I were allowed to go out, whether they would allow 2 more GOP Challengers to come in, and he said no.
20. We waited until the commotion died down a little bit, signed out, and then left for return home.
21. Both my husband and I could not figure out why the Tabulator operators would rerun the entire batch if there was a jam, instead of immediately calling a technician or supervisor for assistance. They did not request assistance and did not receive any until I requested it for them.

Executed this 6<sup>th</sup> day of November, 2020.

By:   
 Patricia Rose *PS. Rose*  
 11/8/2020

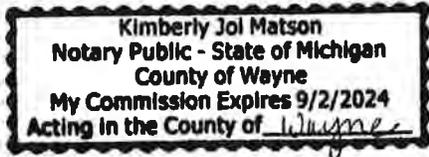
NOTARY ACKNOWLEDGEMENT

000244

State of Michigan

County of Wayne

Kimberly J. Matson 11/8/2020  
Notary Public



Kimberly J. Matson, Notary  
Title and Rank

My commission expires: 9/2/2024

**AFFIDAVIT OF PAULINE MONTIE**

Pauline Montie, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3, 2020 I was working as a poll challenger and was standing at a table in the room where ballots were being processed.
4. I was instructed that I needed to be back form the table at least 6 feet.
5. Each table had a computer monitor on the corner for poll challengers to watch.
6. Slowly the table workers kept moving the computer monitor further back away from the edge.
7. I told the table supervisor that I couldn't see the monitor from where it was sitting in its pushed back position.
8. The supervisor said, "too bad." She then informed me that I needed to get back 6 feet from the table.

Dated: November 8, 2020

*Pauline F Montie*

Pauline Montie

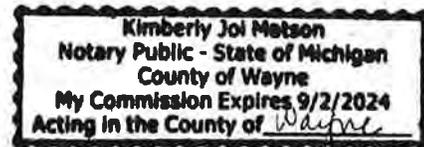
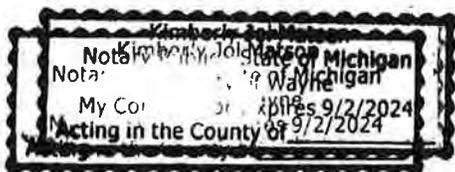
*Pauline F Montie*

Subscribed and sworn to before me on: *11/8/2020*

*Kimberly Matson*  
Notary public, State of Michigan, County of:

My commission expires:

*Kimberly J. Matson*



**AFFIDAVIT OF RICHARD B. ATKINS JR.**

RICHARD B. ATKINS JR, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. Attended TCF on 11/03/20 from 10:00 pm to 8:00 am. I submitted several written reports at the TCF center that will provide specific details. Collectively, main complaints include: Name on ballot envelope did not match name in poll book, I challenged and received push back from supervisor. Counting table #26 continued to aggressively obscure my view. Specifically seat #1 obscured his view by moving the ballot envelopes from where I could see them to in front of her body so that I could not see the names on them. Believed to be Table #122 Computer went down, but all 5 workers continued through opening ballots while the system was worked on. Continued to process with disregard for permitted process. Additional tried to observe the duplication process received push back consistently.

Dated: November 8, 2020

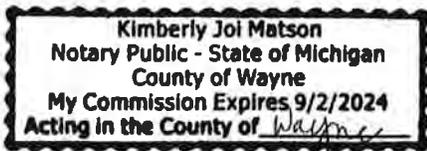
*RBA* 11-8-2020

RICHARD B. ATKINS JR  
*Richard B Atkins Jr,*

Subscribed and sworn to before me on: *11/8/2020*

*1st Kimberly Matson*  
Notary public, State of Michigan, County of: *Wayne*

My commission expires:  
*9/2/2024*



**AFFIDAVIT OF [Robert Zimmerman]**

[Robert Zimmerman], being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.

2. I am a registered voter in the State of Michigan.

3. I was a poll challenger on November 2<sup>nd</sup> and the 4<sup>th</sup> 2020 at Wayne county TCF center. Monday I was there from 3:15 pm till around 10:30 pm. I was an election worker on Tuesday the 3<sup>rd</sup> of November at precincts 360, 361, and 362. I was there from 8:15 am till around 9:30 pm.

4. The only things I felt or noticed wrong were at TCF. Thus, from here forward only deals with TCF.

5. I witnessed challengers being harassed to back away from the ballot counting tables because of covid reasons on Monday at TCF center.

6. I observed multiple spoiled ballots never seemed to get resolved.

7. Sticky notes were used in two different regards for procedures to flag the first ballot in a batch or to note discrepancies, which became confusing because they served two purposes.

8. On November 4<sup>th</sup> at TCF center as a poll challenger, I was denied access into the counting room for a reason that they were at capacity.

9. It was apparent to me that I was not allowed access so I left the immediate area on Wednesday.

10. I observed the windows were covered and people could not see through.

11. I personally believe there was more evidence that suggest that what people voted on did not match the voted count.

Dated: November 8, 2020



Robert Zimmerman

734-735-1101

Robzimfam@gmail.com

Subscribed and sworn to before me on: 11/8/2020

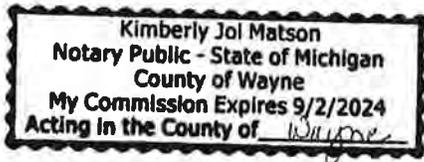
1st Kimberly Matson  
Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024

Robert F. Zimmerman

11/08/2020



**AFFIDAVIT OF RUTH LANGER**

RUTH LANGER being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. Attended TCF on Wednesday approx. 1:00 pm as a poll challenger. Observed Democratic challengers by credentials being allowed entry. Stood at entry door until approx. 4:00pm to be let in. Observed counting table inspectors sitting idle. Waited for another hour Followed ballots to the counting table. Observed several ballots on computer with birth years of 1900. Told she would be removed for too many challenges. Also observed a few military ballots that were opened prior to arriving at the counting table. Witnessed several challengers being escorted out with cheering. Consistently told to step back/ remained vigilant in spite of obviously hostility.

Dated: November 8, 2020

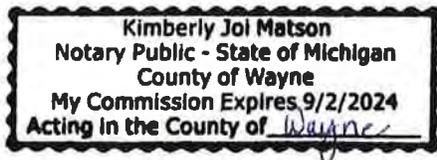
Ruth Langer

RUTH LANGER  
Ruth Langer  
586 441-8832  
Nov. 8, 2020

Subscribed and sworn to before me on: 11/8/2020

By Kimberly J. Matson  
Notary public, State of Michigan, County of: Wayne

My commission expires:  
9/2/2024



**AFFIDAVIT OF RYAN ARNOLDY**

RYAN ARNOLDY, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter and credentialed Poll Challenger in the State of Michigan.
3. On November 4, 2020, I arrived at the TCF Center in Detroit Michigan to volunteer as a Poll Challenger for the GOP. I was told that the Absentee Voter Counting Board was heavily populated by Democrat challengers and was in need of GOP challengers.
4. I arrived at approximately 5:00 p.m. As I approached the entrance to the Counting Hall there was a crowd of people outside who appeared to be waiting to enter but were being denied access by Detroit Police officers.
5. I walked up to the main entryway to the Counting Hall and showed my poll challenger credentials to the Police Officer at the entrance. He told me that only media was allowed in.
6. During the time I was there, from about 5:00 pm to 6:00 pm, I saw about 15-20 people exiting the Counting Hall and about 10 people entering the same Counting Hall while I was there waiting outside the door.
7. Of those people entering, some held cameras and appeared to be media, but others who were allowed entry did not have any visible sign that they were media, no credentials or badges around their necks that I could see.
8. My second attempt to gain entry was at about 5:30 pm and again I was told I was not allowed entry into the Counting Hall.

000251

- 9. I asked the Police Officer at the door why they were allowing the media in and why I was not allowed in as I have Poll Challenger credentials and the counting is continuing to go on. He again said only the media was allowed entry.
- 10. I asked him who had given him these instructions. The Police Officer replied that they were orders from above and that he, the Police Officer, was just there to enforce the orders from above.
- 11. At 6:00 pm I left TCF Hall wondering why they allowed the media in but barred Poll Challengers while the counting was continuing.

Dated: November 8, 2020

*Ryan Arnoldy*  
 Ryan Arnoldy  
 [Ryan Arnoldy]  
 11/8/2020

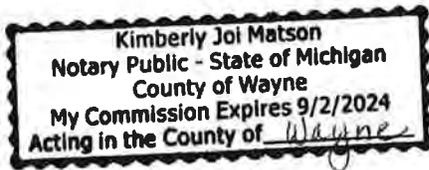
Subscribed and sworn to before me on: 11/8/2020

/s/ *Kimberly J. Matson*

Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*



**AFFIDAVIT OF:  
SAMUEL I HARRIS  
4391 Forest Ave., Waterford, MI 48328  
Ph# 248-819-9939**

Samuel I Harris, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. Description: Intimidation of MIGOP Poll Challengers, systemic suppression of GOP participation and ability to view ballots by multiple election workers and Supervisor David Nathan.

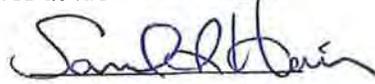
The 6' distance rule was applied to all GOP Poll Challengers, but relaxed for other party Poll Challengers. Additional issues and ballot duplication efforts were discussed in whispers between poll workers instead of sharing the information with all of those observing. Numerous issues that were identified: date of birth errors (multiple voter birth dates of Jan. 1, 1900, ballots not matching envelop numbers, voters not in the district, every military ballot was not duplicated.

Meetings held by Daniel Baxter and David Nathan were held multiple times in a shoulder to shoulder manner, again in soft whispers to prevent Poll Challengers from hearing the discussion. A few points captured included – not sharing duplication efforts with GOP members, policy changes and management of GOP Poll Challengers. Several poll workers shouted at me that I was not supposed to be present at their meetings. Good GOP Challengers were targeted by Democrats and followed around by two or more. IBEW members collaborated with Democrat Poll Challengers

000253

and Poll workers to stand shoulder to shoulder to block GOP Poll Challengers view.  
EOD Supervisors made no attempts to correct this when the issue was brought to  
them. I was verbally assaulted with racial slurs at table ICC 10 and 48.

Dated: November 8, 2020



Samuel I Harris

11-8-2020

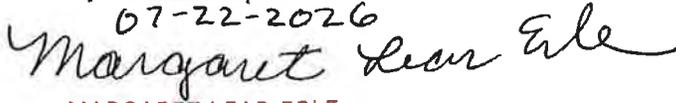
Subscribed and sworn to before me on:

/s/ November 11, 2020

Notary public, State of Michigan, County of:

My commission expires:

07-22-2026



**MARGARET LEAR ERLE**

**Notary Public, State of Michigan**

**County of Wayne**

**My Commission Expires 07-22-2026**

**Acting in the County of Wayne**

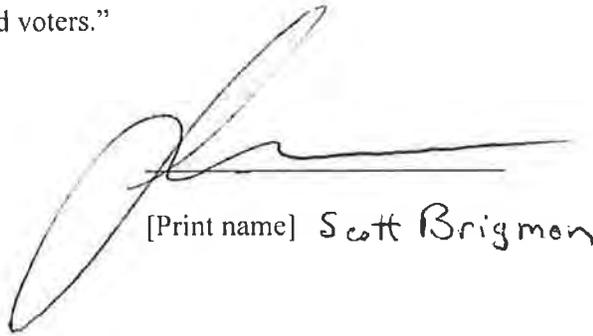
### AFFIDAVIT OF SCOTT BRIGMON

Scott Brigmon, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Wednesday November 4, 2020 I arrived at the TFC Center in Detroit, Wayne County, Michigan at approximately 12:30pm. Upon arriving I received credentials as a non-partisan challenger for the counting of ballots. At that time I was told by an attorney for the City of Detroit that no more challengers could be admitted to observe counting tables until other challengers left. It was not clear to me how they determined the number of challengers present and I believe their count included Republican challengers who had already left.
4. At approximately 7:30pm I was informed by an employee of the City of Detroit that I would be admitted in a group of four non-partisan challengers. I then went to a counting table that was also being monitored by a Democrat and a Republican challenger. An envelope containing absentee ballots came to this table that had been mailed to Mount Clemons, Michigan. I challenged this ballot because it was mailed to an address outside of Detroit, but was returned to Detroit.
5. At approximately 8:30pm I went to another counting table. At this second table there was a Republican and Democrat challenger. The election workers at this table began scanning envelopes containing absentee ballots into a computer. The computer would display a profile with the voter's information after the envelope was scanned. While at this table I witnessed an envelope being scanned and the computer displayed "unlisted

voter.” The election workers manually entered information into the profile for this envelope into the computer system. I witnessed the election worker enter in a birthdate of 1/1/1900 for this envelope. The Republican challenger challenged this ballot. I witnessed a similar situation occur thirteen more times and I challenged these thirteen ballots. In all of these situations the ballot was scanned and came up as “unlisted voter,” the election worker then manually entered information into the computer including the 1/1/1900 birthdate. The Republican challenger challenged other additional ballots for the same reason. At this table I also noticed election workers manually input the same name into two separate profiles in the computer system for envelopes that scanned as “unlisted voters.”

Dated: November 7, 2020



[Print name] Scott Brigmon

Subscribed and sworn to before me on:

/s/ Wesley M. Russin

Notary public, State of Michigan, County of:

My commission expires: 9-9-2026



**AFFIDAVIT OF STEPHANIE KRAUSE**

Stephanie Krause, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a Republican Poll Challenger on November 4, 2020 at TCF Center in Detroit Michigan.
4. I experienced intimidation the entire time from 8:30 am to 12:00pm., that I was on the floor attempting to observe.
5. Any time I would approach a table to observe, Democratic poll challengers would block the viewing; the Democratic challengers would try to distract us from observing the information on the monitor.
6. I did attempt to speak with other Republican poll challengers to discuss how to effectively observe, but we were told we could not converse amongst ourselves.
7. If masks of Republican poll challengers slipped off their noses, they were escorted from the premises, but if a Democratic poll challenger's masked slipped, they were allowed to stay.
8. As I was speaking with another Republican poll challenger, a woman suddenly appeared and claimed the other Republican poll challenger was "harrassing" her. He was not, he was speaking to me. The police however came and escorted him away.

- 9. I left for lunch and was denied re-entry. I was never permitted re-entry. Democratic poll watchers were permitted re-entry, but Republican poll challengers were told the building was "at capacity".
- 10. After I was denied re-entry, I stayed in the lobby in case we could relieve other Republican poll challengers.
- 11. No new Republican poll challengers were permitted to enter, but Democratic poll challengers were permitted to enter, as well as ACLU and press.
- 12. Around 2:30 or 2:40 in the afternoon, the poll workers took used pizza boxes and taped them to the windows so no one could see what was occurring on the floor.
- 13. I was effectively prevented to poll watch or challenge. It was literally impossible to observe or make challenges. When I inquired as to why my challenges were not accepted, I was told the rules "no longer applied".
- 14. I left the TCF Center at approximately 6:30pm on November 4, 2020

15. Dated: November 8, 2020



Stephanie Krause

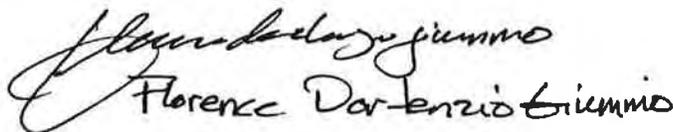
Stephanie Krause

Subscribed and sworn to before me on:

/s/ 08 November, 2020

Notary public, State of Michigan, County of:

My commission expires: 06-14-2022



Florence Dar-Enzio Giunno

**AFFIDAVIT OF TERRY POPLAWSKI**

TERRY POPLAWSKI being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. At TCF on Wednesday arrived at approx. 12:00 pm as poll challenger. I was prohibited from entry to the counting floor. Told to wait as they were already over capacity. Kept door closed. Waited until approx. 4:45 pm when returned home.

Dated: November 8, 2020

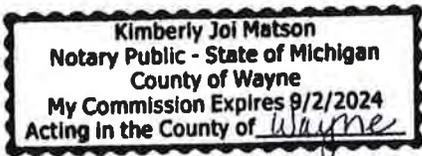
*Terry L. Poplawski*

TERRY POPLAWSKI

248 661-5141 *Terry L. Poplawski*

Subscribed and sworn to before me on: *11/8/2020*  
*Kimberly J. Matson*  
 Notary public, State of Michigan, County of: *Wayne*  
 My commission expires:  
*9/2/2024*

*11/8/20*



### AFFIDAVIT OF ULRIKE SHERER

Ulrike Sherer, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a Republican Poll Challenger on November 3, and November 4, 2020.
4. On November 3, 2020 I was observing at TCF Center in Detroit Michigan.
5. I began observing @ 7:00 am on November 3, 2020
6. I observed several irregularities.
7. There was no signature comparison being conducted on absentee ballots. There were stacks of ballots in “post office” bins in their envelopes, on tables identified by precinct number.
8. The person that was at the e-poll computer would scan the envelope and pass it to another person who separated the envelope from the secrecy envelope that contained the ballot.
9. The next person would take the ballot out, roll it to flatten it, tear off the perforated stub with the ballot number and then put the ballot into a box identified as the “tabulation box” that was then taken to a tabulator. The tables had 5 poll workers at each table. Each poll worker was supposed to have a separate job in the verification process. This did not happen. Each of the 5 poll workers just opened the ballots and put them in the tabulation box.
10. The first ballot I observed was scanned, but had no corresponding name on the data base, but he had a voter number. However, his date of birth was 1921 but he registered

to vote in 1900. When I challenged the ballot, the poll worker said it does not matter. When I asked the supervisor, the supervisor refused to take action. I then wanted to fill out an incident report and requested a ballot number and name and the supervisor refused me the information and told me “we don’t do that here”.

11. The next ballot I observed was allegedly the wife of the previous voter born 1924, registered to vote in 1900. Same denied process to challenge. They flipped the ballots over so I was unable to retrieve the information for my challenge report.
12. A poll worker told me that they had ballots on Tuesday that they had “partially processed on Monday”. With these repeat ballots, they were divvied up amongst poll workers, they each individually processed the ballots without going through the 5 step process that each ballot was supposed to be confirmed. Therefore, the separation of the ballot envelope and the ballot number eliminated any traceability.
13. Specifically, there was no post mark verification; there was no ballot review for stray marks; there was no verification of the voter existing in the data base; there was no signature comparison or authentication.
14. These non-verified ballots were then placed in a box and then a separate worker took the box to the tabulator, without any review.
15. As a challenger I was prohibited from observing the postmarks.
16. As a challenger I was prohibited from observing the ballot duplication process by poll workers moving in front of me to block me from watching the duplication process. During duplication the poll workers duplicating the ballots hovered over the ballots blocking observation.

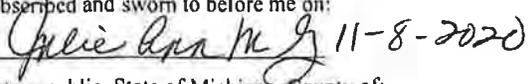
17. Once the duplicate was made, they deposited the original into an envelope and we were not able to see what happened to the envelope. Upon inquiry as to the disposition of the originals, it was clear that too much inquiry would result into dismissal from the site.
18. On November 4, 2020, I returned to TCF at 6:30am.
19. I observed incomplete and inconsistent E-poll documentation.
20. The E-poll system allowed ballot acceptance even when date of birth and/or voter registration dates were suspect.
21. Ballots were processed on November 4, 2020 without being verified as being in E-poll or the absentee voter list. It can be observed that these ballots were sequential, highly suggestive of fraud.
22. I also experienced attempts at intimidation. When the voting stopped, Republican poll watchers arrived and the poll workers blocked the windows so it could not be seen what was occurring inside. We were also told we could not speak to press.
23. The newly arrived poll workers called us on the phone informing us that they were present, but were barricaded onto the roof and being denied entry. When I attempted to inquire about their entry, I was told they were "rioters"
24. Other forms of intimidation were body blocking, deprivation of chairs to sit in. Then when Republican poll challengers left to get food or drink, they were denied re-entry. I was also told a SWAT team was there to make sure we did not "argue too much".

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25. Dated: November 7, 2020

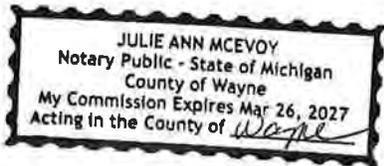
  
ULRIKE SHERER  
Ulrike Sherer

Subscribed and sworn to before me on:

/s/  11-8-2020

Notary public, State of Michigan, County of:

My commission expires:



### AFFIDAVIT OF WHITNEY MEYERS

Whitney Meyers, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
  
2. On November 3, 2020 I was stationed as a volunteer for the Republican Party outside of the Detroit Department of Elections at 2978 W. Grand Blvd. I was there three times throughout the day. To the best of my recollection I was there from approximately 7:30am to 9:00am, from approximately 11:00am to 2:00pm and from approximately 6:45pm to 8:20pm.
  
3. On the street in front of the Department I witnessed workers with “Detroit Elections” aprons on collecting ballots from cars. I witnessed multiple drivers in cars drop off multiple ballots, including more ballots than people in the car.
  
4. I also witnessed workers with “Detroit Elections” aprons handing t-shirts and food into cars dropping off ballots. The t-shirts appeared to be from a non-profit voting advocacy group.
  
5. At 8:00pm workers from the Detroit Department of Elections locked the front door of the office, said they were accepting no more ballots and ceased to collect ballots from cars.

000264

- 6. There was a ballot drop box in front of the Department of Elections office. After 8:00pm and after workers of the Detroit Department of Elections announced they were accepting no more ballots I witnessed an individual place ballots into the drop box before workers from the Detroit Department of Elections had a chance to place a lock on it. Nothing was done to find or separate these ballots.
  
- 7. As workers from the Detroit Department of Elections were retrieving ballots from the drop box after 8pm and after it was announced that they were no longer accepting ballots, I witnessed a worker from the Detroit Department of Elections named "Travis" accept a ballot from a woman on the street and place it with the other ballots. I confronted him about this, but he did not remove the ballot.

Dated: November 7, 2020

*Whitney Meyers*

[Print name]

Whitney Meyers

Subscribed and sworn to before me on:

/s/ *Leslie M Persin*

Notary public, State of Michigan, County of:

My commission expires: *9-9-2026*

LESLIE M PERSIN  
 Notary Public, State of Michigan  
 County of Oakland  
 My Commission Expires Sep. 09, 2026  
 Acting in the County of *Wayne*

### AFFIDAVIT OF WILLIAM GEORGE HENDERSON

William George Henderson, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was in the TCF Center, Detroit, Michigan as a GOP poll challenger. I was in the vote tally area from approximately 1141 to 1945 local on 04Nov20.
4. When I entered the tally area I signed in at the desk and was told that I could come into and leave the tally area whenever I wanted to but once I left, expecting not to return, then I should sign out.
5. I left the tally area between approximately 1200 and 1228 for a few minutes and returned again. I was in the tally area from approximately 1228 until I signed out around 1945 local.
6. I was initially monitoring ICC#25 Tables 133 and 134 and then later started monitoring other tables in that area.
7. I was inside the ballot processing area when the doors were locked and Republican challengers were not allowed into the tally area. I witnessed the challengers attempt to get in. Around 1730 I walked around and noticed very few Republican challengers watching tables. I was only able to identify about 10 Republican challengers in the area.
8. At 1753 local I observed the Supervisor for Tables 133/134 say "Let's go over and help them". She took Inspector 1 from Table 134 with her to Table 131. The problem at ICC#25-Table 131 was that they had lost 8 ballot envelopes. The table was counting the ballot envelopes and could only account for 13 of the 21 envelopes that they should have had. They counted out envelopes 112 through 125 but could not find envelopes 126 to 133. After much discussion Table 131 Inspectors, both supervisors and Inspector 1 from Table 134 all agreed that the ballot envelopes were sent back without having been opened to the ballot holding area via the Problem Ballot Box. Inspector 1 said he would make a note in the computer. Nobody was assigned to go to the holding area to confirm that those ballots were processed somewhere else. The envelope numbers and names were in the system assigned to Table 131 for processing.

9. Around 1925 local Supervisor for ICC#25-Tables 133 and 134 hand delivered 4 ballots for processing. She told Inspector 1 that the four ballots have already been certified and that Inspector 1 will type the voter information into the computer and process the ballots. She then gave two ballots to Inspector 1 for Table 134 and went to Table 133 with the other two ballots. About 1927, I watched Inspector 1, Table 134 input the following information into the computer – . . . . . Detroit Michigan 48228, Date of Birth 01/01/1900. Initially the inspector input 01011900 without the slashes but the system would not accept the info. The table then processed the ballot, number 858. I then went over to and watched Table 133 process ballot number 837 via hand input at 1932 local. I went back to table 134 and watched them finish processing the third ballot. Then at 1935 I watched them hand input the fourth ballot, number 807 at table 133. I watched both tables walk the ballots over to the ballot counting area and watched that the ballots were counted and stored in the ballot storage boxes. At 1937 I watched Ballot 603 hand input and processed at ICC#25, Table 130.
10. Around 1945 I asked the entrance area personnel to leave and come back. I was told that I could not be guaranteed re-entry as they were over capacity for republican and democrat challengers. I had recently walked down to column 3 or so and found only around 10 republican challengers watching the tables. The room overall was less crowded than when I had arrived at 1141. I signed out around 1945 local and was told to exit through a different set of doors on the opposite side of the hall from where I had been monitoring tables 131 thru 134. As I went out the doors, I observed one Detroit police officer monitoring the doors. As I exited the hall, two people, one walking and one in a wheel chair were approaching the doors from outside the hall. They caught the door before it closed and entered the hall.

Dated: November 8, 2020



William George Henderson

Subscribed and sworn to before me on:

/s/ OB November, 2020

Notary public, State of Michigan, County of:

My commission expires: dec - 14 - 22

*Francesca D'Antonio Giunno*  
*Francesca D'Antonio Giunno*

**AFFIDAVIT OF ZACHARY BASLER**

Zachary Basler, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3, 2020 I was a poll challenger for the Republican Party of Michigan.
4. At approximately 6:30pm I was at Detroit Precinct 229 at the Greater Emmanuel Church in Detroit Michigan.
5. I did not observe any voters filling out applications. I asked an election worker about this and he showed me a stack of applications that had been filled out. But I never observed anyone fill one out while I was there.
6. I was told by election workers that I had to stand six feet away from everyone, but the Democrat poll challenger and election workers were not being required to follow this rule.
7. I asked to stand behind the table, where poll challengers are supposed to be stationed, and was told I could not do so unless I was actively challenging a vote. I could not

observe the process in order to be able to actively challenge votes without being behind the table. This impaired my ability to properly monitor and challenge.

8 Election workers physically stood in front of me to block my movements and yelled at me in a way designed to intimidate. These actions interfered with my ability to effectively observe and challenge.

Dated: November 8, 2020

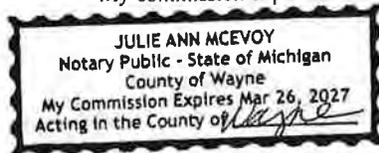
Zachary K. Basler  
[Print name] *ZK Basler*

Subscribed and sworn to before me on:

*[Signature]* 11-8-2020

Notary public, State of Michigan, County of:

My commission expires:



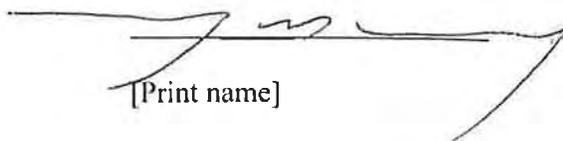
**AFFIDAVIT OF ZACHARY VAUPEL**

Zachary Vaupel, being sworn, declares under penalty of perjury:

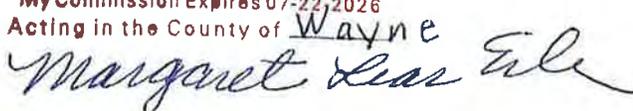
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Wednesday November 4, 2020 I was a Republican challenger at the TCF Center in Detroit, Michigan.
4. I monitored table 62 in the TCF Center. While at table 62, I observed an election worker stacking ballots that could not be identified in the E-poll system. I asked that election worker a question regarding these ballots. A Democrat challenger objected to me asking a question. The Democrat challenger brought over an election supervisor who insisted I not ask questions. I ask this election supervisor his name and he told me he was "Dwayne Montcrief." Mr. Montcrief then called me an obscene name and called over another supervisor. I believe this second supervisor was one of the highest ranking officials at the TCF Center and he also told me to not ask questions.
5. Throughout this time I was told by election workers where to stand. Some of the places they told me to stand made it difficult to properly and observe and challenge.

Dated: November 8, 2020

Zachary M Vaupel

  
[Print name]

Subscribed and sworn to before me on: 11/08/2020  
/s/ \_\_\_\_\_  
Notary public, State of Michigan, County of:  
My commission expires:

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22, 2026  
Acting in the County of Wayne  


### AFFIDAVIT OF ANTHONY DELUCA

Anthony L. DeLuca, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I arrived at the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP.
4. I arrived at approximately 1:30 p.m.
5. As I approached the entrance to the TCF Center on foot from Washington Boulevard, there was a crowd of people outside the entrance of the building trying to enter to volunteer.
6. They all appeared to be there to volunteer on behalf of the GOP but were being denied access by Detroit Police officers.
7. I approached a police officer and told him that I was there to volunteer.
8. He asked me "which party, GOP?"
9. When I answered affirmatively he stated that I would not be allowed to come inside the building because they weren't letting any more volunteers in on behalf of the GOP.
10. When I told him that I was an attorney and showed him my bar card he reluctantly agreed to permit me to enter, but specifically forbid me from going to room 260, which is where I needed to go to become credentialed as a poll challenger.
11. He told me I was only allowed to go to the ABC board, which is where the ballots were being counted and processed.

12. I entered the ABC board area, but was told to leave by an individual who was not a police officer. When I, again, stated that I was an attorney and showed my bar card this individual told me to stand against the wall. He informed me that I was not allowed to enter the area where the ballots were being processed.
13. From this area I could see that many of the tables where ballots were being processed did not have any challengers at them. They only had two or three people sitting in chairs purportedly processing ballots.
14. During this time I witnessed individuals inside the ABC board area placing cardboard over the windows at the entrance to the area so the people who were not being allowed in could not see inside.
15. After some time, I spoke with someone who was with the Trump campaign and was told to go to room 260.
16. I approached room 260 without incident and received my credentials to volunteer as a poll challenger.
17. However, when I tried to get back into the ABC board area, the Detroit Police were not letting anyone inside.
18. There was a large group of us demanding to be let in to work as challengers. We all appeared to be there to volunteer on behalf the GOP.
19. During this time I met another lawyer who was from New York and was part of the John James campaign. He was not allowed to enter the ABC board area either. Other individuals were permitted to enter the area, but when we tried to follow them in we were physically prevented from getting through the door.

000272

- 20. After some time, Lawrence Garcia, a lawyer for the City of Detroit, along with the individual who had told me to stand against the wall came outside of the ABC board area to address the crowd.
- 21. The latter stated that the reason they were not letting people inside was because both parties were at capacity. He stated that 130 challengers per side were allowed inside. He stated that he was basing his belief that the GOP was at capacity because he was in possession of a "book" with the names of the volunteers who had signed in to challenge ballots, but then stated that if those people did not sign out when they left, that was their choice.
- 22. Mr. Garcia spoke as well and stated that if the GOP challengers that had signed in did not sign out it was not "our problem."
- 23. Even though GOP volunteers were not, in fact, at capacity, we were still not allowed to enter and contest ballots.

Dated: November 9, 2020



Anthony L. DeLuca

Subscribed and sworn to before me on: 11/9/2020

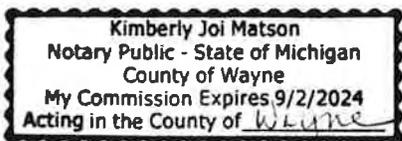
Kimberly Matson

11/9/2020

Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024



### AFFIDAVIT OF MARC RUSSELL

Marc Russell, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan and the City of East Lansing.
3. I was a Republican Poll Challenger on November 3, 2020 from approximately 5:30 pm to 9:00 pm
4. While voting at my home precinct in the morning, I witnessed at least 3 voters who stated that they had requested an absentee ballot, they had not received them, then were given regular ballots without being verified via call to the city clerk's office against the polling book.
5. John, the precinct chair, and the poll workers were hostile and attempted to intimidate me by telling me they felt very threatened by my presence.
6. At approximately 6 pm, the chair called the city clerk and complained about my presence. The city clerk, Jennifer, arrived, made false accusations such as talking to voters and threatened to kick me out. I politely explained I needed to perform my role as a challenger and could not do so with the requirement of staying far away.
7. No poll workers were required to remain six feet from one another and social distancing guidelines were not being followed. The social distancing guidelines seemed to apply only to republican poll challengers. In the end, the city clerk said I had to stay at least six feet away due to Covid, and if her employees still felt threatened she would return to expel me from the precinct.

000274

8. Throughout the day, I experienced a pattern of hostility, intimidation, and secrecy by John and the poll workers.

Dated: November 8, 2020



Marc Russell

Marc Russell

11/8/20

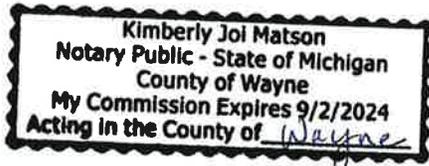
Subscribed and sworn to before me on: 11/8/2020

/s/ Kimberly J. Matson

Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024



### AFFIDAVIT OF ANGELIC JOHNSON

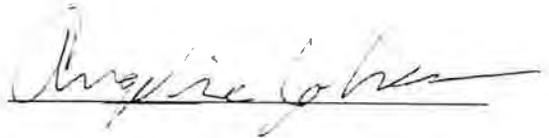
Angelic Johnson, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4<sup>th</sup>, 2020 I was a challenger for the Republican Party at the TCF Center in Detroit, MI. I was there from approximately 9am to 6pm.
4. I observed an election worker who found what appeared to be a spoiled ballot and a duplicate ballot. The election worker asked a supervisor what to do with the two ballots and the supervisor told them to process both.
5. I observed Republican challengers being objected from the counting room and election workers cheered.
6. I attempted to leave the counting room for lunch, but as I was about to do so I observed an election worker loudly announce that no one else would be allowed into the counting room. At that time Republican challengers had arrived to take the place of challengers who had already been there for hours, but they were not allowed in.

000276

- 7. I observed cardboard being placed on the windows of the counting room to block the view of challengers who could not get in.
- 8. I heard a man yell "we gonna get yall" and I believe this was directed at Republican challengers.
- 9. I observed a Republican lawyer being ejected and he said it was because he had "asked for a count."

Dated: November 8, 2020



Angelic Johnson

Angelic Johnson

Subscribed and sworn to before me on:

on 08 November 2020

Notary public, State of Michigan, County of: Wayne

My commission expires: 06.15.2022

Florence D'Antonio Eismann  
Florence d'antonio eismann  
 acting in the county of Macomb

**AFFIDAVIT OF Diana D. Burton**

Diana D. Burton, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. We were not permitted to speak with our Republican lawyer Tim Griffin on Monday and Tuesday At TCF Center AV counting board Hall E. Our Republican lawyer was being followed and admonished by a democrat who was harassing Tim Griffin, the lawyer.
4. My husband and I were assigned to work at TCF center on Monday and Tuesday Nov. 2,3. We arrived at 10 am and worked till 8 pm on Nov. 2. I was assigned to table 37 . Every challenged ballot was initially placed in the problem box. After a few hours the ballots began to disappear and when questioned the poll workers supervisor told me that they were being sent through with the rest of the ballots and would be “dealt with” on Tuesday election day.
5. On Tuesday we arrived at TCF AV counting board at 7 am and worked till 5 pm. Initially I was assigned to work at Table 28. The poll workers and supervisor were very hostile to me, and screamed at me to stay back 6 feet. I said I could not see the ballots from 6 feet and gave them a copy of Michigan law that says we are able to approach to see what we need to see and then maintain 6 feet after observing what needed to be observed. She screamed at me again and said NO you are not permitted to be closer than 6 feet.

000278

- 6. I was reassigned to observe the tabulators after that, and while they were shut down for lunch and break I walked around the floor. On our way back from a break we saw an elections truck drive onto the hall floor and two men carrying two usps white plastic bins full of opened ballots. I asked them where they came from and they said they didn't know, "I'm just doing my job". I followed them to central area and tables where ballots were waiting to be tabulated and asked the women supervisor (approximately 4 pm) what were these opened ballots. She said they are blank ballots and said they needed more blank ballots because they ran out. They ran out, she said, because of filling out so many duplicate ballots.
- 7. I walked around the floor again and observed many people at many tables filling out duplicate ballots. I told several tables that the law requires a Republican and a Democrat pollwatcher to complete duplicate ballots. I was screamed at and told that was not true. At one table we were not allowed to look at the duplicate being completed.
- 8. At multiple tables we were told the reason for the duplicate ballots was due to wrong precinct which means it had wrong address. They would take that ballot and complete a duplicate ballot for the precinct to which that ballot had arrived.

Diana D. Burton  
*Diana D. Burton*

Diana D. Burton

Subscribed and sworn to before me on:

*Nov 2020*

Notary public, State of Michigan, County of: *Washtenaw*

My commission expires: *06/14/2022*

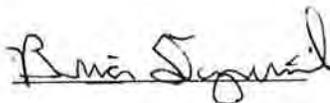
*Florence Dortenzio Giunyo*  
*acting in county of Washtenaw*

**AFFIDAVIT OF BRIAN DRZEWIECKI**

Brian Drzewiecki, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Tuesday, November 3 2020 I was non-partisan challenger at the TCF Center in Detroit, MI. I was at the TCF Center from 6:30am to 8:30pm.
4. I observed table 62 from approximately 7:00am to 8:00pm.
5. I observed election workers process ballots that did not match the poll book. I inquired about this and the election workers said they just have to make an electronic note on the poll book. The election workers said this is how they were trained.
6. I observed the poll workers just looking for a signature, not a matching signature.
7. I observed the poll workers letting duplicate ballots be made with no Republican witnesses.

Dated: November 8, 2020



[Print name]

BRIAN DRZEWIECKI

Subscribed and sworn to before me on:

08 November 2020

Notary public, State of Michigan, County of: Wayne

My commission expires: 06-16-2022

Florence Dardenzio Ciunzio  
Florence Dardenzio Ciunzio  
Notary in the county of Macomb

000280

### AFFIDAVIT OF JAZMINE EARLY

Jazmine Early, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a Republican challenger at the TCF Center in Detroit, Michigan from approximately 11:00am on November 4, 2020 until 7:00am on November 5, 2020.
4. I first went to observe table 17. The Democrat challenger at table 17 acted in an aggressive and intimidating manner.
5. I then went to another table, but there was nothing happening at that table, so I moved to table 26.
6. At table 26 there was an election worker named Brianna and an election worker name Angel. There was also a non-partisan challenger and a Democrat challenger.
7. Election workers Brianna and Angel consistently attempted to impede my ability to observe and challenge ballots. They acted in a manner that I believe was designed to intimidate me.
8. Some ballots had information that needed to be manually entered into the computer system. Due to a lack of visibility, I could not properly observe this process and began challenging all of these ballots. I took notes of these ballots numbers.

9. I began to notice election workers complaining about Republican challengers and attempting to get Republican challengers removed from the counting room.
10. I noticed Brianna and Angela talk to several people about me.
11. A male election worker came over and told me to move away from the table or I would be removed. I told him I was doing nothing wrong. He remarked that English was not my first language and that because of this I should not be taking part in this process.
12. At approximately 3:50pm, I saw Brianna and Angel talk to several police officers. Five police officers surrounded me and told me that I was getting too close and disrupting the election workers. I told them that this was a lie. I believe the election workers lied about me because I was a Republican.
13. As other Republican challengers were kicked out of the room during this period, the election workers would cheer. Election workers cheered and taunted Republican challengers in a way that I believe was designed to intimidate them.
14. At approximately 7:15 pm I observed election workers take ballots and envelopes from a "problem ballot" tray and combine them with a stack of empty envelopes. I asked about this, but was not given an answer.
15. I observed military ballots being duplicated due to potential problems. It was not clear what happened to the original ballots. I was not given an answer about this.
16. At approximately 7:48pm I noticed election workers manually entering information into the computer system for some ballots. I noticed that "1/1/1900" was entered as the birthdate for several different voters. I inquired about this to Brianna who said a birthdate was needed so they just entered that date. I

000282

challenged these ballots, but was dismissed and they continued processing these ballots.

17. At approximately 9:27 pm I went to table 86. A supervisor told the workers at table 86 that they were not properly locking voters into the system.
18. After that I went to table 94. I observed election workers moving ballots in what seemed like an improper manner. I asked about it and was told I could not ask about that process. I did not have the ability to properly observe and challenge this process.
19. At approximately 12:08am, I spoke with a lawyer from a Republican campaign who informed me that tables were being left unattended with ballots at them. I observed the following tables unattended: 17, 43, 59, 79, 76,72, 55, 57, 36, 30, 29, 22, 8, 2, 9 134, 133, 20, 124, 120, 119, 12, 111, 113, 104, 109, 101, 95, 96, 93, 85, 5, 90, 88, 5, 85, 83, 82, 77, 68, 75, 74.
20. I observed boxes with ballots in them loaded up to leave the TCF Center that were not properly sealed. I requested them to be sealed before being taken out.
21. At approximately 5:17 am I observed trays being loaded into a truck that was pulled into the TCF Center. The truck was marked Penke Truck Rentals and had Indiana license plates. I inquired what was on the trays. I was told blank ballots. Then the truck door was closed and they left.

000283

22. Throughout my time at the TCF Center I took notes detailing everything above.

Dated: November 8, 2020

*Jasmine M. Early*  
Jasmine M. Early

Subscribed and sworn to before me on:

*68 Nov 2020*

Notary public, State of Michigan, County of: *Wayne*

My commission expires: *06-14-2022*

*Florence D'Atenzio Exummo*  
*Florence d'atenzio exummo*

**AFFIDAVIT OF BRIAN PANNEBECKER**

Brian Pannebecker, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I applied to work as an election worker for Detroit for the 2020 General Election. I was never contacted back, despite applying and making several calls. I indicated I was a Republican on my application.
4. I was certified as a challenger by the Michigan Republican Party and went to the TCF Center on Tuesday November 3, 2020 and Wednesday November 4, 2020.
5. Throughout my time as a challenger over two days at the TCF Center I never encountered any election worker who identified themselves as a Republican.
6. I and other Republican challengers inquired to as many of the 134 tables as possible to try to find a single Republican election worker. We could not find any Republican election worker.
7. On November 3, over a period of several hours I only observed one election worker checking signatures.
8. At approximately 9:50am on November 4, I observed multiple ballots with illegible signatures at Table 1. I asked an election worker about verifying signatures and he said "that was done yesterday."
9. At approximately 12:00 noon on November 4<sup>th</sup>, I attempted to challenge a ballot at table 51. The table 51 team leader George refused to enter my challenge. I then went to two other election workers, Danny Baxter and Carol. Carol referred me to Chris



### AFFIDAVIT OF GLEN SITEK

GLEN SITEK, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. The events of Nov. 5, 2020 at TCF (Cobo Hall) at the AV boards. Being a Challenger credentialed with the Election Integrity Fund, a non-partisan 501C3 non-profit group working to document the fair and legal processing of absentee ballots did observe the following event. After 7 pm while checking with EIF challengers at the Counting Board tables a fellow worker Mikki Rudoff and I decided to witness the activity at the tabulators. While approaching machine #11, Mikki and I observed the operator addressing the jammed machine she was using. A stray ballot set aside to the left of her machine. Half of the ballots from the top bin were combined with remaining ballots from the bottom tray, stacked shuffled and then placed in the feeder and the machine was activated and tabulated without error. We did not observe the operator reset the machine counter before starting the recount. The operator quickly bundled the stack along with a count sheet and slipped them into a large soft sided bin on the floor opposite the tabulator work- station.
4. The operator quickly picked up the ballot on the table and exited the work area and into the adjoining arena where she located someone at Counting Board 54 ICC 11 and handed off the ballot to a worker at the table. While approaching the table I noticed no ballot processing being done effectively on break mode. I began scanning the area for a supervisor to ask about the ballot when the worker rose with the ballot and headed across the arena again. She went to the dais in center of the arena that served as the HQ. There the worker located table 54 supervisor Yolanda Brown and handed her the ballot that she added to 4 other ballots in her hand. After finishing her conversation with the area manager Yolanda proceeded to a table where she acquired 5 blank ballots to use in the duplication process and headed to table 54 and put 3 workers to the task. All 4 were crowded together for the instructions. So when she stepped back from them I immediately got her attention and introduced myself and asked if she was the table supervisor and she confirmed she was. I got her name and then asked if there was a Republican present to witness partake in the process She just stared at me and I told her I was there to confirm the process and a republican should be there. She admitted there was not. I asked if one was requested to be there. Again, she just stared at me and I shared that I was required to ask. She told me no she had not. I thanked her and went the left side of the table to observe the workers now working on the new ballots 06380 & 06381. I took a position on the outer table that put me on the main pedestrian walkway along the outer line of tables and next to adjoining worker break area. The workers glanced at me for moment and went to work. After a short time, it seemed the male worker closest to me was having

difficulty filling the spaces instructed by the 2 women and were having to physically point where he needed to mark. It seemed he might be able to read. He became agitated when he noticed me at this point and he told me "you got to leave". I immediately told him I needed to watch them duplicate the ballot. He then more loudly told me more loudly "you need to get away from you" I told him again I needed to finish witnessing the process. The male worker that loudly said you need to get away from me. Rose and stepped toward and shoved me away from the table. I stood there silently and waited a minute as I assessed the situation as a I glanced to my right and I saw 3 Detroit police standing 75 -100 feet away talking next to the outer arena wall. I approached them and addressed the closest officer and told him I had just been assaulted and wanted to file an assault & battery charge against the pole worker. He asked if I had been assaulted and I told him yes. By whom he asked? I pointed to the table and told him the male worker at table 54. Where? I turned and started back to the table to show them and upon arriving took up my previous position next to the table, they were now working on another ballot. The male worker looked up at me a loudly said "I told you, you need to stay away from him". I explained I had to witness the copy. And he responded as he did before. "I told you to get away from" stood up and shoved me a 2<sup>nd</sup> time. I was surprised I did not collide with 3 police officers walking in my direction. It looked like they were going to walk on by when I announced to them I had just been assaulted a 2<sup>nd</sup> time. I insisted on filing a police report and Sgt. Makey asked me if I was sure. I said I was. Officer Swilley was given the assignment to take my info, I asked for the assailants' name and he said it would be on the report and they would contact me. Sgt. Makey suggested I go work in a different area. And I asked if he was telling me not to do my job. He replied it was a suggestion. Sgt. Smith and one other patrolman were present. Because another challenger had showed up and was watching the ballot duplication I thought it better to report the incident to our organization and attorney.

Dated: November 8, 2020



GLE.N SITEK

Glen Sitek

Subscribed and sworn to before me on:

08 November 2020

Notary public, State of Michigan, County of Wayne

My commission expires: 06-14-2022

Florence D'Antonio Giannino

Florence D'Antonio Giannino

acting in the county of Macomb

**AFFIDAVIT OF Bridget Staruch**

Bridget Staruch being sworn, declares under penalty of perjury:

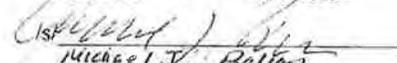
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4<sup>th</sup>, 2020 at 6:40am, In the TCF Center Detroit, I witnessed AVCounting Board #122. All 5 members were simultaneously opening all of the (Approximate 200+ Ballots), they were pulling tabs at the same time, not in any order and were NOT scanning into the poll book on computer. No one was cross referencing the signatures either. Envelopes and Ballot tabs were scattered about.

4. Dated: November 7, 2020



[Bridget E. Staruch]

Subscribed and sworn to before me on:



Notary public, State of Michigan, County of: *Oakland*

My commission expires: *2/12/24*

### AFFIDAVIT OF KRISTY KLAMER

Kristy Klammer, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was at the TCF Center in Detroit Michigan from 7:00am to 10:00pm on Tuesday, November 3, 2020 and from 8:30am on Wednesday November 4, 2020 to 4:30am Thursday on November 5, 2020.
4. I along with many others were intimidated, harassed, verbally attacked, or met with resistance consistently on November 4, 2020 from Democrat challengers, independents, a lawyer, team leaders, and supervisors. I experienced a lawyer, 2 team leaders, and 3 others come as a group to come intimidate me after challenging a ballot in which I was met with much resistance. It never got put in the computer. I was told by a Democrat lawyer that I couldn't keep challenging the ballots and was told I might get escorted out. I was told by the same Democrat lawyer that I could not challenge every ballot. I asked the lawyer nicely, as she began aggressively accusing me & trying to bait me, if she was trying to intimidate me. She said "don't put words in my mouth. You're a liar." I walked away. I witnessed two other people experiencing a similar situation both times I stepped in to try to deescalate the situation. I was repeatedly lied to by different people and told things like I shouldn't be watching the ballots being duplicated and should "just let them do their job."
5. The events described above impaired my ability to properly observe and challenge.

6. At one point I had about 8-10 Democrat challengers all near me. I had two big guys come stand close to me and say "I think we're going to stand right here." My friend was silently raising her hand to challenge a ballot and no one was coming. A crowd drew and a man started attacking her verbally. I began to see a pattern of intimidation against Republican challengers. I also noticed a tactic of fake befriending & trying to ask lots of questions to Republican challengers to either gather info or distract you while trying to observe.
7. I walked around the whole room many times. At one point I walked around the whole room and saw about 3 confrontations.
8. Around early afternoon tensions began to rise there seemed to be a literal shift in the room. I noticed the team leaders, after one of their many meetings (I couldn't figure out why they met so often & it was frustrating because they were unavailable to us for a while during that time), began to become more aggressive. There seemed to be a distinct difference. There was a specific team leader that was helping to eject Republican challengers and really enjoyed making it a big scene as the police would escort out. He would walk with them and one time said "you wanted to go outside is that what you want." He was trying to get everyone riled up and he seemed to love the applause that would break out every time one of our attorneys or other Republicans were escorted out. I never saw a Democrat escorted out.
9. I witnessed an Asian Republican man being teamed up against (4-5 people). This man was being told he wasn't allowed to watch a ballot being duplicated.



#4324, #3591, #1368,  
 #1237, #3163, #4328,  
 #3167, #1302, #4206,  
 #4325, #4276, #1383, #5322,  
 #2300, #2096, #1366,  
 #0958, #1121, #1358,  
 #1176, #3161,  
**Precinct #74** #2689, #1488,  
 #1489, #2183, #1822, #2182,  
 #0260.  
**Precinct #68** #4251  
**Precinct #66** #5452

Dated: November 9, 2020

Kristy Klammer  
Kristy Klammer

November 9, 2020

Subscribed and sworn to before me on:  
/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires:  
07-22-2026

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne

Margaret Lear Erle

### AFFIDAVIT OF JEAN LEONARD

Jean M. Leonard, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I arrived at the TCF Center in Detroit Michigan to volunteer as a poll observer/challenger for the GOP.
4. I arrived at TCF Center at approximately at 9:30am
5. I headed to room 260 to get my credentials. The lady took my license and took down my information.
6. I proceeded to the ballot count room, and signed in on a sheet of paper. Some people signed in, and some just walked in without signing. It was a very haphazard process at best. This room was very disorganized and there was a contemptuous feeling toward the GOP challengers who were there - nothing like one would expect considering the importance of a US presidential election.
7. I spent most of my time at table 15. Anytime I wanted to peek a little closer to see exactly what was going on, I was told I need to get back 6 feet. It's practically impossible to see the numbers/information being scanned onto the computer from the ballot envelopes at that distance.

8. Occasionally, as a ballot was passed to the second person at the table, she would open it up and put another envelope/folder around the ballot and put it back in the mailing envelope before passing it on to the next person at the table. I also saw an extra sticker occasionally being placed on a ballot envelope, which was then scanned.
9. When there was a “problem ballot”, a sticky note would be put on the outer envelope and it was put in a “problem ballot bin”. I was not able to see what the issue was with such ballots as the font on the screen was too small to read from 6 feet away. The voter log, which was flat on the table also had a small font. I could not always see a signatures, as the ‘table leader’ was often standing in the way.
10. I asked several times for all the problem ballot numbers that were in the bin since we were not allowed to touch them. One lady at the table told me somebody already wrote them down. I don’t know how that could be since I was standing there and did not see anyone take down the numbers. I asked again a little while later and was told I had to wait until they were done with the current batch. When they were done, I asked again and was ignored. They were very uncooperative and clearly did not want me there.
11. I was told there should be at least one GOP worker at the table, and that I should ask who that person was to confirm that was in fact the case. I was told by a (male) worker who would occasionally come around to see if

anyone needed anything at the table, that I wasn't allowed to ask that question. I asked why it was okay that they knew I was from the GOP. He said there could only be one GOP and one Democrat observer/challenger per table. I told him I knew that, but asked why I wasn't allowed to know who the GOP worker was at the table. He said they don't need to share that information with anyone, and it wasn't my business.

12. I did not see anyone ever take the problem ballots from table 15, however, I did see them being removed from other tables around me. I did not see what they did with them or where they took them. These problem ballots were picked up by a single person. We were told that anytime ballots were being moved from one place to another that there should always be one GOP and one Democrat doing this together. This clearly was not the case.
13. I observed many stacks of ballots that appeared in pristine condition, as though they had never gone through the US Postal Service. I saw many with no postal markings on them. There were stacks of them in bundles with rubber bands around them.
14. I took few pictures, but then was sternly told cameras are not allowed. I asked where that rule was written or posted. The person did not have an answer for me and just said, "It's the rule". I then pointed out the 20-30 television/press cameras about 15 feet away.

15. It was very clear that GOP observers/challengers were not welcomed nor wanted there. There was a blatant lack of transparency for anyone trying to see what was going on with the process. The ballot table workers that I encountered were controlling, rude, and defensive. Overall it was a very hostile environment.

Dated November 9, 2020

*Jean M. Leonard*

Jean M. Leonard

*Jean M. Leonard 11/9/20*

Subscribed and sworn to before me on:  
*November 9, 2020*

/s/ *[Signature]*

Notary public, State of Michigan, County of:

My commission expires:

SHANE TREJO  
Notary Public, State of Michigan  
County Of Oakland  
My Commission Expires 11-20-2022  
Acting in the County of *WAYNE*

**AFFIDAVIT OF MARY LOU NAUERT**

Mary Lou Nauert, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a credentialed election challenger for the Michigan Republican party on Tuesday November 3rd from 7:00am to 1:30pm, approximately, assigned to Pontiac ward 05, precinct 15, at Herrington Elementary School, Oakland County, Michigan.
4. I was required to remain 6 feet from the table where ballots were being processed. From this distance, I was unable to see the ballots or computer screen in order to perform my work as an election challenger. There was no way for me to determine whether the election worker was checking voter identifications and signatures or entering data currently or not. There were several instances where I believe I may have made challenges but I did not have access to have sufficient information. I felt like my hands were tied.

Dated: November 9, 2020



Print name:

MARY LOU NAUERT  
Nov 9, 2020

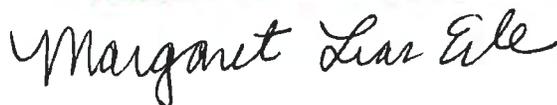
Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 07-22-2026

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne



AFFIDAVIT OF AMANDA M. POSCH

Amanda M. Posch, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit, and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I am a GOP Challenger per Laura Cox, Chairman Michigan Republican Party
4. November 4, 2020 Wednesday morning I saw a FB post from the Michigan Conservative Coalition that GOP challengers were needed at TCF Center and headed downtown.
5. I checked in with my credentials from Tuesday, signed in at 11:15 a.m. and walked in. There were several areas where people were walking in and out freely. Once on the floor, I was instructed to go upstairs to room 260 to get credentials for TCF. We were never instructed to sign out if we left the floor to go to the bathroom or get food, etc.
6. Once upstairs, I received GOP credentials and yellow wristband as identification. I walked back downstairs and walked in. At that time I was asked to watch the scanning machines, as there seems to have been numerous issues with them the previous day. I was told we could approach and look by GOP, but a Democratic attorney told me I couldn't and told me I needed to move. I replied that I had as much right as she did to be there, and she threatened to have me thrown out. At that point a few other people stepped in, I believe it was a Republican attorney, and GOP staffers.
7. Again we were told we could step up to the machines if we asked the worker if it was acceptable to approach them, some were amenable but others said no closer than 6 feet due to Covid. We were also told we could not hamper the process (obviously if you need to ask permission to do your job, you are by default hampering the process). In essence we were either intimidated, threatened or barred by poll workers' Covid fears from checking anything properly. The workers also choose to minimize the screens on the computers so we could not in fact read anything from 6 feet away even though we asked if they could increase the window size. At that point one of the workers told another not to talk to us, and tensions were growing.
8. Some of the issues I witnessed in the scanning process:
  - If a scanner jammed, it looked like entire batches were placed back into the machine and rescanned.
  - Ballot boxes were unlocked, and unattended.

- The computers were connected to the internet and the poll workers wouldn't let us check.
- Several ballot boxes had yellow circle stickers on them that looked similar to the yellow stickers Democratic staffers had on. When I asked the supervisor, his response was: "it's just random, like I am bald and you have hair"
- Unidentified staff would approach with ballots to be scanned and walk away with 2 copies of a ballot.
- Poll workers would not share their names with us.
- Poll workers were allowed to wear Biden/BLM attire.

9. Water fountains were off, and several GOP members told me they were not serving anyone with GOP credentials in the area set up for breaks upstairs.

10. At some point, GOP challengers were not allowed into TCF and poll workers placed paper, and I believe pizza boxes over the windows. We could hear the chants saying "stop the count, let us in" from outside and several people were banging on the windows. Tensions were rising, it was palpable.

11. As the day progressed the GOP challengers in the room (which at that point I heard was half of what the Democratic challengers) felt trapped, as they would NOT let us sign out for another GOP member to replace us.

12. I never really left my station, but saw GOP challengers at tables being thrown out, including GOP attorneys. Poll workers were claiming they were being threatened when they challenged and the police would take them out. EVERY SINGLE "NON-PARTISAN" POLL WORKER in my area STOOD AND CLAPPED AND CHEERED EVERYTIME A GOP CHALLENGER WAS REMOVED. I did not see any Democratic challengers escorted out.

13. I continued to watch scanning, and was approached by someone saying I was not allowed to use my phone. Everyone in that room had their phones on, but I placed it in my bag. I did step away to communicate with my husband and parents, and again was warned by the supervisor that I was making the poll workers uncomfortable. Again, I put my phone away.

14. Around 4:30 p.m. chanting from outside the locked doors, and pounding on the glass erupted. At which point one of the workers I had been watching all day said in my direction "They acting like kindergarteners, I hope the police come and shoot them, like you do to us". I asked her if she was threatening violence towards me, and she mumbled something under her breath that sounded like you heard me, her co-workers started saying I was bothering them all day. Another staffer took pictures of me and literally ran away. A supervisor and a GOP attorney approached, the supervisor asked if I had witnesses, I replied everyone she was sitting with, and they sure aren't going to back me up. The supervisor said without witnesses he could not do anything. She was at ICC 2, was African American, heavy set with a white blouse

000300

with black hearts on it. The supervisor also never helped locate the poll worker who took my picture and ran away even though I was asked to put my phone away all day.

15. I stayed for another half of an hour, and went to the check in area to see if I could pass my credentials on to someone waiting outside, and she said no. The police were still at the door. I was walked out of a side door and left the floor. I went upstairs and saw the crowd that was unable to enter, the majority of which were GOP Challengers and volunteers.

16. As I was leaving the main building I was surprised no one was allowed to enter TCF at all. I was told if I left I would NOT be allowed back into the building even though I am a credentialed GOP Challenger.

Dated: November 9, 2020



AMANDA M POSCH

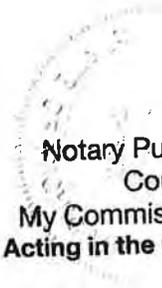


Subscribed and sworn to before me on:

15/ November 9, 2020

Notary public, State of Michigan, County of: Macomb

My commission expires: October 11, 2023



**Kari A Aloia**

Notary Public, State of Michigan

County of Macomb

My Commission Expires 10-11-2023

Acting in the County of Wexford

### AFFIDAVIT OF CYNTHIA RENEE RAUF

Cynthia Renee Rauf, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I received a text from the Macomb County GOP stating that poll challengers were needed at the TCF Center, Detroit, MI.
4. Once I arrived, I went to the GOP Room No: 260 and signed up to be a poll challenger.
5. I received training at that time and wore a lanyard with my GOP credentials.
6. I then proceeded to the downstairs ballot counting area and I looked around to find a ballot counting table that needed a GOP challenger.
7. I then proceeded to Table 5.
8. At about 11:32 am, one of the female election workers at Table 5 called out a Ballot number 7959. This election worker then handed off Ballot number 7959 to another female election worker.
9. The second female election worker opened the envelope that contained the Ballot and the Ballot in the envelope **did not have the same number as the Ballot number that was originally read by the first election worker.**
10. The Ballot in the envelope was number 7952.
11. I personally observed Ballot number 7952.

12. I then said to both the first and the second election workers that I wanted to challenge Ballot number 7952 because it did not match the Ballot number 7959 as originally noted and stated.
13. **The second election worker physically wrote on the top right of Ballot number 7952 the numbers “7959.”**
14. I personally witnessed the second election worker change the number on a Ballot. Upon information and belief, the election worker changed the Ballot number on Ballot number 7959.
15. Next, I then questioned the first election worker regarding a computer printed “list” of “names” that she had sitting in front of her and next to her computer.
16. The election worker told me that the list contained names of voters who registered on election day and they were not yet in the computer.
17. The second election worker told me “this happens all the time.”
18. Ballot number 7959, that was changed to Ballot number 7952, did not come off the list of names on the computer, but rather from the computer print out list sitting on the table.
19. **At this point, a young male supervisor then approached Table 5, inspected the change that was made on the ballot and approved the ballot to go through for counting.**
20. Sometime afterwards, I then went upstairs to the general room for lunch and stayed for about half hour or so.
21. I then went back down to the counting room and noticed that there were a lot less GOP poll challengers in the room but the Democratic poll challengers were there in full force.

- 22. I personally noticed at least 4-5 times throughout the afternoon the counting room erupting into an applause each time a GOP poll challenger was escorted out.
- 23. At about 3:00 pm, I then observed several election workers covering up windows that separated the counting room from a lobby. I saw them cover the windows up half-way so that no-one in the lobby could watch the counting of the ballots.
- 24. I personally experienced intimidation tactics by both the Democratic poll challengers and the Detroit election workers.

Dated: November 9, 2020

MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

*Margaret Lear Erle*

Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 7-22-2026

*Cynthia Renee Rauf*

Cynthia Renee Rauf

*Cynthia Renee Rauf*  
11-9-2020

**AFFIDAVIT OF Anne Vanker**

Anne Vanker, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020 I arrived at the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP.
4. I arrived at approximately 9:30 am, I was trained by Pat Colbeck to perform as a poll challenger according to the “Rights and Duties of Election Challengers and Poll Watchers” vr.. October 2020 I was provided and Michigan State Law. I was allowed inside the ABC (Absentee Ballot Counting ) area. As soon as I walked in felt I had walked into an extremely contentious environment, as people were shouting at me and I did not know what I had done wrong.
5. I was never allowed to stand in an area that would provide a view of the ballots being processed, claiming the covid rules required a 6 foot distance. I saw workers reference the poll book as well as the ancillary lists that I was told contained names of those who registered to vote the day before and day of the election, but I was unable to see any names on the list or the ballots. The distance I was forced to maintain made seeing or comparing any signatures impossible. I was not allowed to step forward when I had questions about a particular ballot – being yelled at that it was not allowed because of Covid. At one point I observed ballots being put into a box labeled “problem ballot” box without any discussion or collaboration with their co-workers. I attempted challenging these ballots but was denied – there was no supervisor available

to implement the challenge and the box was removed from my area before I was able to resolve any issues. I followed the box being taken away from our table, I followed to the adjudication table and escalated my complaint to supervisor Daniel Baxter, who did finally grant me access, however while I was copying down the ballot numbers from these another worker with a green dot inserted herself between me and the ballots, further obstructing my work. I was copying down ballot numbers from these opened envelopes that were flagged that they were not on any voter registration list and not in the poll book. I estimate 60% or more of these envelopes bore the same signature on the opened outer envelope. I was never given access to view these ballots. I was not given an answer when I asked if these ballots would be counted as votes or not. I was not given information as to a resolution. I have these ballot numbers in a spreadsheet that I can make available. I was never given an answer as to why the envelopes were opened. I was shouted at several times by unidentified people for unknown transgressions. While riding the escalator I wanted to check the time on my phone, a poll worker began yelling at me accusing me of taking pictures and threatening to report me. The overall feeling of the room was one of intentional and organized intimidation and bullying by people who bore no credentials, but wore green dots.

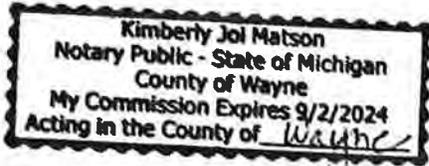
6. After lunch time there was a meeting called and after that point they stopped allowing more in, and ejecting people for trying assert their right to do their job as a challenger.
7. Tension grew through out the day – as more challengers arrived, police were called in, and many challengers were ejected.

000306

Dated: November 9, 2020

*Anne VanDer*  
Anne VanDer  
11/9/2020

Subscribed and sworn to before me on: *11/9/2020*  
*Kimberly J. Matson*  
Notary public, State of Michigan, County of: *Wayne*  
My commission expires:  
*9/2/2024*



**AFFIDAVIT OF LAURA ROUSH**

LAURA ROUSH, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter and credentialed GOP Poll Challenger in the State of Michigan.
3. On Wednesday Nov. 4, 2020, I signed in at approximately 11:35 a.m. at TCF Center in Detroit Michigan to work as a Poll Challenger.
4. I was told to monitor counting board table number 19. I arrived at table number 19 and started to watch.
5. At that table, I saw numerous ballots scanned into the electronic system that had no corresponding name in the system; indicating that the ballot did not correspond to a registered voter.
6. I witnessed about 30 ballots that had no name match during the approximate hour of observation at that counting board table number 19.
7. I asked the Poll Supervisor why those ballots had no match to a registered voter and he said something like, Whitmer opened up extra ballots on Sunday and the names of some registered voters are not in the system yet.
8. It's my understanding that if ballot names don't appear in the electronic system, the poll worker is to compare the name on the ballot to a paper roster of registered voters.
9. When I tried to find out if those ballots matched a name in the paper roster the poll worker flipped the roster around quickly, making it impossible for me to read the name and therefore unable to verify that the ballot corresponded to a registered voter.

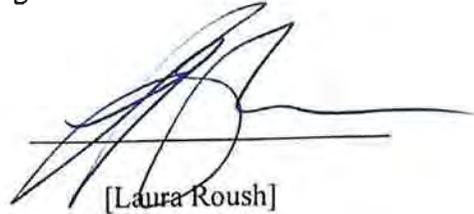
10. I also noticed that the manner that they themselves were checking the names in the roster appeared to me to be carelessly done. My overall impression is that they weren't even checking the names themselves.
11. I experienced at least one poll worker who was very aggressive and wouldn't allow me near the paper roster at all.
12. After some time, it became clear to me that they didn't want me there and tried to prevent me from doing any type of challenging; acting in an authoritative and dismissive manner in many instances.
13. I also overheard one poll worker say to another poll worker that we have 35,000 more ballots coming and they both high-fived each other. They seemed very happy about these extra ballots.
14. I also witnessed an envelope that was scanned twice. The first name didn't match the second name that appeared. When I mentioned that to the poll worker holding the ballot she ignored me and continued to process the ballot. When I told the supervisor he said something like, it's too late. I saw that they put it in the box of approved ballots.
15. At approximately 1:15 pm, I had left the Counting Hall to eat lunch and escort a friend to the parking lot.
16. Upon returning to the building entrance the security guard told me I was not allowed back in. I had my challenger badge on and told him I was a Poll Challenger and he asked me if I was a GOP challenger and I said yes. He told me I was not allowed back in because the building was at covid capacity.
17. I witnessed several DNC people being allowed in at that time.

000309

18. Eventually I was allowed the enter the building but was still barred from entering the Counting Hall.

19. It wasn't until approximately 6:00 pm when I finally gained entry to the Hall. I entered for the purpose of signing out as I heard that other GOP Poll Challengers were barred entry until other GOP Poll Challengers had signed out.

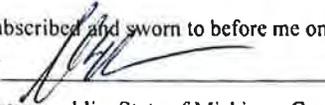
Dated: November 9, 2020



[Laura Roush]

Laura Roush 11/9/2020

Subscribed and sworn to before me on:

/s/ 

Notary public, State of Michigan, County of:

My commission expires: 11/20/2022

SHANE TREJO  
Notary Public, State of Michigan  
County Of Oakland  
My Commission Expires 11-20-2022  
Acting in the County of WAYNE

**AFFIDAVIT OF KARYN CHOPJIAN**

Karyn Chopjian, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan, in the city of Novi
3. I was a Republican Poll Challenger on November 2, 2020 at the TCF Center in Detroit Michigan.
4. I began observing at approximately 10:30 am. I observed three tables throughout the day and spent a majority of my time at table 61.
5. I witnessed several poll workers wearing political slogans on their face covering including Black Lives Matter.
6. I was a Republican Poll Challenger on November 4, 2020 at the TCF Center in Detroit Michigan.
7. I began observing at approximately 7 am until 9:30 pm.
8. I asked the poll captains at tables 86, 69, 81, 78, and 99 whether there were any republicans at the table. Several times I was ignored or told there were no republicans. I was also told that the City was not allowed to ask poll workers their political party preference. However, I witnessed several of the poll workers collaborating with Democratic Party poll challengers.
9. As a challenger, I was keeping track of blank ballots sent to the tables to be duplicated. There were several thousand ballots left unattended with no security protocol at all times of the day.

000311

- 10. I was prohibited from observing the ballot duplication process by democratic poll workers and democratic poll challengers. I was being followed, intimidated and harassed by democratic poll challengers. Poll workers and captains witnessed this harassment and did nothing to stop the democratic poll challengers from following me. However, I was threatened I would be kicked out of the TCF Center if poll workers deemed my mask was not fitted properly.
- 11. When the military ballots came in, poll workers prevented me from observing ballots and used their bodies to prevent me from witnessing the ballot counting process. Poll workers repeatedly asked me to step back, even though I was following state laws regarding social distancing procedures. I was just trying to observe the process and poll workers repeatedly accused me of attempting to slow the process down.
- 12. There were several inconsistencies between dates of birth and voter registration on military ballots I was able to observe.
- 13. Throughout the day, I witnessed a pattern of intimidation, secrecy, and hostility by the poll workers. Poll workers would cheer, jeer and clap when poll challengers were escorted out of the TCF Center. There appeared to be collaboration between the democratic poll challengers and the City of Detroit poll workers.

Dated: November 9, 2020

*Margaret Lear Erle*

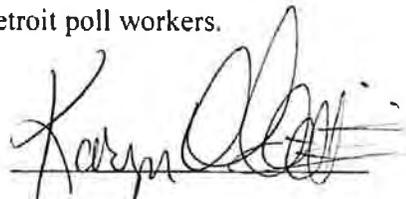
Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires:  
07-22-2026

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne



Karyn Chopjian

KARYN CHOPJIAN

11-9-2020

**AFFIDAVIT OF JENNIFER LINDSEY COOPER**

Jennifer Lindsey Cooper, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. For the 2020 General Election I was hired and trained as an election worker for Waterford Township Michigan. I was trained for all counting positions, but was assigned to be an absentee ballot counter, including military ballots.
4. I worked as an election worker counting absentee and military ballots from 7:00am on November 3, 2020 to 12:30am on November 4, 2020 in Waterford Township. I encountered no issues during this time, but gained experience in the ballot counting process.
5. From my experience and training, military ballots are processed and counted in the following manner: The envelope is opened and contains a letter from the military voter and a copy of a ballot on plain paper that is filled in by the military voter. These are checked and then the voter's votes are transferred to a blank ballot to be counted. This process is done one ballot at a time. One Republican and one Democrat election worker are supposed to be present for this process.
6. On November 4, 2020 I was a Republican challenger for ballot counting at the TCF Center in Detroit, Michigan. I arrived at approximately 10:00am.
7. I observed Table 16 in the TCF center. I observed an election worker collect approximately five to seven blank ballots and bring them to the table. The election worker left these blank ballots sitting on the table for approximately five minutes

before placing them in a box marked “problem ballots.” I challenged the election worker as to what she was doing with the blank ballots. In response the election worker moved the blank ballots and placed them underneath what looked like a poll book. The election worker responded to me that she was waiting for her supervisor to “do military ballots.”

8. Approximately fifteen minutes after I challenged her, the election worker was joined by two more election workers. One of the election workers began to read from a standard ballot, not a military ballot, that she had pulled from a stack of other standard ballots. This ballot did not appear to be a military ballot in anyway. There was no outside packaging, there was no military letter, and it was a standard ballot, not the type of ballot returned from military voters.
9. I then saw two more blank ballots filled out in the same manner described in paragraph 8. A standard ballot that did not appear to be a military ballot was read off and a blank ballot was filled in.
10. All of the ballots that I observed filled out in this way contained votes for Joe Biden for President.
11. I further observed that many blank ballots were transferred between tables at a time. They were picked up in large batches and not counted. There was no recording of the chain of custody of these blank ballots. Blank ballots were tucked underneath things, shuffled into boxes labeled “problem ballots” and not tracked.
12. As I attempted to challenge this process I was harassed by Democrat challengers. I was told “go back to the suburbs Karen” and other harassing statements. The Democrat challengers would say things like “Do you feel safe with this women near

000314

you” and “is this Karen bothering you?” I believe this was designed to intimidate me and obstruct me from observing and challenging.

*JL Cooper*  
[signature]

Dated: November 9, 2020

[Print name]

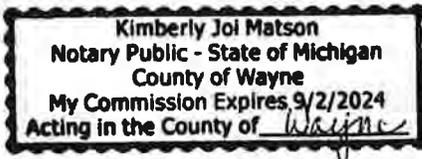
JENNIFER LINNASE/COOPER  
11/09/2020

Subscribed and sworn to before me on: 11/9/2020

TS/ *Kimberly Matson*  
Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*



**AFFIDAVIT OF BRETT KINNEY**

Brett Kinney, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Tuesday November 3, 2020 I was a Republican challenger at the TCF Center in Detroit, Michigan from approximately 6:30am to 8:00pm.
4. I observed Table 37 at the TCF Center. The election worker supervisors in my section were named "TJ" and "Raphael."
5. I issued approximately 40 to 50 challenges throughout the day. I challenged ballots where the numbers on the ballot and envelope did not match, ballots and envelopes that did not include proper signatures, ballots with invalid markings and ballots with other issues.
6. The election worker supervisors agreed with many of my challenges and these ballots were placed in an envelope labeled "invalid ballots."
7. I then observed an election worker reach into the envelope labeled "invalid ballots" and process them with valid ballots.

000316

- 8. I challenged this process to a supervisor and was told "we have to keep the process going."
  
- 9. I believe many, if not all, of the invalid ballots that I challenged were processed and counted despite supervisors agreeing with my challenges and originally placing the ballots in an "invalid ballot" envelope.

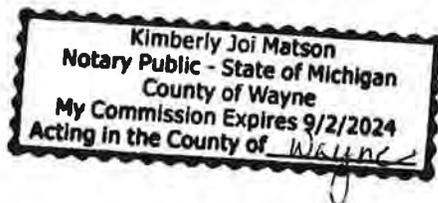
Dated: November 9, 2020



[Print name]

Brett Kinney  
11-9-2020

Subscribed and sworn to before me on: 11/9/2020  
~~by~~ Kimberly Matson  
 Notary public, State of Michigan, County of: Wayne  
 My commission expires:  
 9/2/2024



**REGARDING THE COVERED WINDOWS OF THE COUNTING ROOM AT TCF**

On November 4, 2020 I was at the TCF (Cobo Hall) counting location to serve as a GOP poll challenger. I was never allowed in the room. I want to testify that **all main floor windows to the counting room were covered the entire time I was there** (approximately 11 am to 8 pm).

I am told that **Michigan Secretary of State Jocelyn Benson has said on the Frank Beckmann show that the cardboard was on the windows because the GOP protestors broke them. This is PATENTLY FALSE.** I did not hear the show but I was there. I actually did not know of the protest and happened to be at the counting room windows before the protest began. I was trying to see what was going on in the room by trying to peer between the approximately 2" of glass between the cardboard the wall. I was doing that when the protest began. The windows had been covered all day and have nothing to do with the protest. I also ended up in the protest and can attest to you that no windows were broken.

**In a public statement online, Ms. Benson has also asserted that "some" of the windows were covered to protect private information but that some were open to preserve transparency. This also appears untrue to me.** First, I did not see any uncovered windows on the main floor. There is a possibility that there were open windows on the second floor, but I was never up there and it would be too distant a vantage point to be meaningful to any public observer. Second, the distance of the counting tables from the wall of windows on the main floor were too far away from the glass to see much even if the windows had been uncovered.

Please feel free to contact me if I can be of further help.

Laura Luke

Lukes4@comcast.net

248-207-2246 (cell phone)

Milford, MI

*Laura G. Luke*

LAURA GEE LUKE

Date: November 9, 2020

*Susan L. Mills*

Susan L. Mills

Date: 11/9/2020



**AFFIDAVIT OF EVAN SHOCK**

Evan Shock, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan and in the Township of Chesterfield.
3. At approximately 3:20 pm, a City of Detroit employee came out to the lobby of the TCF Center and explained that no other poll challengers were allowed into the counting boards because of COVID-19 concerns. I later found out that the real reason for not allowing poll challengers into the counting boards was because poll workers were failing to sign out poll challengers upon leaving.
4. I witnessed windows boarded up with cardboard boxes and paper signs to prevent those in the lobby from witnessing the process. I was forced to wait approximately one hour before being let in to the counting boards.
5. I was a poll challenger at approximately 4:20 pm until 9:00 pm.
6. I observed several irregularities including unattended ballot boxes, unidentified people coming in and out of the TCF Center, and a chaotic ballot counting process.
7. There were several instances in which the poll workers and non-credentialed individuals used their bodies to prevent republican and independent poll challengers from witnessing and observing the ballot counting process.
8. At table 61, I witnessed a poll worker manually enter four ballots into the system and assign each one a fictitious birth date of 01-01-1900.

000319

- 9. Throughout the day, I witnessed a pattern of chaos, intimidation, secrecy, and hostility by the poll workers and non-credentialed individuals. The poll leaders engaged in intimidation and threats any time a ballot was properly challenged. It appeared that every ejected individual was an independent or republican poll challenger.
- 10. Poll workers would cheer, jeer and clap when poll challengers were escorted out of the TCF Center. There seemed to be collaboration between the democratic poll challengers and the City of Detroit poll workers.

Dated: November 9, 2020

Evan Shock  
 Evan Shock  
 11/9/2020

Evan Shock

Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 07-22-2026

MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

Margaret Lear Erle

**AFFIDAVIT OF QIAN SCHMIDT**

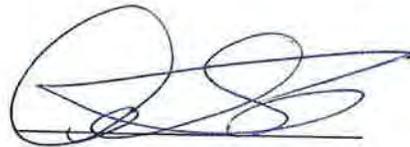
Qian Schmidt, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan and in the Township of West Bloomfield.
3. I was a Republican Poll Challenger on November 3, 2020.
4. I began observing at table 83 starting at 10:00 pm on November 3, 2020 and concluded at 5:00 am on November 4, 2020.
5. I observed several irregularities including unattended ballot boxes, unidentified people coming in and out of the TCF Center, and a chaotic ballot counting process.
6. I witnessed three ballots that were not found in the system. The polls workers separated those ballots. I asked the supervisor where those ballots were going and the supervisor, Monica, ignored me and walked away.
7. As a challenger, I was prohibited from observing the ballot duplication process by poll workers and democratic poll challengers circling around me.
8. There were several instances in which the poll workers and non-credentialed individuals used their bodies to prevent republican and independent poll challengers from witnessing and observing the ballot counting process. These workers and non-credentialed individuals used COVID-19 as the justification for intimidating and preventing poll challengers from witnessing the process.

000321

- 9. I am of Chinese descent and speak Mandarin Chinese. I was personally harassed and discriminated against by a young, African American, non-credentialed individual who stated "what gives you the right to be here since you are not American." I answered "I am American." This ethnic intimidation and discriminated continued for five minutes.
- 10. Throughout the day, I witnessed a pattern of chaos, intimidation, secrecy, and hostility by the poll workers and non-credentialed individuals.

Dated: November 9, 2020

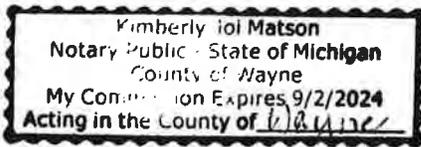


Qian Schmidt

Qian Schmidt

Nov 9, 2020

Subscribed and sworn to before me on: 11/9/2020  
 by Kimberly Matson  
 Notary public, State of Michigan, County of: Wayne  
 My commission expires:  
 9/2/2024



**AFFIDAVIT OF Erik Duus**

Erik Duus, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3, 2020 I arrived at the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP.
4. I arrived at approximately 10:10 pm and worked through the night until 4:40 am Wednesday morning.
5. Were you denied access? No, but my access for meaningful ballot challenging was hindered by social distancing requirements and intimidation throughout the night as the rest of my statement will explain.
6. For the first hour of the shift I observed no irregularities at my table, the entire time I was kept 6 feet away. At one point I tried to step forward to better visualize a ballot, and was told to stand back. At this point I was treated respectfully.
7. Activity seemed to slow down, a few tables were working on ballots, but people started disengaging, reading and falling asleep as there was no work to be done. This atmosphere continued until about 12:30 am, at which time many people started coming in, many dressed in BLM and "Count the Vote" garb.
8. From the tunnel in the interior of the building ballots began arriving from an official looking Department of Elections vehicle and were delivered to the adjudication desk, apparently to be distributed. It was estimated that the delivery contained at least

24.00 ballots based on guess of numbers of bundles. Ballot processing activity seemed to increase after this delivery.

9. My table had little activity so I roamed to tables where there was more activity but no GOP challengers present. I wound up working between tables 94 and 95. I observed an acquaintance being intimidated by a very large man in "Count the Vote" gear, towering over him and extremely close. Social distancing was enforced and strongly defended between challengers and workers, but not at all between the intimidating men and the challengers.
10. I walked over to be a presence hoping to deter any problem. At this point this man turned his attention to his cell, and I believe he sent a text message, soon after two large men came and I observe them watching me the entire night, even to the restroom and back to my table. They remained with me for the rest of the shift. At this time it was obvious a coordinated and organized system of challenger intimidation was implemented. I felt totally outnumbered and that my personal safety was at risk.
11. During the entire evening there was minimal police presence, I counted no more than 2 officers. It seemed the ballots were abandoned in many locations in the room, sitting far from any activity and unattended. My shift was coming to an end, but I left a bit earlier (4:40 am) and furtively because I felt my personal safety was at risk from the men that were tailing me all evening. I basically snuck out a door and went quickly to my car.

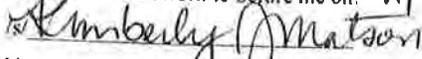
Dated: November 9, 2020

  
[signature]

[Print name]

ERIK DWS  
11/9/20

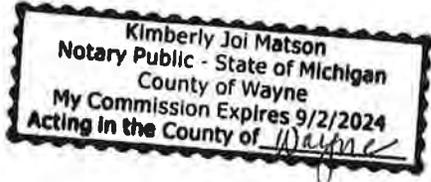
Subscribed and sworn to before me on: 11/9/2020



Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024



**AFFIDAVIT OF RANDALL S. CHAMPAGNE**

Randall S. Champagne, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3, 2020 I was a Republican challenger at the TCF Center in Detroit, MI from approximately 6:00am to 1:00pm.
4. I observed unsealed ballots in the TCF center. I was told signatures had been checked the previous day for some ballots. These ballots were in white plastic boxes that were not locked in anyway.
5. I observed ballot tabulating that began at approximately 9:30am.
6. When tabulating began I was asked to stand so far away from the tabulating that it was difficult to properly observe the process. Election workers said covid was the reason for the required distance, but at times I was required to stand over six feet away.
7. Ballots were placed in the tabulating machines and after they had been counted they were placed in white plastic boxes.
8. At one point I observed a machine get jammed. Election workers then reran the box of ballots they had been counting, including what I believe were ballots that had already gone through the machine. Election workers blocked my view of the process so I could not tell if any precautions were taken to prevent ballots from being counted twice. To my knowledge no such precautions were taken.

- 9. Ballots that had been counted and placed in white plastic boxes were left unattended and unsecured. I saw no precautions being taken to make sure these ballots were not counted again.
- 10. I observed other irregularities, but was forced to stand at such a distance that I could not fully observe the process in order to challenge it.
- 11. I did not observe any process for tracking or monitoring the flow or chain of custody of ballots by election workers.
- 12. At approximately 11:30am I observed a coffee stained ballot go through the duplication process. Election workers would not allow challengers to observe the process close enough to properly monitor it.

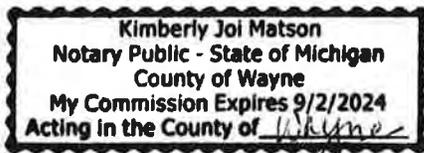
Dated: November 9, 2020



[Print name]

Randall S. Champagne  
11/09/2020

Subscribed and sworn to before me on: 11/9/2020  
 /s/ Kimberly Matson  
 Notary public, State of Michigan, County of: Wayne  
 My commission expires:  
9/2/2024



**AFFIDAVIT OF MATT SEELY**

Matt Seely, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020 I was a Republican challenger at the TCF Center in Detroit, Michigan from approximately 9:00am to 8:00pm.
4. At times, I was harassed and intimidated by others that were present in the counting room who did not have credentials displayed for any organization. They would get in the way to prevent me and other challengers from seeing the processing of ballots; they would interfere with challenges being issued; they would try to distract Republican challengers to make sure they were not able to pay close attention to the processing of ballots.
5. These challengers that did not have credentials displayed made false statements about some of the Republican challengers that resulted in the Republican challengers being removed from the counting board. Specifically, they accused a Republican lawyer of taking his mask off
6. The security team denied access to new Republican challengers to replace the challengers that were leaving the facility unless they signed out. The sign-out process was not explained to any of the challengers before they entered the TCF Center.
7. The Democrat Party set up tables in the TCF Center counting room where they were able to provide food and refreshments to the Democrat Party challengers. There is not supposed to be food or drink allowed in the counting room. This allowed the

Democrat challengers to remain in the room during lunch while the Republican challengers left and were then locked out.

- 8. At one point, the windows to the TCF Center counting room were being covered up to prevent anyone outside the room from being able to see into the counting room.
- 9. Towards the end of the processing, I witnessed election workers entering new people into the system manually with a date of 1/1/1900.
- 10. In the back of the counting room, there was two large pallets with suitcase sized metal cases. Each pallet had shrink wrap around it, but one of the pallets appeared to have had a number of cases removed. When I was looking at these pallets, someone on the security staff told me to leave the area and that if I returned, I would be ejected from the counting board.
- 11. Most of the challengers and the challenges that they tried to make were ignored by the staff overseeing the election process.
- 12. From my observations, the most efficient counting tables could process approximately one hundred ballots an hour. At no time when I was at the TCF Center was every table counting ballots. At most times approximately fifty to one hundred tables were counting ballots. Given these observations, I do not understand how over one hundred thousand ballots could have been counted during the times the TCF Center was used as a counting location.

Dated: November 9, 2020

  
 [Print name] MATTHEW JAMES SEELY  
 11/9/2020

Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires:  
07-22-2026



MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

### AFFIDAVIT OF BRIDGETT LYN ZELASKO

Bridgett Lyn Zelasko, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was trained online and assigned to be a ballot challenger at the polls at TCF Center. I arrived to the TCF Center on Wednesday, November 4, 2020 at 12:13 p.m. I had received paperwork from the City Clerk to perform this duty.
4. I also received training at the TCF Center to be a ballot challenger as well.
5. When I arrived to the TCF Center, I was waiting in Room 260. Our group was missed a couple of times; however, we ultimately went down to the main entrance of where ballots are around 1:08 p.m.
6. When we attempted to go in, the individuals at the entrance stated that there were no spots available for Republicans but there were fifty-two (52) spots for Non-Partisan.
7. Thereafter, I went back up to change my designation from Republican to Non-Partisan and immediately went back down at approximately 2:05 p.m. By the time I came back down, they indicated no spots were available for Non-Partisan either.
8. At this time, I then watched the people inside put pizza boxes on the windows to impede any outside observers. The police took the pizza boxes down twice while I was there; however, they continued to put the boxes back on the windows.
9. There was a white male, well dressed, who identified himself as the chief legal officer and top lawyer for Detroit. He stated that there were not letting in any more people in to where the ballots were.

000330

- 10. Then the Election Coordinator (black male) then stated if the Republicans did not sign out when they completed their shift, then "too bad, too sad." He additionally stated that they were not going to allow anymore people in due to COVID-10; however, the press continued to go in.
- 11. I ultimately left at 3:45 p.m. and shortly thereafter individuals locked the TCF Center doors to the outside.
- 12. I was denied complete access to perform my ballot challenger role.
- 13. When I attempted to leave by getting on the elevator to the parking structure, there was a man that would not let me on. His refusal to let me in the elevator forced me to access my car by walking the circular ramp up. I finally arrived to my car at 5:15 p.m.

Dated: November 9, 2020

*Bridgett Lyn Zelasko*  
Bridgett Lyn Zelasko

*Bridgett Lyn Zelasko*  
*November 9, 2020*

Subscribed and sworn to before me on:

/s/ *November 9, 2020*

Notary public, State of Michigan, County of:

My commission expires: *07-22-2026*

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of *Wayne*

*Margaret Lear Erle*

### AFFIDAVIT OF TRACY TOPINI

Tracy Topini, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 3 and 4, 2020 I was a Republican Challenger at the TCF Center in Detroit, MI from approximately 10:00pm on November 3 to 5:00am on November 4.
4. I observed Democrat challengers and individuals from an organization called "Election Protection" approach and surrounded Republican challengers in an intimidating and argumentative manner. For every one Republican Challenger I saw four or five others.
5. Many of the Democrat challengers and non-partisan challengers did not wear credentials.
6. I was told by Democrat and non-partisan challengers to stand six feet away from a counting table due to covid, even though they were much closer than six feet to me. This impaired my ability to observe and challenge the ballots.
7. At one point, I spoke in my native language to a friend of mine who was also a Republican challenger.

000332

- 8. A black male challenger who was not wearing credentials approached us and asked us “where were you born; where do you live,” “you both speak the same language and other challengers speak the same language, you must know each other, you are lying.” I believe this was designed to obstruct our ability to observe and challenge. He also put his fingers two to three inches from my face. These actions obstructed my ability to observe and challenge the process.
- 9. At approximately 12:00 to 12:30 I observed two ballots marked for Donald Trump and one marked for Jo Jorgenson at my table and a nearby table.

Dated: November 9, 2020

*Tracy Topini*  
 \_\_\_\_\_  
 [Print name]

Subscribed and sworn to before me on: *11/9/2020*

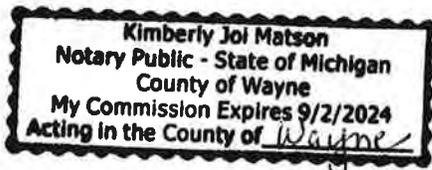
*Kimberly J. Matson*  
 Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*

*Tracy Topini*

*11-9-2020*



**AFFIDAVIT OF DEBORAH JEAN FUQUA-FREY**

Deborah Jean Fuqua-Frey, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I arrived at the TCF Center Building around 12:00 p.m.
4. I was not allowed to enter the building where I was to be a Michigan Republican challenger and I did not in fact enter.
5. I witnessed persons who identified themselves as Democrat poll challengers being allowed to enter, and in fact enter the building.
6. I also witnessed people representing special interest groups specifically AFL-CIO, Black Lives Matter with masks on that had it on the mask, Media, and UAW.
7. I repeatedly called out "discrimination" when non-Michigan Republican people were let in by security staff.
8. I remained outside until 8:00 p.m., after which I left without having been able to perform my duty as a Michigan Republican challenger.

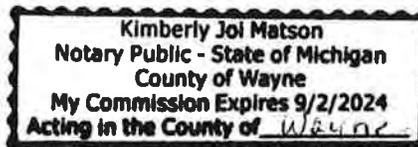
Dated: November 9, 2020

*Deborah Jean Fuqua-Frey*  
 Deborah J. Fuqua-Frey  
 11-9-2020

Subscribed and sworn to before me on: 11/9/2020

*Kimberly J. Matson*  
 Notary public, State of Michigan, County of: *Wayne*  
 My commission expires:

*9/2/2024*



### AFFIDAVIT OF DANIEL UNGAR

I, Daniel Ungar, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I went to the TCF Center, Detroit, MI to volunteer with the MI GOP as to the vote counting process in Detroit. I arrived around 12:30 pm and went to Room #260 where a GOP representative informed me that the GOP needed attorneys to supervise and/or answer questions from the GOP poll challengers. I am a licensed attorney in the State of Michigan.
4. I and two other attorneys accompanied the GOP representative down to the ballot counting room. As I was signing in at the ballot counting room, a male election worker who identified himself as the "supervisor" (also may be known as "Jerome") told the Detroit female election worker who was checking me in not to let me or the other two attorneys in as the GOP had too many poll challengers already on the floor. The supervisor also admitted out loud that there were more Democratic poll challengers on the floor than the maximum number allowed and that the Democrats had more poll challengers than the GOP. I did not personally observe this supervisor refusing to allow more Democratic poll challengers in the room but did personally witness the supervisor restricting my entry into the ballot counting room.
5. The supervisor said that the GOP was over its 134 limit of poll challengers. I asked the supervisor how he arrived at the number "134" and he was unable to provide me with

an explanation even though I specifically asked him if the restricted number was related to a “fire code” rule.

6. I personally did not observe any election worker physically counting the number of GOP poll challengers. Even though the GOP representative explained to the election supervisor that the group of individuals he was with were not “poll challengers” but rather lawyers who were there to assist the poll challengers, the supervisor refused to admit us.
7. The election supervisor included supervisory personnel of the GOP in the 134 allotment of partisan poll challengers for the GOP.
8. I then left the ballot counting room and hung out for a while in the building. Around 2:30-3:00 pm I received credentials from the Election Integrity Fund, a non-partisan voter watchdog organization, in one of the hallways upstairs. I then went back downstairs in an attempt to again enter the ballot counting room. At this time, there was a crowd of people outside the ballot counting room and the doors were locked. There was a lot of confusion as to what was happening any why they were not allowing people in. Several minutes later a man came out and announced that he had a statement to make. He introduced himself as Lawrence Garcia, corporation council for the City of Detroit and also an Election Commissioner. He announced to the group of individuals trying to gain access to the ballot counting room that “they are no longer admitting people to the room.”
9. Mr. Garcia introduced the “political organization coordinator” who was the supervisor that had denied me entry earlier (a/k/a Jerome). Jerome announced, “All groups are

above capacity and that no poll challengers are allowed in, including non-partisan poll challengers.”

10. A person from the group shouted out to the supervisor that poll challengers were in fact leaving and that the numbers were coming down. The supervisor responded to the group and said: “We have a book where people sign in. People are supposed to sign out, and if they do not sign out, that is their choice.” He repeated, “If people do not sign out, it is not our fault.”
11. The supervisor’s comment was clearly understood as an admission that he knew there were fewer than the allotted number of poll challengers on the floor because signed-in poll challengers had left the room, and that he was solely relying on poll challengers’ failure to sign out to make a false determination that the number of poll challengers permitted on the floor exceeded the allotted 134.
12. Also, around this time, I observed Detroit election workers attempting to cover the windows that separated the ballot counting room from the lobby outside to prevent those outside the room from seeing what was happening inside.
13. I went back up to Room 260 and I filled out an incident report regarding the City of Detroit election personnel’s refusal to admit poll challengers to the ballot counting room even when they knew that people left without signing out.
14. Around 4pm I went back downstairs to the entrance to the ballot counting room and soon thereafter, an election worker came out of the locked door and announced that they were now going to permit 6 non-partisan poll challengers in the ballot counting room. I was one of the 6 non-partisan poll challengers permitted to sign in, on behalf of the Election Integrity Fund. I signed in at 4:03 pm.

15. During my poll challenger activities, I witnessed the following: I was at the table for Precinct 80 (I believe they were processing military ballots) and noticed that there were two identical envelopes; same address, same handwriting with two names: one was “ [REDACTED] ;” and the other one was “ [REDACTED] .” These two names could not be found in the data base and consequently, an election worker decided to enter their names into the data base. Because there was no identifying information as to these two voters, the election worker entered into the data base the birth date of one of the ballots as “November 3, 2020” (the date of the election) and the date of birth entered for the second ballot was “1/1/1900.” A third ballot with the name of “ [REDACTED] ’ was also data supplemented with a birth date of “1/1/1900.”
16. As to the two [REDACTED] ballots, the “ [REDACTED] ” ballot was a single page that did not look like a ballot because it did not have any options for any elected position. It only had write-in spaces for the positions of President, Senator and Representative. I observed this ballot as follows: In the President category, someone had written in “Biden/Harris; in the Senator category someone had written in the word “(Democrat)”; and in the representative category someone had written in the word “(Democrat).” Another election worker then took a blank (real) ballot and filled out that ballot as follows: For President, Biden/Harris was filled in; for Senator, Gary Peters was filled in; for Representative, the Democratic candidate was selected. I raised an objection to the process of tabulating this ballot and my challenge was dismissed.
17. I heard the election workers state that the second ballot ( [REDACTED] ) did not contain a ballot inside of the envelope. I also personally did not observe a ballot in the envelope. The supervisor in that area then stated that a second ballot should be (and was) filled

000338

out exactly like the first ballot. These ballots were sent off for tabulating. I raised an objection to the process of tabulating this ballot and my challenge was dismissed.

Dated: November 9, 2020



Daniel Ungar

DANIEL UNGAR 11/09/2020

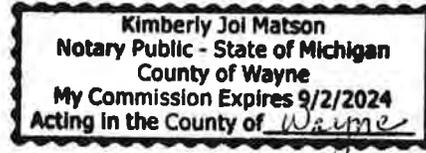
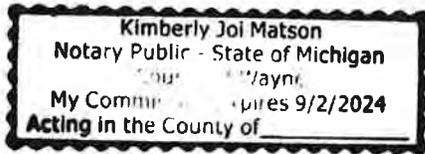
Subscribed and sworn to before me on: 11/9/2020

by Kimberly Matson

Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024



**AFFIDAVIT OF NORA KATHLEEN STORM**

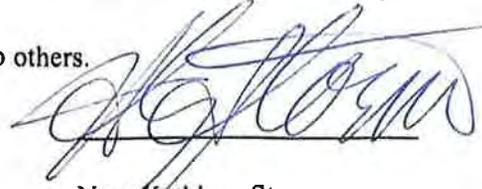
Nora Kathleen Storm, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020 I arrived at the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP.
4. I arrived at approximately 10:37 am with four other challengers that I knew beforehand. We went to room 204 to obtain our credentials and sign in. I did have access to work behind the poll workers and noticed that all ballots displayed on the screen were Democrat. I asked to observe the platform area with election officials and the supervisor denied me access. I was not given a reason.
5. The pace of the workers were very slow and no one appeared to be supervising. About 12:30 pm I took a lunch break and went to room 204. At about 1pm I returned to the poll worker area and worked in a different area. I believe table 65. I felt intimidated by union people who were staring at me. I asked to look at post mark on the envelopes of the ballots and was told I could not do so. There was a true effort to keep me from seeing anything that was happening.
6. I observed that many of the poll workers were using cell phones and they had large backpacks and suitcases around them. I inquired about large trays of folded ballots and I was told by the poll workers that that they were empty ballots to be used for redoing "bad" ballots.

000340

7. At about 3pm there was a large ruckus and I felt very intimidated so I decided to leave and was escorted out the back door. Thereafter, I learned that they boarded up the windows and were denying access to others.

Dated: November 9, 2020

  
Nora Kathleen Storm

Subscribed and sworn to before me on:

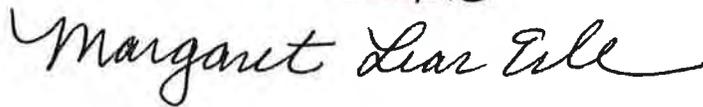
/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 07-22-2026

NORA STORM  
11/9/2020

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 07-22-2026  
Acting in the County of Wayne



### AFFIDAVIT OF DANNY FRACASSI

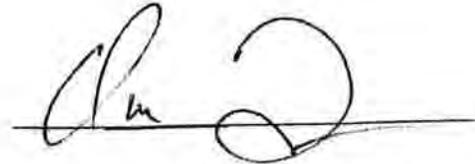
Danny Fracassi, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On Wednesday, November 4 from 10:00am to 5:00pm I was a Republican challenger at the TCF Center in Detroit, Michigan.
4. At one point I attempted to challenge a vote at Table 70 and was told by an election worker that I could not challenge that vote. Election workers called over police officers and attempted to have me ejected from the building.
5. From my observations, I believe election workers were targeting challengers who were effective at challenging ballots and attempting to get them removed.
6. I had to leave the counting room to use a restroom, but then was prevented from re-entering the counting room.
7. I and other Republican challengers were not allowed into the room at this point and were told that the maximum number of Republican and Democrat challengers were already in the room. I asked how this number was arrived at or to see documentation of it, but was not given any answers.
8. I observed plastic panels being used to cover windows so that challengers could not see what was going on in the counting room.
9. One of the men who was putting up panels had a green dot sticker on. Similar stickers were used by Democrat and other challengers.

000342

10. I observed a woman trying to get her relative, who was in the counting room, medication that he needed. She was prevented from doing so. Later an ambulance was called for him.

Dated: November 9, 2020



[Print name]

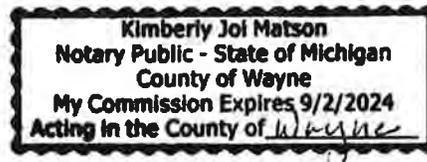
Danny Fracassi  
11-9-2020

Subscribed and sworn to before me on: 11/9/2020

*Kimberly Matson*  
Notary public, State of Michigan, County of: Wayne

My commission expires:

9/2/2024



**AFFIDAVIT OF CAROLANN WHITMORE**

CAROL ANN WHITMORE sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan. I was a Poll Chairman at Precinct 279 at Wayne County Community College District on November 3, 2020 from 5am until 10:30pm. The one thing that was brought to my attention by a Republican Poll watcher was a posted sign on the outside of the building stating that the polls closed at 6pm. Per my directive, she immediately took down the stated sign.
3. On November 4, 2020 I arrived at 9am the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP. I received my credentials at room 260 upstairs.
4. I arrived in the room at approximately 9:20 am. I noticed many of the workers were not socially distanced and I questioned them on such. I was also told there was a republican at most tables but there was clearly not any republicans and thus made a poll challenge to that effect about 11:30am. I was stationed at table 53 and after 1pm very little activity was taking place.
5. About 4:30pm I left the room and went to room 260 for about one hour. I heard from several people in the room that they were waiting for military ballots so I decided to take a break. At about 6pm, I was denied access back in and was told by several swat team members that I could not enter. I stayed in the lobby taking video of people

000344

leaving the room with large backpacks, satchels, bags and one person with a cooler. I

left to go home at 1am. I have all of the video available for viewing.

Dated: November 9, 2020

*Carol Ann Whitmore*

Carol Ann Whitmore

*Carol Ann Whitmore*

*11-9-2020*

*Carol Ann Whitmore*

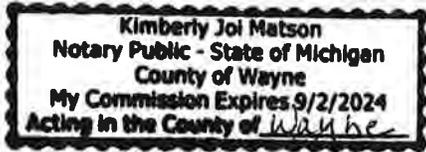
Subscribed and sworn to before me on: *11/9/2020*

*Kimberly J Matson*

Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*



000345

To whom it may concern

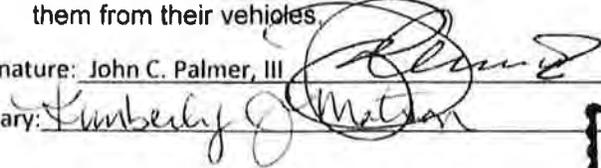
I am John C. Palmer, III. And, this is my report after watching activities in close proximity to the Detroit Department of Elections Building during the hours of 4 pm to sunset on Tuesday, November 3, 2020. I was a volunteer observer, under the training of Steve Orsini, a two term Precinct Delegate for Precinct 35 in Canton, Michigan, an 11<sup>th</sup> Congressional District Member to the State of Michigan and Elected Delegate to the Michigan Convention.

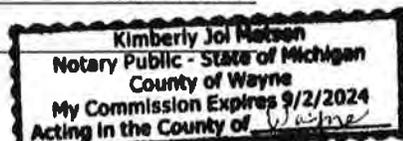
I have listed my observations below:

- Observation 1
  - a. During the entire time of my observation period as stated above on Tuesday, November 3, 2020.
  - b. I was either positioned and parked in the Fisher Theater parking lot, on the south side of the lot facing south, looking at the Department of Elections building and or positioned in the parking lot and alleyway adjacent to the west side of the Detroit Department of Elections building looking to the north.
  - c. I observed drive-up voting the entire time I was there.
  - d. People would just drive up, drop off what was assumed to be a ballot, and drive off.
    - i. Is this a secure and valid method of ballot collection?
    - ii. No I.D. verification.
    - iii. Compared to the Novi, MI precinct that I voted in earlier in the day, there was no perceivable effort made to invalidate mail-in or absentee ballots if someone was voting in-person.
    - iv. It was also noted, that one could simply drive around the block and vote again.
- Observation 2
  - a. On Tuesday, November 3, 2020, approximately 4:00 to 5:30 pm
  - b. I watched 10 or more vehicles with out-of-state license plates drive up to the loading dock area. I remember seeing Illinois, Minnesota, Missouri, Virginia, etc. See picture.
  - c. I was shocked to see that the ballot machines were controlled by these individuals and not Michigan and/or Detroit residents.
  - d. I assume these were people brought in by the DNC to control ballot counting activities.
  - e. Many of these out-of-state people carried boxes with Dominion written on them from their vehicles.

Signature: John C. Palmer, III

Date: 11-9-20

Notary: 

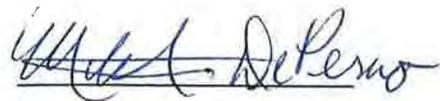


**AFFIDAVIT OF MITCHELL DePERNO**

Mitchell DePerno , being sworn, declares under penalty of perjury:

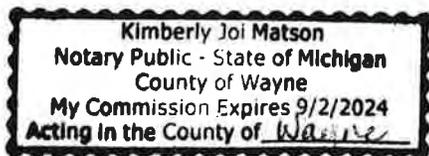
1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020 I arrived at the TCF Center in Detroit Michigan to volunteer as a poll challenger for the GOP.
4. I arrived at approximately 10:30am and I went to the GOP room on the second floor (room 260) to obtain my credentials and sign in. I then went downstairs and signed in as an observer. Many of the poll workers were opening the ballots which I was trying to observe and read. I was asked on several occasions to step back to 6 ft away by a Democrat challenger. This happened multiple times. It was impossible to read the ballots from 6 feet away.
5. On several occasions, I noticed that there was no Republican worker present at the poll tables. I attempted to make a report of same and then felt very intimidated. Supervisors were reluctant to write up my reports but finally did so when I brought an election official to push the issue.
6. Around 1:30pm I left for the day due to the stress of the situation.

Dated: November 9, 2020



Mitchell DePerno

MITCHELL DEPERNO  
11/9/20



000347

Subscribed and sworn to before me on: 11/9/2020

*Kimberly J. Motson*  
Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*

### AFFIDAVIT OF VIRGINIA JEUP

Virginia Jeup, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was a credentialed election challenger for the Michigan Republican party on Wednesday November 4<sup>th</sup>, assigned to the TCF Center, a.k.a. Cobo Hall in Detroit, Wayne County, Michigan, where absentee ballots were being processed.
4. I arrived at the TCF Center at approximately 11:15am.
5. I was assigned to go out to purchase some necessary office supplies for the Republican party and left the TCF Center at approximately 12:30am.
6. When I returned at approximately 1:15pm, I was refused all entry to the TCF Center by people identifying themselves as health officials, who stated that the facility was at capacity due to COVID.
7. While I waited outside the TCF Center, I witnessed approximately 8 to 10 other people be granted entry to the facility, including people identifying themselves as Democrats, and media, which appeared to include anyone with a camera. Anyone identifying himself or herself as a Republican was denied entry. Approximately every 10 minutes someone was granted entry.
8. I waited outside the TCF Center to be granted entry for approximately 3 hours and 45 minutes, leaving at approximately 5:00pm.

000349

Dated: November 9, 2020

*Virginia L. Jepp*

Print name:

Virginia L. Jepp

11/09/2020

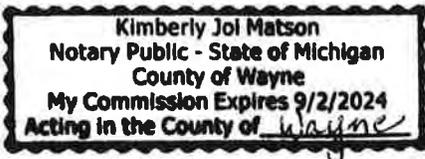
Subscribed and sworn to before me on: *11/9/2020*

*Kimberly J. Matson*

Notary public, State of Michigan, County of: *Wayne*

My commission expires:

*9/2/2024*



**AFFIDAVIT OF ANGELA MARIE EILF**

Angela Marie Eilf, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I reside in Bay City, Michigan.
4. I had found on Facebook that there was a call for assistance with counting the ballots.
5. I went to the TCF Center in Detroit, Michigan on Wednesday, November 4, 2020 around 1:00 p.m./1:30 p.m. until approximately 5:30 p.m.
6. My intentions on going to the TCF Center was to be either a challenger or observer.
7. When I arrived around 1:00 p.m./1:30 p.m., there was no real crowd gathering at that time. There was no real security, issues or anything that availed itself to me; however, multiple groups thereafter were prevented and told due to COVID-19.
8. When I was walking in to the TCF Center upon my arrival, I walked with a woman who asked me what party I belonged to. I then asked her, do you need to know that. She answered back yes and that the individuals inside will want to know. I then told her I was part of the Republican party. Immediately after my answer, the woman became rude, stated she was part of the Democratic Party and clearly was no longer friendly.
9. I then entered the room where the ballots were. I was then told that there was no room for anyone else in there (Democrat, Republican or Non-Partisan); however, the woman that I walked up with was allowed in. I then inquired if they were going to need help, but I was still told no and that someone would call if need be.

10. As I waited around outside the lobby area, I then encountered a gentleman who instructed me to go up to Room 260 of the TCF Center.
11. As instructed, I went up to Room 260, which I presumed was for the GOP. This was approximately 2:30 p.m. when I went up to this room. There were hundreds of people on this floor who had signed up to be watchers, challengers, etc.
12. I was handed an Unofficial TCF Absentee Vote Counting Board General Layout And Procedure paper [hereinafter referred to as "Unofficial Layout And Procedure"]. Please see attached.
13. I was told after receipt of this Unofficial Layout And Procedure paper, I was told there would be five (5) inspectors: 4 Democrats to 1 Republican. I later learned that it was supposed to be 1:1 ratio not 4:1.
14. From the Room 260, I was put in a group of about thirty (30) to forty (40) people and taken down to the main ballot area around 3:30 p.m./4:00 p.m. Prior to be taken down, a woman had given us some instructions, which included but not limited to as follows:
  - a. The ballots need to be confirmed by a written book or electronically and if not, then raise your hand and a lawyer would assist;
  - b. Make sure that you keep at least six (6) feet distance, if not, that people were being thrown out;
  - c. Make sure that you have your mask properly on, if not, that people were being thrown out;
  - d. Warned that it was extremely hostile and individuals were being difficult, but do not engage or become confrontational with them.
15. I was immediately concerned about these instructions.

16. After the training was complete, I decided I was nervous about being a counter and did not wish to perform that duty; however, I did still want to be a watcher/observer.
17. When we came down and attempted to get in, our group was not allowed to go in where the ballots were. We were told that they were over their numbers and no one else was allowed in.
18. The people in our group were getting a little more agitated and a supervisor came out to talk to our group. Shortly thereafter, the police came over and it was clear that they were there to intimidate us. At this time, the supervisor simply stated that if we wanted to wait, we could.
19. I have a video of when the supervisor came over to discuss this.
20. Members of our group were questioning to the workers at the door and the supervisor about keeping track of people leaving because they made the statement that people were not required to sign out. When questioned further about that, they refused to answer.
21. The man who identified himself as the supervisor eventually only responded "that's the way we're doing it."
22. I knew that throughout the actions to this point, that something was clearly wrong.
23. I ultimately learned that when our group was headed down, that inside they had just begun counting the military ballots. Due to the military ballots being faxed, I was aware that their vote needed to be transposed onto an actual ballot and then required to be witnessed by a Democrat and Republican.
24. Unfortunately, our group was completely denied access into where the ballots were being handled.

25. Thereafter, the supervisor then grabbed pizza boxes and started taping the windows with these boxes to prevent any outside observing. This was at approximately 4:30 p.m./5:00 p.m.
26. Then the doors were locked to ensure no one entered.
27. After not getting anywhere with observing, talking to individuals in charge, being denied complete access, I left around 5:00 p.m./5:30 p.m.
28. I had asked a couple of individuals that were there in the group if they would mind walking me to my car. They agreed to do so.
29. There was only one (1) operational elevator and a security guard in the elevator. It was impressed upon me that this was to block the flow of individuals into the TCF Center/ballot area.
30. When we attempted to get out of the elevator, we observed a man and another security guar in the vestibule near the parking lot of the TCF Center as well as a bunch of individuals standing around them.
31. The man (who I identified later as an attorney) was arguing with the security guard about being held up there for over two (2) hours, that they were being held against their will, that they were election challengers, and that they were told they were being removed due to COVID-19.
32. I am a nurse and to hear the claims that people were being removed due to COVID-19 was completely absurd knowing the size of TCF Center. I told the security guard that individuals who were telling him this information about COVID-19 and that he was being lied to.

000354

- 33. I heard the attorney ask the security guard who was he getting his direction from and the security guard said, "no comment." I told the security guard, "you cannot hold people against their will."
- 34. At some point later, people started making their way to get on the elevator to go back in. The security guards (outside the vestibule and from on the elevator) were physically pushing and preventing people from getting on.
- 35. At that point, I decided I would leave.

Dated: November 9, 2020

MARGARET LEAR ERLE  
 Notary Public, State of Michigan  
 County of Wayne  
 My Commission Expires 07-22-2026  
 Acting in the County of Wayne

Subscribed and sworn to before me on:

/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 07-22-2026

*Margaret Lear Erle*

*Angela Marie Eilf*  
 Angela Marie Eilf

*Angela Marie Eilf*

*11-9-2020*

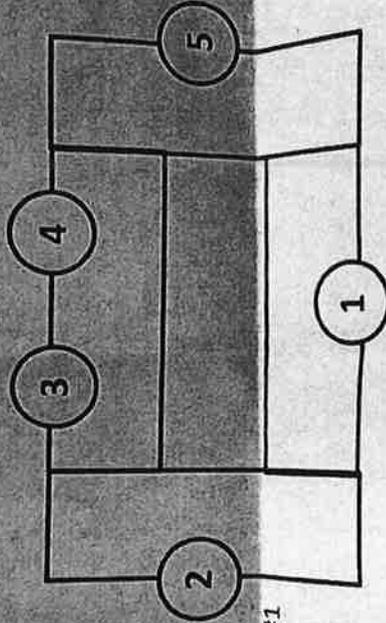
### Unofficial TCF Absentee Vote Counting Board General Layout and Procedure

#### Inspector 3

- \*Tears stub off of ballot
- \*Puts stub in Ballot Stub Envelope
- \*Hands ballot (in secrecy sleeve) to #4

#### Inspector 4

- \*Removes ballot from privacy envelope
- \*Rolls and flattens ballot
- \*Examines ballot for rips, stains, etc.
- \*Verifies correct counting board number
- \*Hands ballot to #5



#### Inspector 2

- \*Verifies name and voter number with #1
- \*Writes voter number on envelope
- \*Takes ballot (in secrecy sleeve) out of envelope

- \*Verifies ballot number with #1
- \*Hands ballot (in secrecy sleeve) to #3
- \*Puts envelope in numerical order and ties them in groups of 50 to be put into black box at counting board

#### Inspector 1

- \*Scans label on envelope into computer
- \*Hands envelope to #2
- \*Informs #2 what number voter this is for the day

#### Inspector 5

- \*Makes stacks of 50 ballots each until there are 200 ballots (4 stacks)
- \*Walks ballots to tabulating machines and hands them to poll worker for tabulation
- \*Waves a flag for the supervisor to come over if any problems arise

### AFFIDAVIT OF MINDI TIETZ

Mindi Tietz, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. On November 4, 2020, I volunteered as a poll challenger at Cobo/TCF Center in Detroit, Michigan and, on November 5, 2020, I volunteered to monitor county canvassing at the Oakland County Elections Office in Pontiac, Michigan.
4. Due to the actions of poll workers and county canvassers, I was not able to serve as a poll challenger or election monitor because I was denied access to the ballot processing area and was forced to be at such a distance that it was impossible to monitor the canvassing process.
5. On November 4, 2020, I volunteered as a credentialed GOP poll challenger at the Cobo Hall/TCF Center (Center) located at 1 Washington Blvd., Detroit, MI 48226. I was at the Center from noon through 2:35 pm Eastern.
6. During that entire time, I was denied access to the ballot processing area and was prevented from serving as a poll challenger. I was denied access five times and was forced to remain in the lobby area.
7. On November 4, 2020, I arrived at the Center at noon with fellow credentialed GOP poll challengers, Mathew Gausden and Karen Ostin. We briefly met with other GOP poll challengers for refresher training.

8. At approximately 1:10 pm, we went to sign-in at the front table of the processing area to serve as poll challengers.
9. After showing our credentials, the poll worker at the front sign-in table told us that we could not go into the processing area because it was over capacity due to COVID and she instructed us to wait in the lobby until other people left.
10. We went to the lobby and, while we were there, multiple Democrats harassed and yelled at us about access to the Center. We ignored them.
11. By 1:30 pm, I observed people leaving the processing area. I went back with my colleagues to the sign-in table and again asked to enter. The same poll worker told us that we could not enter because there were too many GOP challengers and she instructed us to go back to the lobby. At this time, people were going in and out of the processing area without signing in or out at the front desk.
12. We went back to the lobby for a second time. I then witnessed four (4) people with GOP credentials leaving the processing area.
13. My colleagues and I again asked the poll worker at the front table if we could enter. For a third time, she told us we could not go into the processing area. This time she said it was because the GOP individuals we saw leave did not sign out. She again instructed us to wait back in the lobby.
14. At about 2:00 or 2:15 pm, we saw GOP credentialed challengers leave the processing area and we asked them if they had signed out. They confirmed that they signed out at the front desk.
15. For the fourth time, we asked the poll worker to allow us to enter the processing area since the other GOP challengers had signed out. This time she yelled at us that we

could not enter because she needed to process the others' sign-out and that we had to wait in the lobby.

16. In the lobby, we observed more Republicans leaving the processing area. For the fifth time, we went back to gain access to the processing area and was yet again denied by the same poll worker because of overcapacity. The poll worker was allowing people with "independent" credentials to go into the processing area.
17. After being denied the ability to serve as poll challengers for a fifth time, we asked the poll worker if she knew how many Republican and Democrat challengers were currently in the processing area. The poll worker did not know, yet she still told us they were at capacity.
18. I did not witness Republican challengers being allowed into the processing area during my time at the Center. I only saw Republican challengers leaving.
19. Other individuals were coming and going into the room without credentials. These individuals were not wearing the white shirts and black pants of the poll workers.
20. I witnessed people in the lobby wearing Biden/Harris t-shirts.
21. I also volunteered on November 5, 2020 to monitor county canvassing at the Oakland County Elections Office, 1200 N. Telegraph Rd., Dept. 417, Pontiac, Michigan 48341. I arrived at approximately 9:00 am Eastern
22. The county canvassers told me they were comparing the number of casted ballots to the number of voters in the poll book. They also explained that they were accounting for all ballots that were sent to each precinct.
23. There were four (4) county canvassers and the Deputy County Clerk, Sandra Hughes O'Brien, at the elections office.

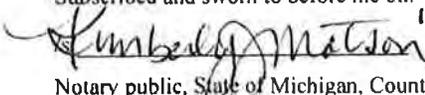
- 24. I was there to monitor and challenge the county canvassing. I was with fellow GOP observers.
- 25. A county canvasser told us to stay 20 feet away.
- 26. Fellow GOP observers raised the issue that we could not see what they were doing from this distance.
- 27. A county canvasser told us that the county canvass was not a challengeable process. He instructed us that at no time could we come within 6 feet and instructed us to remain 20 feet away.
- 28. From my location 20 feet away, I could not see any of the information being checked by the canvassers.
- 29. I left the elections office at approximately 11:00 am because I could not monitor the canvass process at the distance I was told to maintain.

DATED: November 9, 2020.



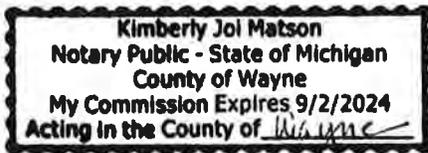
Mindi Tietz

Subscribed and sworn to before me on:

 11/9/2020 Mindi Tietz  
Notary public, State of Michigan, County of: Wayne 11-9-2020

My commission expires:

9/2/2024



### AFFIDAVIT OF JEREMY MCCALL

I, Jeremy McCall, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I received a FB message from a friend who informed that the GOP was looking for volunteers to assist as poll challengers in the City of Detroit.
4. I arrived at the TCF Center around 12:30 pm on November 4, 2020 and went to Room 260. I received my credentials and I attended the training to be a poll challenger.
5. Multiple people from the GOP were complaining that they were being intimidated, harassed inside the ballot counting room, and thus they were leaving because they were feeling unsafe, and some were being escorted out by the police. Once I was inside the ballot counting room, I personally observed an additional group of GOP poll challengers being escorted out a side door and they were not being allowed to “sign out” of the official “sign in” book. Thus, the floor count for the poll challengers for the GOP was not accurately determined and the city election workers were deliberately pushing GOP poll challengers to exit the room without an accurate tally of those remaining inside.
6. At around 3:00 pm, I headed downstairs to the ballot counting room but was denied entry.
7. At around 3:19 pm, a “health official” announced that the ballot counting room was at COVID capacity and thus, no-one from any of the political parties was allowed to go

8. into the room. However, the media was allowed complete and total access and the COVID "rules" did not apply to them.
9. At about 4:07pm I then proceeded back downstairs to the lobby of the ballot counting room. At this time, I noticed that the windows that separated the ballot counting room and the lobby were now completely covered with cardboard, pizza boxes and whatever the election officials could find.
10. At around 5:50 pm I was admitted into the ballot counting room as a GOP challenger and I checked in. I was specially told that I could not approach any election worker within 6 feet.
11. I personally observed a GOP poll challenger get into a loud discussion with a Democratic poll challenger and a Democratic lawyer. The Democrats accused this GOP poll challenger of getting too close to an election worker and accused her of being within 6 feet of the election worker. The GOP poll challenger was escorted out of the room and the Democratic poll challenger, including other democrats who joined in the discussion, were permitted to stay in the ballot counting room.

- 12. I also personally observed from the outside window many of the election workers with coolers, rolling luggage, backpacks, duffle bags and other containers allowed to be within the personal space of the election workers. I did not view any inspection of these items, and as a matter of fact, my personal backpack was not searched prior to entering the ballot counting room.
- 13. I did not disclose my party affiliation when I was in the ballot counting room because of intimidation and harassment.

Dated: November 9, 2020



Jeremy McCall

JEREMY McCALL

11-9-2020

Subscribed and sworn to before me on:

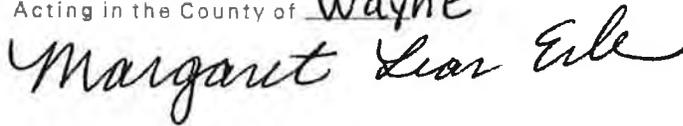
/s/ November 9, 2020

Notary public, State of Michigan, County of:

My commission expires: 07-22-2026

MARGARET LEAR ERLE  
Notary Public, State of Michigan  
County of Wayne

My Commission Expires 07-22-2026  
Acting in the County of Wayne



000363

The within named person (Affiant), Mary E. Shinkle, who is a resident of Ingham County, State of Michigan, personally came and appeared before me, the undersigned Notary Public, and makes this her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of her knowledge:

Assigned to: City of Detroit AV Count Board as Poll Challenger  
Dates: Monday, November 2, 2020 to Thursday, November 5, 2020

Monday, November 2, 2020, I observed at several Absentee Voting Count Board (AVCB) precinct tables during the pre-processing of the AV ballot received by the City of Detroit. Most of the AVCB Election workers at precinct tables were observed processing the ballot envelopes correctly by opening; placing the envelopes in stacks of 50; passing the envelopes to the next person who scanned and checked voter name and signature against the electronic poll book; passing the envelope to the next person to partially pull the end of the ballot out then read the ballot number for confirm it was correct. Then several AVCB Election workers at precinct tables were observed not following the correct process and scanning more than 50 ballots at a time and not checking the ballot envelope scanned against data in the electronic the poll book.

Tuesday, November 3, 2020, I observed at AVCB precinct table #55 duplicating ballots. I inquired with the Table Captain the reason for the duplication, and was told it was because the voter was sent and returned a ballot from the wrong precinct, so the ballot had to be duplicated. A few moments later, I stepped forward to view a duplicated ballot and was immediately told by an Election Worker at table #55, "you can't be looking at our ballots". I replied, "the law allows me to view the ballots and the process during the duplication process". She continued, "no you can't. You are mistaken, so I am just pointing that out to you, because if we make a mistake then you would be all over us." Then another Election Worker at table #55 then covered the already duplicated ballots with a piece of paper so I could not see the top ballot. I stepped back away from the table but continued to observe the ballots being duplicated until the Election Workers were completed with this task.

Wednesday, November 4, 2020, I observed at AVCB precinct tables #88, #83, #5, #86 the Election workers being extremely rude and aggressive toward our Poll Challengers and Attorneys when ballot challenges were attempted to be made.

Thursday, November 5, 2020 at 4:38 AM, I observed with Ty Bundy at AVCB precinct tables #16, #17, #23, #26, #37 that outer ballot envelopes (with received stamp and voter signature) and ballot stubs were left at these AVCB tables unsecured, and not placed in secured bags with seals, which should have been done when the precinct was closed. I asked an Election Worker (David) about the ballot envelopes and ballot stubs having been left at these tables. He replied "we are working on it" then walked away. Moments later he watched him leave the AVCB room, and he did not return.

Thursday, November 5, 2020 at 5:03 AM, I observed at AVCB precinct table #17 that there are three (3) unsealed ballot boxes at this table. At 5:17 AM, an Election Worker walked by and noticed the 3 unsealed ballot boxes; he stopped and opened each one box and discovered ballots inside of each; he advised Dan Baxter, who came to table #17 and inspected the 3 boxes as well; Dan Baxter and an Election Worker moved the 3 boxes to the far end of the room; I followed the two gentlemen and 3 boxes, and observed the 3 boxes being sealed by Dan Baxter. Also left at table #17 were the outer ballot envelopes and ballot stubs; these ballot envelopes were in a large black & grey plastic tub; not in a sealed case.

Dated this 9 day of November 2020.

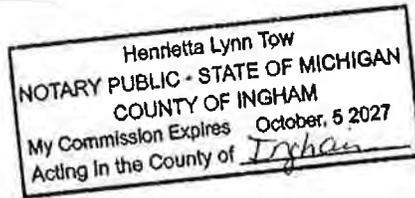
Mary Shinkle

Signature of Affiant

=====  
State of Michigan  
County of Ingham

Subscribed and sworn to, or affirmed, before me on this 9 day of November 2020, by Affiant Mary Shinkle.

Hennetta Lynn Tow  
Signature of Notary Public



10-5-2027  
My Commission expires

**AFFIDAVIT OF ALISA VALDEN**

Alisa Valden, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I was personally present at the TCF Center in Detroit, MI. I arrived there around noon on November 4, 2020.
4. When I arrived, I attended training and was credentialed by the Michigan Republican Party as a challenger.
5. Myself and other challengers were told to wait for the election worker shift change.
6. I was told by someone in the group that Republican challengers were not being allowed in however Independent challengers were.
7. I was informed that independent groups were also offering credentials.
8. I attended the independent group training session and was later credentialed by them.
9. Upon completion, I attempted to gain access into the "vote counting room."
10. I stood outside the entry of the "vote counting room" with approximately 50 other challengers, the vast majority of which were Republicans or Independence.
11. Again, I stood with the other challengers and waited to gain access to the "vote counting room" but it was not offered.
12. I de-credentialed myself as an independent challenger.
13. Around 7:00 pm, I was allowed into the "vote counting room" as a Republican challenger where I observed counting board 66 which was in the process of transcribing military ballots.

000366

- 14. While there, I encountered a Democrat challenger named Scott who had been present prior to my arrival.
- 15. I was only able to observe 3 ballots being counted before they stopped counting at counting board 66.
- 16. While waiting for another table, I was told by an election worker that a batch of ballots weren't included in the most recently printed poll book and had to be entered.
- 17. I was told that the birthdates on these ballots would have unusual birthdates from the early 1900's.
- 18. Shortly after, I went to counting board 1, I also personally witnessed the name on precinct F ballot number 03097 was given to " , . . . . . :"  
The individual had an address of . . . . . and had a birthdate of August 1, 1999.
- 19. When I later observed precinct F ballot number 03097, the name was changed to . . . . .
- 20. I was intimidated by election workers and Democratic challengers who upon finding out my political affiliation while I was in the "vote counting room."
- 21. Affiant further sayeth not.

Dated: November 9, 2020

*Alisa R Valden*

Alisa Valden

Subscribed and sworn to before me on:

/s/ *Nov. 9, 2020*

notary *Barbara A. Harrell*

Notary public, State of Michigan, County of:

My commission expires: *Aug. 4, 2025*

BARBARA A. HARRELL  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 4, 2025  
ACTING IN COUNTY OF *Wayne*

**AFFIDAVIT OF Anita Chase**

Anita Chase, being sworn, declares under penalty of perjury:

1. I am personally familiar with the facts stated in this Affidavit and, if sworn as a witness, am competent to testify to them as well.
2. I am a registered voter in the State of Michigan.
3. I checked the voter records for my deceased son's name (Mark D. Chase) and it showed that he had voted twice since he passed away. Once when he was 38 years old (age he passed away but in July) and once when he was 42 years old which would have been this election.

Dated: November 7, 2020

*Anita Chase*  
Anita Chase

Subscribed and sworn to before me on:

/s/ *Dawn L Colson*

Notary public, State of Michigan, County of: *MACOMB*

My commission expires: *12/21/2025*

<b>DAWN L COLSON</b>
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF MACOMB
My Commission Expires Dec. 21, 2025
Acting in the County of <i>MACOMB</i>

# **EXHIBIT 4**

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

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**CHERYL A. COSTANTINO and EDWARD P.  
McCALL, Jr.,**

**Plaintiff,**

**-vs-**

**CITY OF DETROIT; DETROIT ELECTION  
COMMISSION; JANICE M. WINFREY, in  
her official capacity as the CLERK OF THE  
CITY OF DETROIT and the Chairperson of  
the DETROIT ELECTION COMMISSION;  
CATHY M. GARRETT, in her official  
capacity as the CLERK OF WAYNE  
COUNTY; and the WAYNE COUNTY  
BOARD OF CANVASSERS,**

**Defendants.**

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**COMPLAINT AND  
APPLICATION FOR SPECIAL  
LEAVE TO FILE QUO  
WARRANTO COMPLAINT**

**EXPEDITED CONSIDERATION  
REQUESTED**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**David A. Kallman (P34200)**  
**Erin E. Mersino (P70886)**  
**Jack C. Jordan (P46551)**  
**Stephen P. Kallman (P75622)**  
**GREAT LAKES JUSTICE CENTER**  
**Attorneys for Plaintiff**  
**5600 W. Mount Hope Hwy.**  
**Lansing, MI 48917**  
**(517) 322-3207/Fax: (517) 322-3208**

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**There is no other pending or resolved civil action arising out of the same transaction or  
occurrence as alleged in the complaint.**

**APPLICATION FOR SPECIAL LEAVE TO FILE  
QUO WARRANTO COMPLAINT**

NOW COMES the above-named Plaintiffs, **CHERYL A. COSTANTINO AND EDWARD P. MCCALL, JR.**, by and through their attorneys, **GREAT LAKES JUSTICE CENTER**, and for their application for leave to file a complaint for quo warranto relief, and for their complaint, hereby states as follows:

1. Pursuant to MCL 600.4545(2), Plaintiffs respectfully request that this Honorable Court grant them special leave to file Counts II and III of this complaint for quo warranto for all the reasons as stated in their complaint, motion for temporary restraining order, supporting affidavits, exhibits, and accompanying brief, which are all incorporated herein by reference.

2. Plaintiffs request this relief as recognized in *Shoemaker v City of Southgate*, 24 Mich App 676, 680 (1970).

**WHEREFORE**, Plaintiffs request that his application for special leave to file Counts II and III of this complaint for quo warranto relief be granted and that this Honorable Court grant such other and further relief as appropriate.

Dated: November 8, 2020.

/s/ David A. Kallman  
David A. Kallman (P34200)  
Attorney for Plaintiffs

**COMPLAINT**

NOW COMES the above-named Plaintiffs, **CHERYL A. COSTANTINO AND EDWARD P. MCCALL, JR.** (hereinafter “Plaintiff”), by and through their attorneys, **GREAT LAKES JUSTICE CENTER**, and for their Complaint hereby states as follows:

**INTRODUCTION**

1. The election was held on November 3, 2020 and approximately 850,000 votes were

reported as cast in Wayne County, Michigan.

2. Plaintiff brings this action to raise numerous issues of fraud and misconduct that occurred in order to protect the rights of all voters in Michigan, especially Wayne County.

3. In summary, this Complaint raises numerous instances of fraud, including, but not limited to:

- a. Defendants systematically processed and counted ballots from voters whose name failed to appear in either the Qualified Voter File (QVF) or in the supplemental sheets. When a voter's name could not be found, the election worker assigned the ballot to a random name already in the QVF to a person who had not voted.
- b. Defendants instructed election workers to not verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity.
- c. After election officials announced the last absentee ballots had been received, another batch of unsecured and unsealed ballots, without envelopes, arrived in trays at the TCF Center. There were tens of thousands of these absentee ballots, and apparently every ballot was counted and attributed only to Democratic candidates.
- d. Defendants instructed election workers to process ballots that appeared after the election deadline and to falsely report that those ballots had been received prior to November 3, 2020 deadline.
- e. Defendants systematically used false information to process ballots, such as using incorrect or false birthdays. Many times, the election workers inserted new names into the QVF after the election and recorded these new voters as having a birthdate of 1/1/1900.
- f. On a daily basis leading up to the election, City of Detroit election workers and

employees coached voters to vote for Joe Biden and the Democrat party. These workers and employees encouraged voters to do a straight Democrat ballot. These election workers and employees went over to the voting booths with voters in order to watch them vote and coach them for whom to vote.

- g. Unsecured ballots arrived at the TCF Center loading garage, not in sealed ballot boxes, without any chain of custody, and without envelopes.
- h. Defendant election officials and workers refused to record challenges to their processes and removed challengers from the site if they politely voiced a challenge.
- i. After poll challengers started discovering the fraud taking place at the TCF Center, Defendant election officials and workers locked credentialed challengers out of the counting room so they could not observe the process, during which time tens of thousands of ballots were processed.
- j. Defendant election officials and workers allowed ballots to be duplicated by hand without allowing poll challengers to check if the duplication was accurate. In fact, election officials and workers repeatedly obstructed poll challengers from observing. Defendants permitted thousands of ballots to be filled out by hand and duplicated on site without oversight from poll challengers.

#### **PARTIES, JURISDICTION, AND VENUE**

4. Plaintiff Cheryl A. Costantino is a resident of Wayne County, voted in the November 3, 2020 election, and was a poll challenger.

5. Plaintiff Edward P. McCall, Jr. is a resident of Wayne County, voted in the November 3, 2020 election, and was a poll challenger.

6. Defendant City of Detroit is a municipality located in Wayne County tasked with

the obligation to hold all elections in a fair and legal manner.

7. Defendant Election Commission is a department of the City of Detroit.

8. Janice M. Winfrey, in her official capacity, is Clerk of the Defendant City of Detroit and the Chairman of the Defendant Detroit City Election Commission and is the city official who oversees and supervises all elections in the City of Detroit.

9. Cathy M. Garrett, in her official capacity, is the Clerk of Defendant Wayne County, and is the county official who oversees and supervises all elections in Wayne County.

10. Defendant Wayne County Board of Canvassers is the appointed body that is responsible for canvassing the votes cast within the county they serve. The Board members certify elections for all local, countywide and district offices which are contained entirely within the county they serve.

11. This action is properly filed in Wayne County Circuit Court pursuant to MCR 3.306(A)(2), Mich. Const. art. 2, sec. 4, par. 1(h), MCL 600.4545, and MCL 600.605. Venue is proper pursuant to MCR 3.306(D).

### **GENERAL ALLEGATIONS**

12. Wayne County used the TCF Center in downtown Detroit to consolidate, collect, and tabulate all of the ballots for the County.

13. The TCF Center was the only facility within Wayne County authorized to count the ballots.

### **Forging Ballots on the Qualified Voter List**

14. An attorney and former Michigan Assistant Attorney General was a certified poll challenger at the TCF Center (Exhibit A – Affidavit of Zachary Larsen).

15. As Mr. Larsen watched the process, he was concerned that ballots were being

processed without confirmation that the voter was an eligible voter in the poll book because of information he had received from other poll challengers (Exhibit A).

16. Mr. Larsen reviewed the running list of scanned in ballots in the computer system, where it appeared that the voter had already been counted as having voted. An official operating the computer then appeared to assign this ballot to a different voter as he observed a completely different name that was added to the list of voters at the bottom of a running tab of processed ballots on the right side of the screen (Exhibit A).

17. Mr. Larsen was concerned that this practice of assigning names and numbers indicated that a ballot was being counted for a non-eligible voter who was not in either the poll book or the supplemental poll book. From his observation of the computer screen, the voters were not in the official poll book. Moreover, this appeared to be the case for the majority of the voters whose ballots he personally observed being scanned (Exhibit A).

18. Because of Mr. Larsen's concern, he stepped behind the table and walked over to a spot behind where the first official was conducting her work. Understanding health concerns due to COVID-19, he attempted to stand as far away from this official as he reasonably could while also being able to visually observe the names on the supplemental poll book and on the envelopes (Exhibit A).

19. As soon as Mr. Larsen moved to a location where he could observe the process by which the first official at this table was confirming the eligibility of the voters to vote, the first official immediately stopped working and glared at him. He stood still until she began to loudly and aggressively tell him that he could not stand where he was standing. She indicated that he needed to remain in front of the computer screen where he could not see what the worker was doing (Exhibit A).

20. Both officials then began to tell Mr. Larsen that because of COVID, he needed to be six feet away from the table. He responded that he could not see and read the supplemental poll book from six feet away, and that he was attempting to keep his distance to the extent possible (Exhibit A).

21. Just minutes before at another table, a supervisor had explained that the rules allowed Mr. Larsen to visually observe what he needed to see and then step back away. Likewise, on Election Day, he had been allowed to stand at equivalent distance from poll books in Lansing and East Lansing precincts without any problem. With this understanding, he remained in a position to observe the supplemental poll book (Exhibit A).

22. Both officials indicated that Mr. Larsen could not remain in a position that would allow him to observe their activities; the officials indicated they were going to get their supervisor (Exhibit A).

23. When the supervisor arrived, she reiterated that Mr. Larsen was not allowed to stand behind the official with the supplemental poll book, and he needed to stand in front of the computer screen. Mr. Larsen told her that was not true, and that he was statutorily allowed to observe the process, including the poll book (Exhibit A).

24. The supervisor then pivoted to arguing that Mr. Larsen was not six feet away from the first official. Mr. Larsen told her that he was attempting to remain as far away as he could while still being able to read the names on the poll book (Exhibit A).

25. The supervisor then stood next to the chair immediately to the left of the first official and indicated that Mr. Larsen was “not six feet away from” the supervisor and that she intended to sit in the chair next to the official with the poll book, so he would need to leave (Exhibit A).

26. This supervisor had not been at the table at any time during the process, and she had responsibility for numerous ACVBs. Further, the supervisor's choice of chairs was approximately three feet to the left of the first official and therefore in violation of the six-foot distance rule (Exhibit A).

27. Accordingly, Mr. Larsen understood that this was a ruse to keep him away from a place where he could observe the confirmation of names in the supplemental poll book. The supervisor began to repeatedly tell him that he "needed to leave" so he responded that he would go speak with someone else and fill out a challenge form (Exhibit A).

28. After Mr. Larsen observed and uncovered the fraud that was taking place and had the confrontation with the supervisor, he left the counting room to consult with another attorney about the matter around 1:30 p.m. to 2:00 p.m. (Exhibit A).

29. It was at this point that election officials stopped permitting any further poll challengers to enter the counting room, including Mr. Larsen (Exhibit A).

30. Election officials never allowed Mr. Larsen to re-enter the counting room to fulfill his duties as a poll challenger after he had discovered the fraud which was taking place.

### **Illegal Voter Coaching and Identification Issues**

31. An election employee with the City of Detroit was working at a polling location for approximately three weeks prior to the election. This City of Detroit employee directly observed, on a daily basis, other City of Detroit election workers and employees coaching voters to vote for Joe Biden and the Democrat party. This employee witnessed these workers and employees encouraging voters to do a straight Democrat ballot and witnessed these election workers and employees going over to the voting booths with voters in order to watch them vote and coach them for whom to vote (Exhibit B – Affidavit of Jessy Jacob).

32. During the last two weeks while this same employee was working at the polling location, she was specifically instructed by her supervisor never to ask for a driver's license or any photo I.D. when a person was trying to vote (Exhibit B).

### **Changing Dates on Ballots**

33. All absentee ballots that existed were required to be inputted into the QVF system by 9:00 p.m. on November 3, 2020. This was required to be done in order to have a final list of absentee voters who returned their ballots prior to 8:00 p.m. on November 3, 2020. In order to have enough time to process the absentee ballots, all polling locations were instructed to collect the absentee ballots from the drop-box once every hour on November 3, 2020 (Exhibit B).

34. On November 4, 2020, a City of Detroit election worker was instructed to improperly pre-date the absentee ballots receive date that were not in the QVF as if they had been received on or before November 3, 2020. She was told to alter the information in the QVF to falsely show that the absentee ballots had been received in time to be valid. She estimates that this was done to thousands of ballots (Exhibit B).

### **Illegal Double Voting**

35. The election employee observed a large number of people who came to the satellite location to vote in-person, but they had already applied for an absentee ballot. These people were allowed to vote in-person and were not required to return the mailed absentee ballot or sign an affidavit that the voter lost the mailed absentee ballot (Exhibit B).

36. This would permit a person to vote in person and also send in his/her absentee ballot.

37. Prior to the election, the Michigan Secretary of State sent ballot applications to deceased residents and to non-residents of the State of Michigan.

### **First Round of New Ballots**

38. At approximately 4:00 a.m. on November 4, 2020, tens of thousands of ballots were suddenly brought into the counting room through the back door (Exhibit C – Affidavit of Andrew Sitto).

39. These new ballots were brought to the TCF Center by vehicles with out-of-state license plates (Exhibit C).

40. It was observed that all of these new ballots were cast for Joe Biden (Exhibit C).

### **Second Round of New Ballots**

41. The ballot counters were required to check every ballot to confirm that the name on the ballot matched the name on the electronic poll list; this was the list of all persons who had registered to vote on or before November 1, 2020 and is often referred to as the QVF (Exhibit D - Affidavit of Bob Cushman)

42. The ballot counters were also provided with Supplemental Sheets which had the names of all persons who had registered to vote on either November 2, 2020 or November 3, 2020 (Exhibit C).

43. The validation process for a ballot requires the name on the ballot to be matched with a registered voter on either the QVF or the Supplemental Sheets.

44. At approximately 9:00 p.m. on Wednesday, November 4, 2020, numerous boxes of ballots were brought to TCF Center (Exhibit D).

45. Upon information and belief, the Wayne County Clerk's office instructed the ballot counters to use the date of birth of January 1, 1900 on all of these newly appearing ballots.

46. None of the names of these new ballots corresponded with any registered voter on

the QVF or the Supplemental Sheets (Exhibit D).

47. Despite election rules that required that all absentee ballots be inputted into the QVF system before 9:00 p.m. on November 3, 2020 (Exhibit B), the election workers inputted all of these new ballots into the QVF and manually added each voter to the list after 9:00 p.m. (Exhibit D).

48. Upon information and belief, the vast majority of these new ballots indicated the voter's date of birth as January 1, 1900 entered into the QVF (Exhibit D).

49. These newly received ballots were either fraudulent or apparently cast by persons who were not registered to vote prior to the polls closing at 8:00 p.m. on November 3, 2020.

#### **No Transparency - Denied Access**

50. Numerous election challengers were denied access to observe the counting process by the Defendants.

51. After denying access to the counting rooms, election officials used large pieces of cardboard to block the windows to the counting room thereby preventing anyone from watching the ballot counting process (Exhibit C).

#### **Qualified Voter File Access**

52. Whenever an absentee vote application or in-person absentee voter registration was finished, election workers were instructed to input the voter's name, address, and date of birth into the QVF system (Exhibit B).

53. The QVF system can be accessed and edited by any election processor with proper credentials in the State of Michigan at any time and from any location with internet access (Exhibit B).

54. This access permits anyone with the proper credentials to edit when ballots were

sent, received, and processed from any location with internet access (Exhibit B).

55. Many of the counting computers within the counting room had icons that indicated that they were connected to the internet (Exhibit F – Affidavit of Patrick J. Colbeck).

#### **Absentee Ballot Signatures**

56. Whenever a person requested an absentee ballot either by mail or in-person, that person was required to sign the absentee voter application.

57. When the voter returned his/her absentee ballot to be counted, the voter was required to sign the outside of the envelope that contained the ballot.

58. Election officials who process absentee ballots are required to compare the signature on the absentee ballot application with the signature on the absentee ballot envelope.

59. Election officials at the TCF Center instructed workers to never validate or compare the signatures on absentee applications and the absentee envelopes to ensure their authenticity and validity (Exhibit B).

#### **Unsecured Ballots**

60. A poll challenger witnessed tens of thousands of ballots being delivered to the TCF Center that were not in any approved, sealed, or tamper-proof container (Exhibit E – Affidavit of Daniel Gustafson).

61. Large quantities of ballots were delivered to the TCF Center in what appeared to be mail bins with open tops (Exhibit E).

62. Contrary to law, these ballot bins and containers did not have lids, were not sealed, and did not have the capability of having a metal seal (Exhibit E).

#### **COUNT I – CONSTITUTIONAL RIGHT TO ACCURACY AND INTEGRITY OF ELECTIONS** **MICHIGAN CONSTITUTION – ARTICLE 2, SECTION 4, PARAGRAPH 1(H)**

63. Paragraphs 1 through 62 are hereby incorporated by reference as if fully restated

herein.

64. Plaintiff brings this action to vindicate his constitutional right to a free and fair election ensuring the accuracy and integrity of the process pursuant to the Michigan Constitution, art. 2, sec. 4, par. 1(h), which states all Michigan citizens have:

The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections.

65. The Mich. Const., art. 2, sec. 4, further states, “All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes.”

66. Based upon all the allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to enjoin the certification of the election results pending a full investigation and court hearing, and to order an independent audit of the November 3, 2020 election to ensure the accuracy and integrity of the election.

**COUNT II – STATUTORY QUO WARRANTO CLAIM – ELECTION FRAUD**  
**MCL 600.4545(2); MCL 168.861**

67. Paragraphs 1 through 66 are hereby incorporated by reference as if fully restated herein.

68. MCL 600.4545(2) permits an action to request the issuance of a writ of quo warranto if the action is brought within 30 days after the election upon the request of “any citizen of the county by special leave of the court or a judge thereof.”

69. The statute also requires this action to “be brought against the municipality wherein such fraud or error is alleged to have been committed.”

70. Quo Warranto may be brought to remedy fraudulent or illegal voting or tampering with ballots or ballot boxes before a recount pursuant to MCL 168.861, which states,

For fraudulent or illegal voting, or tampering with the ballots or ballot boxes before a recount by the board of county canvassers, the remedy by quo warranto shall remain in full force, together with any other remedies now existing.

71. Based upon the allegations contained herein, material fraud or error occurred in this election so that the outcome of the election was affected.

72. Based upon the above allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to issue a writ of quo warranto and order appropriate relief, including, but not limited to, enjoining the certification of the election results pending a full investigation and court hearing, ordering a recount of the election results, or voiding the election and ordering a new election, to remedy the fraud.

### **COUNT III – COMMON LAW QUO WARRANTO CLAIM – ELECTION FRAUD**

73. Paragraphs 1 through 72 are hereby incorporated by reference as if fully restated herein.

74. MCR 3.306(B)(2) permits an action to request the issuance of a writ of quo warranto.

75. An application to proceed by quo warranto must disclose sufficient facts and grounds and sufficient apparent merit to justify further inquiry.

76. Quo warranto is warranted whenever it appears that material fraud or error has been committed at any election. This type of action is brought to challenge the validity of the election itself. *Barrow v Detroit Mayor*, 290 Mich App 530, 543 (2010). For all the reasons stated herein and in the attached affidavits, material fraud or error was committed during the election.

77. This Quo Warranto claim is brought to remedy fraudulent or illegal voting or tampering with ballots or ballot boxes.

78. Based upon the allegations contained herein, material fraud or error occurred in this

election so that the outcome of the election was affected.

79. Based upon the above allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to issue a writ of quo warranto and order appropriate relief, including, but not limited to, enjoining the certification of the election results pending a full investigation and court hearing, ordering a recount of the election results, or voiding the election and ordering a new election, to remedy the fraud.

**COUNT IV – EQUAL PROTECTION VIOLATION**  
**Mich Const, art I, § 2.**

80. Paragraphs 1 through 79 are hereby incorporated by reference as if fully restated herein.

81. The Equal Protection Clause of the Michigan Constitution provides that “[n]o person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights.” Mich Const, art I, § 2.

82. The right to vote is a fundamental civil right and a political right.

83. The Equal Protection Clause forbids election officials granting the right to vote on equal terms but later devaluing a person’s vote through failing to use specific standards and uniform rules.

84. Only specific standards and uniform rules provide sufficient guarantees of equal treatment.

85. Every person has the right to vote, with their vote counted as one vote, and not have his or her vote diluted and voided out by the counting of an illegal vote.

86. Defendants handling of the election, as described above and as described in the attached affidavits, establish how rampant and systemic fraud devalued and diluted Plaintiff’s civil and political rights.

87. The illegal procedures, illegal standards, and illegal treatment of the ballots and the counting of ballots in Wayne County and in Detroit employed by Defendants unconstitutionally burden the fundamental right to vote.

88. Defendants have no legitimate interest in counting illegal and improper ballots, counting ballots more than once, illegally correcting and improperly duplicating ballots, adding false birthdates and voter information to ballots, and improperly handling the collection and counting of ballots in a way that dilutes and cancels out rightfully and properly cast votes.

89. Based upon the above allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to order appropriate relief, including, but not limited to, enjoining the certification of the election results pending a full investigation and court hearing, ordering a recount of the election results, or voiding the election and ordering a new election, to remedy the fraud.

#### **COUNT V – STATUTORY ELECTION LAW VIOLATIONS**

90. Paragraphs 1 through 89 are hereby incorporated by reference as if fully restated herein.

#### **Violation of MCL 168.765a.**

91. Absent voter ballots must only be counted when “at all times” there is “at least 1 election inspector from each major political party.” MCL 168.765a.

92. Per eyewitness accounts described in this Complaint and its attached sworn affidavits, Defendants habitually and systematically disallowed election inspectors from the Republican party, including Plaintiff, to be present in the voter counting place and refused access to election inspectors from the Republican party, including Plaintiff, to be within a close enough distance from the absent voter ballots to be able to see for whom the ballots were

cast.

93. Defendants refused entry to official election inspectors from the Republican party, including Plaintiff, into the counting place to observe the counting of absentee voter ballots. Defendants even physically blocked and obstructed election inspectors from the Republican party, including Plaintiff, by adhering large pieces of cardboard to the transparent glass doors so the counting of absent voter ballots was not viewable.

### **Violation of MCL 168.733**

94. MCL 168.733 requires:

(1) The board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote. A challenger may do 1 or more of the following:

(a) Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.

(b) Observe the manner in which the duties of the election inspectors are being performed.

(c) Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.

(d) Challenge an election procedure that is not being properly performed.

(e) Bring to an election inspector's attention any of the following:

(i) Improper handling of a ballot by an elector or election inspector.

(ii) A violation of a regulation made by the board of election inspectors pursuant to section 742.

(iii) Campaigning being performed by an election inspector or other person in violation of section 744.

(iv) A violation of election law or other prescribed election procedure.

(f) Remain during the canvass of votes and until the statement of returns is duly signed and made.

(g) Examine without handling each ballot as it is being counted.

(h) Keep records of votes cast and other election procedures as the challenger desires.

(i) Observe the recording of absent voter ballots on voting machines.

95. Per eyewitness accounts described in this Complaint and its attached sworn affidavits, Defendants habitually and systematically failed to provide space for election inspectors from the Republican party, including Plaintiff, to observe election procedure, failed to allow the inspection of poll books, failed to share the names of the electors being entered in the poll books, failed to allow the examination of each ballot as it was being counted, and failed to keep records of obvious and observed fraud.

96. Poll challengers, including Plaintiff, observed election workers and supervisors writing on ballots themselves to alter them, apparently manipulating spoiled ballots by hand and then counting the ballots as valid, counting the same ballot more than once, adding information to incomplete affidavits accompanying absentee ballots, counting absentee ballots returned late, counting unvalidated and unreliable ballots, and counting the ballots of “voters” who had no recorded birthdates and were not registered in the State’s Qualified Voter File or on any Supplemental voter lists.

97. Michigan law requires that in order to register as an absentee voter, the application must be made in writing and received by the clerk by 5pm on the Friday before the election.

**Violation of MCL 168.765(5)**

98. Michigan election law, MCL 168.765(5), requires Defendants to post the following absentee voting information anytime an election is conducted which involves a state or federal office:

- a. The clerk must post before 8:00 a.m. on Election Day: 1) the number of absent voter ballots distributed to absent voters 2) the number of absent voter ballots returned before Election Day and 3) the number of absent voter ballots delivered for processing.

b. The clerk must post before 9:00 p.m. on Election Day: 1) the number of absent voter ballots returned on Election Day 2) the number of absent voter ballots returned on Election Day which were delivered for processing 3) the total number of absent voter ballots returned both before and on Election Day and 4) the total number of absent voter ballots returned both before and on Election Day which were delivered for processing.

c. The clerk must post immediately after all precinct returns are complete: 1) the total number of absent voter ballots returned by voters and 2) the total number of absent voter ballots received for processing.

99. Upon information and belief, Defendants failed to post by 8:00 a.m. on Election Day the number of absentee ballots distributed to absent voters and failed to post before 9:00 p.m. the number of absent voters returned before on Election Day.

100. Per Michigan Election law, all absentee voter ballots must be returned to the clerk before polls close at 8pm. MCL 168.764a. Any absentee voter ballots received by the clerk after the close of the polls on election day will not be counted.

101. Michigan allows for early counting of absentee votes prior to the closings of the polls for large jurisdictions, such as the City of Detroit and Wayne County.

102. Upon information and belief, receiving tens of thousands additional absentee ballots in the early morning hours after election day and after the counting of the absentee ballots had concluded, without proper oversight, with tens of thousands of ballots attributed to just one candidate, Joe Biden, indicates Defendants failed to follow proper election protocol.

103. Based upon the above allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to order appropriate relief, including, but not limited to, enjoining the certification of the election results pending a full investigation and court hearing, ordering a recount of the election results, or voiding the election and ordering a new election, to remedy the fraud.

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court:

- A. issue an order requiring Defendants to conduct an independent and non-partisan audit to determine the accuracy and integrity of the November 3, 2020 election;
- B. issue an *ex-parte* TRO prohibiting Defendants' from certifying the election results or continuing to count ballots until this matter can be heard by the Court.
- C. issue an preliminary injunction prohibiting Defendants' from certifying the election results until this matter can be heard by the Court.
- D. issue an order voiding the November 3, 2020 election results and order a new election to be held.
- E. Issue a protective order as requested in the attached Motion for TRO.
- F. grant such other and further relief as is equitable and just, and grant him costs, expenses and attorney fees incurred in having to bring this action.

000389

I HEREBY STATE AND AFFIRM THAT I HAVE HAD READ THE FOREGOING COMPLAINT AND THAT IT IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Dated: November 8, 2020.

\_\_\_\_\_  
Cheryl A. Constantino, Plaintiff

Dated: November 8, 2020.

*Edward P. McCall*  
\_\_\_\_\_  
Edward P. McCall, Plaintiff

Prepared By:

/s/ David A. Kallman

David A. Kallman (P34200)  
Stephen P. Kallman (P75622)  
Jack C. Jordan (P46551)  
Erin E. Mersino (P70886)  
Attorneys for Plaintiff

Great Lakes Justice Center

I HEREBY STATE AND AFFIRM THAT I HAVE HAD READ THE FOREGOING COMPLAINT AND THAT IT IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Dated: November 8, 2020.

  
Cheryl A. Costantino, Plaintiff

Dated: November 8, 2020.

\_\_\_\_\_  
Edward P. McCall, Plaintiff

Prepared By:

/s/ David A. Kallman  
David A. Kallman (P34200)  
Stephen P. Kallman (P75622)  
Jack C. Jordan (P46551)  
Erin E. Mersino (P70886)  
Attorneys for Plaintiff

Great Lakes Justice Center

# EXHIBIT A

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

**CHERYL A. COSTANTINO and EDWARD P. McCALL, JR.,**

**Plaintiff,**

**-vs-**

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**Defendants.**

**AFFIDAVIT OF ZACHARY LARSEN**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**David A. Kallman (P34200)**  
**Erin E. Mersino (P70886)**  
**Jack C. Jordan (P46551)**  
**Stephen P. Kallman (P75622)**  
**GREAT LAKES JUSTICE CENTER**  
**Attorneys for Plaintiff**  
**5600 W. Mount Hope Hwy.**  
**Lansing, MI 48917**  
**(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Zachary Larsen, being first duly sworn, hereby deposes and states as follows:

1. My name is Zachary Larsen, I am over the age of eighteen, have personal knowledge of the facts stated in this Affidavit and, if sworn as a witness, I am competent to testify to these facts.

2. I am an attorney in private practice and licensed in the State of Michigan. Prior to my entry into private practice, I served as an Assistant Attorney General for eight years from January 2012 through January 2020, where I was recognized with an award for the quality of my work and served the state on several high-priority litigation matters.

3. In September 2020, I volunteered to serve as a poll challenger for the Michigan Republic Party's election day operations to ensure the integrity of the vote and conformity of the election process to the election laws of Michigan.

4. In preparation for my service, I attended an elections training, reviewed materials relating to the conduct of elections, and read pertinent sections of Michigan's election law.

5. On Election Day, Tuesday, November 3, 2020, I served as a roving attorney and credentialed poll challenger with a group of attorneys and visited approximately 20-30 voting precincts in Lansing, East Lansing, and Williamston, Michigan to confirm that the election was conducted in accordance with law, and on a few occasions, to address complaints raised by specific voters.

6. During my visits to precincts on Election Day, I was allowed to visually inspect the poll book without touching it at every precinct where we asked to review it. In each instance, I was allowed to stand a respectful distance behind the election officials while remaining close enough to read relevant names and numbers.

7. The following day, on Wednesday, November 4, 2020, I arrived at the former Cobo Center, now known as the TCF Center, in Detroit, Michigan to serve as a poll challenger for the absent voter count occurring in Detroit and arrived between 9:30 and 9:45 a.m.

8. Prior to my admission to the floor where the absent voter count was occurring, I received credentials from the Michigan Republican Party and further instruction regarding the process for handling ballots at absent voter counting boards (“AVCBs”).

9. Thereafter, I received a temperature scan from election officials that confirmed I did not have an elevated temperature. I arrived inside, and I was “checked in” by an election official who reviewed my driver’s license and confirmed my credentials and eligibility to serve as a challenger. I was admitted at approximately 10:30 a.m.

10. When I arrived at a counting table and began to observe the process, I noticed immediately that part of the process that was being implemented did not conform to what I had been told in my training and the materials that I had received.

11. Specifically, the information I had received described the process that was supposed to be occurring at the tables as follows.

12. A first election official would scan a ballot. If the scan did not confirm a voter in the poll book, that official would then check the voter against a paper copy “supplemental poll book.”

13. The official would then read the ballot number to a second election official and hand the ballot to that official, who would remove the ballot (while still in the secrecy sleeve) and confirm the ballot number. That second official would then hand the ballot (in the secrecy sleeve) to a third official who would tear the stub off of the ballot, and place the stub in a ballot stub envelope, then pass the remaining ballot to a fourth official.

14. The fourth official would then remove the ballot from the secrecy sleeve, flatten the ballot to ensure it was capable of processing, and visually inspect for rips, tears, or stains before placing the ballot in the “ballots to be tabulated box.” However, if that fourth official identified a

concern, she would place the ballot back in its envelope and into a “problem ballots” box that required additional attention to determine whether they would be processed and counted. A copy of a diagram that I had received on this process is attached as Exhibit A to this affidavit.

15. What I observed immediately was that the secrecy of the ballot was not being respected.

16. Instead, the second official at the table where I was observing was repeatedly placing her fingers into the secrecy sleeve to separate the envelope and visually peek into the envelopes in a way that would allow her to visually observe the ballot and identify some of the votes cast by the voter.

17. Sometimes, the third official whose job was merely to remove the stub from the ballot would likewise remove the ballot from the secrecy sleeve or otherwise peek to observe the ballot. Sometimes a ballot would be removed completely from the secrecy sleeve and then placed back inside and passed along this process.

18. I conferred regarding this issue with another challenger at a nearby table, and he indicated he had observed similar irregularities regarding the use of the secrecy sleeves.

19. When that challenger raised the issue with a supervisor, and he was immediately asked “why does it matter?” and “what difference does it make?”

20. Beyond the legal requirements for maintaining ballot secrecy, both of us were concerned that the violations of the secrecy of the ballot that we witnessed could be or were being used to manipulate which ballots were placed in the “problem ballots” box.

21. Later that morning, at another table, a challenger identified concerns that ballots were being placed into “problem ballots” boxes purportedly based on the reason that the voter had failed to place the ballot in the secrecy sleeve, while other ballots at the same table were being

passed along and placed into the “ballots to be tabulated” box that also did not have secrecy sleeves.

22. I personally observed that several ballots were placed into the “problem ballots” boxed and marked with a sticky note indicating that they were “problem ballots” merely because of the lack of a secrecy sleeve.

23. When I spoke with a supervisor regarding this issue, he explained that these ballots were being placed in the “problem ballots” box for efficiency.

24. From my experience at the first table I had visited (addressed in Paragraphs 15 through 17 above), I had also witnessed ballots that were placed into the “ballots to be tabulated” box that had arrived without a secrecy sleeve. So the differentiation among these ballots despite both ballots arriving in secrecy sleeves was perplexing and again raised concerns that some ballots were being marked as “problem ballots” based on who the person had voted for rather than on any legitimate concern about the ability to count and process the ballot appropriately.

25. Just before noon, I arrived at another table (which I later contemporaneously noted as AVCB # 23), and I conferred with the Republican challenger who had been observing the process from a viewing screen and watching the response of the computer system as ballots were scanned by the first official.

26. I asked the challenger if she had observed anything of concern, and she immediately noted that she had seen many ballots scanned that did not register in the poll book but that were nonetheless processed. Because she needed to leave for lunch, I agreed to watch her table.

27. As I watched the process, I was sensitive to her concern that ballots were being processed without confirmation that the voter was an eligible voter in the poll book, so I stood at the monitor and watched.

28. The first ballot scanned came in as a match to an eligible voter. But the next several ballots that were scanned did not match any eligible voter in the poll book.

29. When the scan came up empty, the first official would type in the name “Pope” that brought up a voter by that last name.

30. I reviewed the running list of scanned in ballots in the computer system, and it appeared that the voter had already been counted as having voted. Then the first official appeared to assign a number to a different voter as I observed a completely different name that was added to the list of voters at the bottom of a running tab of processed ballots on the right side of the screen.

31. That same official would then make a handwritten notation on her “supplemental poll book,” which was a hard copy list that she had in front of her at the table.

32. The supplemental poll book appeared to be a relatively small list.

33. I was concerned that this practice of assigning names and numbers indicated that a ballot was being counted for a non-eligible voter who was not in either the poll book or the supplemental poll book. From my observation of the computer screen, the voters were certainly not in the official poll book. Moreover, this appeared to be the case for the majority of the voters whose ballots I had personally observed being scanned.

34. Because of this concern, I stepped behind the table and walked over to a spot behind where the first official was conducting her work.

35. Understanding health concerns due to COVID-19, I attempted to stand as far away from this official as I reasonably could while also being able to visually observe the names on the supplemental poll book and on the envelopes.

36. Partly inhibiting my ability to keep a distance, the tables were situated so that two counting tables were likely a maximum of eight feet apart. In other words, you could not stand more than four feet behind one without being less than four feet from another.

37. As soon as I moved to a location where I could observe the process by which the first official at this table was confirming the eligibility of the voters to vote, the first official immediately stopped working and glared at me. I stood still until she began to loudly and aggressively tell me that I could not stand where I was standing. She indicated that I needed to remain in front of the computer screen.

38. I responded, "Ma'am, I am allowed by statute to observe the process." As I did, a Democratic challenger ran towards me and approached within two feet of me, saying "You cannot speak to her! You are not allowed to talk to her." I responded, "Sir, she spoke to me. I was just answering her."

39. The first official again told me that the only place I was allowed to observe from was at the computer screen. A second official at the table reiterated this. I said that was not true.

40. Both officials then began to tell me that because of COVID, I needed to be six feet away from the table. I responded that I could not see and read the supplemental poll book from six feet away, but I was attempting to keep my distance to the extent possible.

41. Just minutes before at another table, a supervisor had explained that the rules allowed me to visually observe what I needed to see and then step back away. Likewise, on Election Day, I had been allowed to stand at equivalent distance from poll books in Lansing and East Lansing precincts without any problem. With this understanding, I remained in a position where I would be able to observe the supplemental poll book until I could do so for the voter whose ballots had just been scanned and did not register in the poll book.

42. Both officials indicated that I could not remain in a position that would allow me to observe their activities and they were going to get their supervisor.

43. This seemed particularly concerning because the Democratic challenger who raised concerns over my verbal response to the official had been positioned behind the second official (the one who confirms ballots as described in Paragraph 13) no further away than I was from the first official at that time and had not been stationed at the computer screen as the officials repeatedly told me was the only place that I could stay.

44. When the supervisor arrived, she reiterated that I was not allowed to stand behind the official with the supplemental poll book, and I needed to stand in front of the computer screen. I told her that was not true, and that I was statutorily allowed to observe the process, including the poll book.

45. The supervisor then pivoted to arguing that I was not six feet away from the first official. I told her I was attempting to remain as far away as I could while still being able to read the names on the poll book.

46. In an attempt to address her concerns, I took a further step away from the table and indicated I would try to keep my distance, and that I thought I was about six feet away from the first official. The supervisor then stood next to the chair immediately to the left of the first official and indicated that I was “not six feet away from” the supervisor and that she intended to sit in the chair next to the official with the poll book, so I would need to leave.

47. This supervisor had not been at the table at any time during the process, and she had responsibility for numerous ACVBs. Further, the supervisor’s choice of chairs was approximately three feet to the left of the first official and therefore in violation of the six-foot distance rule.

48. Accordingly, I understood that this was a ruse to keep me away from a place where I could observe the confirmation of names in the supplemental poll book. The supervisor began to repeatedly tell me that I “needed to leave” so I responded that I would go speak with someone else or fill out a challenge form.

49. I went to find another attorney serving as a challenger and returned to discuss the matter further with the supervisor. When I returned, she reiterated her assertions and insisted that there was nowhere where I could stand in conformity with the six-foot rule that would allow me to observe the supplemental poll book. Ultimately, to avoid further conflict with the supervisor, I agreed that I would leave that counting table and move to another table.

50. Between 1:30 p.m. and 2 p.m., my colleague and I decided to return to the suite that housed the Republican challengers to get lunch. We left the counting floor and went up to the Republicans second-floor suite.

51. About 30 to 45 minutes later, an announcement was made that challengers needed to return to the floor. As we attempted to return, we were made aware that the officials admitting people had limited the number of election challengers to another 52 people who would be allowed inside. I displayed my credentials and walked up to near the door where a small crowd was gathering to be let in.

52. Shortly thereafter, a man came out to announce that no one would be let in (despite the prior announcement) because the room had reached the maximum number of challengers. As he was asked why we would not be let in, he explained that the maximum number of challengers were determined from the number of names on the sign-in sheet, regardless of how many people had left the room.

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53. Many Republican challengers had left the room for lunch without signing out, including myself and my colleague. Accordingly, we were being arbitrarily “counted” towards this capacity limitation without actually being allowed into the room to observe.

54. When challengers raised this issue with the man at the door, he refused to discuss any solutions such as confirming the identify of challengers who had been previously admitted.

55. To the best of my recollection, I was never informed that if I left the room and failed to sign out that I would be refused admission or that there would be no means of confirming that I had been previously admitted.

56. The above information is true to the best of my information, knowledge, and belief.

57. Further affiant says not.

  
\_\_\_\_\_  
Zachary Larsen

On this 8th day of November, 2020, before me personally appeared Zachary Larsen, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by his subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.

  
\_\_\_\_\_  
Stephen P. Kallman  
Notary Public, Eaton County, Michigan  
My Commission Expires: 11/26/2025

# EXHIBIT B

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

**CHERYL A. COSTANTINO and EDWARD P. McCALL, JR.,**

**Plaintiff,**

**-vs-**

**AFFIDAVIT OF JESSY JACOB**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**Defendants.**

**David A. Kallman (P34200)**  
**Erin E. Mersino (P70886)**  
**Jack C. Jordan (P46551)**  
**Stephen P. Kallman (P75622)**

**GREAT LAKES JUSTICE CENTER**  
**Attorneys for Plaintiff**  
**5600 W. Mount Hope Hwy.**  
**Lansing, MI 48917**  
**(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Jessy Jacob, being first duly sworn, hereby deposes and states as follows:

1. My name is Jessy Jacob. I am an adult citizen and resident of the State of Michigan.
2. I have been an employee for the City of Detroit for decades.
3. I was assigned to work in the Elections Department for the 2020 election.
4. I received training from the City of Detroit and the State of Michigan regarding the election process.

5. I worked at the election headquarters for most of September and I started working at a satellite location for most of October, 2020.
6. I processed absentee ballot packages to be sent to voters while I worked at the election headquarters in September 2020 along with 70-80 other poll workers. I was instructed by my supervisor to adjust the mailing date of these absentee ballot packages to be dated earlier than they were actually sent. The supervisor was making announcements for all workers to engage in this practice.
7. At the satellite location, I processed voter registrations and issued absentee ballots for people to vote in person at the location.
8. I directly observed, on a daily basis, City of Detroit election workers and employees coaching and trying to coach voters to vote for Joe Biden and the Democrat party. I witnessed these workers and employees encouraging voters to do a straight Democrat ballot. I witnessed these election workers and employees going over to the voting booths with voters in order to watch them vote and coach them for whom to vote.
9. During the last two weeks while working at this satellite location, I was specifically instructed by my supervisor not to ask for a driver's license or any photo I.D. when a person was trying to vote.
10. I observed a large number of people who came to the satellite location to vote in-person, but they had already applied for an absentee ballot. These people were allowed to vote in-person and were not required to return the mailed absentee ballot or sign an affidavit that the voter lost the mailed absentee ballot.
11. Whenever I processed an absentee voter application or in-person registration, I was instructed to input the person's name, address, and date of birth into the Qualified Voter File (QVF) system.
12. The QVF system can be accessed and edited by any election processor with proper credentials in the State of Michigan at any time and from any location with internet access.
13. I worked at the satellite location until the polls closed on November 3, 2020 at 8:00 p.m. and properly completed the entry of all absentee ballots into the QVF by 8:30 p.m.

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- 14. I then reported to work at the TCF Center on November 4, 2020, at 8:30 a.m. to process ballots. I was instructed not to validate any ballots and not to look for any deficiencies in the ballots.
- 15. Absentee ballots that were received in the mail would have the voter's signature on the envelope. While I was at the TCF Center, I was instructed not to look at any of the signatures on the absentee ballots, and I was instructed not to compare the signature on the absentee ballot with the signature on file.
- 16. All absentee ballots that existed were required to be inputted into the QVF system by 9:00 p.m. on November 3, 2020. This was required to be done in order to have a final list of absentee voters who returned their ballots prior to 8:00 p.m. on November 3, 2020. In order to have enough time to process the absentee ballots, all satellites were instructed to collect the absentee ballots from the drop-box once every hour on November 3, 2020.
- 17. On November 4, 2020, I was instructed to improperly pre-date the absentee ballots receive date that were not in the QVF as if they had been received on or before November 3, 2020. I was told to alter the information in the QVF to falsely show that the absentee ballots had been received in time to be valid. I estimate that this was done to thousands of ballots.
- 18. The above information is true to the best of my information, knowledge, and belief.
- 19. Further affiant says not.

  
 \_\_\_\_\_  
 Jessy Jacob

On this 7th day of November, 2020, before me personally appeared Jessy Jacob, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that she has read the foregoing affidavit by her subscribed and knows the contents thereof, and that the same is true of her own knowledge and belief, except as to those matters she states to be on information and belief, and as to those matters she believes them to be true.

  
 \_\_\_\_\_  
 Stephen P. Kallman  
 Notary Public, Eaton County, Michigan  
 My Commission Expires: 11/26/2025

# EXHIBIT C

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CHERYL A. COSTANTINO and EDWARD P. McCALL, Jr.,

Plaintiff,

AFFIDAVIT OF ANDREW SITTO

-vs-

CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,

Defendants.

FILE NO: 20-\_\_\_\_\_ -AW  
JUDGE

David A. Kallman (P34200)  
Erin E. Mersino (P70886)  
Jack C. Jordan (P46551)  
Stephen P. Kallman (P75622)  
GREAT LAKES JUSTICE CENTER  
Attorneys for Plaintiff  
5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
(517) 322-3207/Fax: (517) 322-3208

AFFIDAVIT

The Affiant, Andrew Sitto, being first duly sworn, hereby deposes and states as follows:

1. My name is Andrew Sitto and I was a poll challenger for the November 3, 2020 election.
2. I arrived at the TCF Center at 9:30 p.m. on November 3, 2020.
3. I reported to the counting room, which is a large room on the main floor of the TCF Center. The room is about 100 yards long and about 50 yards wide with windows.

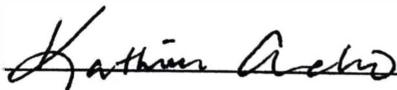
4. The poll challengers watch the counters who were sitting at tables comparing paper ballots to Michigan electronic poll book or registered voter list (sometimes called the QVF) on computer screens. Each counter compares the ballot to an electronic database on his/her computer to determine if the ballot correlates to a person who is registered to vote.
5. I was standing in the center of the room where there were replacement or duplicate ballots for damaged ballots. I remained in this location from about 10:00 p.m. until about 4:30 a.m. If a counter needed a duplicate ballot, they would come to this central location to take a duplicate ballot.
6. At approximately 4:30 a.m., I thought everyone was going to go home as our shift had ended.
7. There were two men in charge of the counting, one in his 30s and one in his 50s.
8. At approximately 4:30 a.m., on November 4, 2020, the man in his 50s got on the microphone and stated that another shipment of absentee ballots would be arriving and would have to be counted.
9. I heard other challengers say that several vehicles with out-of-state license plates pulled up to the TCF Center a little before 4:30 a.m. and unloaded boxes of ballots.
10. At approximately 4:30 a.m., tens of thousands of ballots were brought in and placed on eight long tables. Unlike the other ballots, these boxes were brought in from the rear of the room.
11. The same procedure was performed on the ballots that arrived at approximately 4:30 a.m., but I specifically noticed that every ballot I observed was cast for Joe Biden.
12. While counting these new ballots, I heard counters say at least five or six times that all five or six ballots were for Joe Biden. All ballots sampled that I heard and observed were for Joe Biden.
13. There was a shift change at 5:00 a.m. for the poll challengers. Many challengers decided to leave at the 5:00 a.m. shift change. I decided not to leave and continued to monitor the ballot counting.
14. Upon information and belief, the TCF Center was the only place where absentee ballots were being counted.

000409

- 14. Upon information and belief, the TCF Center was the only place where absentee ballots were being counted.
- 15. I filled out about six or seven incident reports about what occurred at the TCF Center.
- 16. At approximately 2:00 p.m. on November 4, 2020, election officials covered windows to the counting room with cardboard to block the view.
- 17. A little after 2:00 p.m., I exited the glass enclosed room to take a break in the lobby area of the TCF Center. When I tried to go back into the counting room, security guards refused to allow me back in to monitor the counting
- 18. Previously, people could come and go freely into the counting room.
- 19. The above information is true to the best of my information, knowledge, and belief.
- 20. Further affiant says not.

  
 \_\_\_\_\_  
 Andrew Sitto

On this 11<sup>th</sup> day of November, 2020, before me personally appeared Andrew Sitto, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.

  
 \_\_\_\_\_  
 Notary Public, Macomb County,  
 My Commission Expires: 7/1/2027

Michigan



Great Lakes Justice Center

# EXHIBIT D

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**CHERYL A. COSTANTINO and EDWARD P. McCALL, JR.,**

**Plaintiff,**

**AFFIDAVIT OF ROBERT CUSHMAN**

**-vs-**

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**Defendants.**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**David A. Kallman (P34200)  
Erin E. Mersino (P70886)  
Jack C. Jordan (P46551)  
Stephen P. Kallman (P75622)**

**GREAT LAKES JUSTICE CENTER  
Attorneys for Plaintiff  
5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Robert Cushman, being first duly sworn, hereby deposes and states as follows:

1. My name is Robert Cushman. I am an adult citizen and resident of the State of Michigan.

2. I served and was trained to be a poll challenger for the November 2020 election in Detroit, Michigan.

3. During my observations of the normal processing of ballots on November 4<sup>th</sup> between about 7:45 a.m. and 8:30 a.m. I was substantially obstructed from performing my challenger duties of observing and making notes at Board Number 31. The persons involved either directly or indirectly involved: 1. A worker named Joe, 2. A supervisor named Miss Browner, 3. an unknown person with no credentials, 4. a Democratic Challenger with credentials and one of the AVCB leaders named David Nathan.

4. On Wednesday, November 4, 2020, Detroit election officials told us that they were going to process military ballots last. I did my best to try to observe the processing/duplication of the military ballots.

5. On November 4, 2020, I was surprised to see numerous new boxes of ballots arrive at the TCF Center in the evening. I first noticed these boxes in the distribution area after many of the military ballots had been distributed and processed. I estimate these boxes contained several thousand new ballots when they appeared.

6. The main list of persons who had registered to vote on or before November 1, 2020, was listed on an electronic poll book, often referred to as the QVF. As I understand it, the Supplemental Sheets were the lists of persons who had registered to vote on November 2, 2020 or November 3, 2020.

7. I observed that none of the names on these new ballots were on the QVF or the Supplemental Sheets.

8. I saw the computer operators at several counting boards manually adding the names and addresses of these thousands of ballots to the QVF system.

9. When I asked what the possible justification was to counting ballots from unknown, unverified “persons,” I was told by election supervisors that the Wayne County Clerk’s Office had “checked them out.”

10. I challenged not one ballot, but the entire process as the names were not in the QVF or Supplemental Sheets and because the DOB’s were all wrong, all being marked as 01-01-1900.

11. An Election Supervisor near board number #86 advised me to go to the podium of election officials and ask one of them to help me. I did, and I enlisted the help of one of the leaders, a young man named Anthony Miller.

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12. Mr. Miller walked me back to board number #86 and asked what I wanted the challenge to say. I said that I did not want to challenge just one ballot, but the entire process, as I was witnessing several thousand ballots inputted illegally.

13. Mr. Miller advised the computer operator what to type in as a challenge so that it was part of the Official Record in the Poll Book for Board Number #86.

14. I challenged the authority and the authenticity of all of these ballots that were being processed late with absolutely no accompanying documentation, no corresponding name in the QVF, and no corresponding name in the Supplemental List.

15. Every ballot was being fraudulently and manually entered into the Electronic Poll Book (QVF), as having been born on January 1, 1900. This "last" batch of ballots was processed in the 8:00 p.m. to 10:00 p.m. time frame.

16. When I asked about this impossibility of each ballot having the same birthday occurring in 1900, I was told that was the instruction that came down from the Wayne County Clerk's office.

17. Mr. Miller was very clear about these late ballots and that the instructions were coming from the Wayne County Clerk's office.

18. I was surprised and disappointed at the preponderance of dishonesty, irregularities, and fraudulent tactics at the November 3, 2020 election at the TCF Center.

19. The above information is true to the best of my information, knowledge, and belief.

20. Further affiant says not.

  
Robert Cushman

On this 7th day of November, 2020, before me personally appeared Robert Cushman, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.

  
Stephen P. Kallman  
Notary Public, Eaton County, Michigan  
My Commission Expires: 11/26/2025

# EXHIBIT E

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

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**CHERYL A. COSTANTINO and EDWARD P. McCALL, JR.,**

**Plaintiff,**

**AFFIDAVIT OF DANIEL GUSTAFSON**

-vs-

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**Defendants.**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

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**David A. Kallman (P34200)  
Erin E. Mersino (P70886)  
Jack C. Jordan (P46551)  
Stephen P. Kallman (P75622)**

**GREAT LAKES JUSTICE CENTER  
Attorneys for Plaintiff  
5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Daniel Gustafson, being first duly sworn, hereby deposes and states as follows:

1. My name is Daniel Gustafson. I am an adult citizen and resident of the State of Michigan.
2. I served and was trained to be a poll challenger for the November 3, 2020 election.

000416

- 4. Large quantities of ballots were delivered to the TCF Center in what appeared to be mail bins with open tops.
- 5. These ballot bins and containers did not have lids, were not sealed, and did not have the capability of having a metal seal.
- 6. The ballot bins were not marked or identified in any way to indicate their source of origin.
- 7. The above information is true to the best of my information, knowledge, and belief.
- 8. Further affiant says not.



Daniel Gustafson

On this 8th day of November, 2020, before me personally appeared Daniel Gustafson, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.



Stephen P. Kallman  
 Notary Public, Eaton County, Michigan  
 My Commission Expires: 11/26/2025

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# EXHIBIT F

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**CHERYL A. COSTANTINO and EDWARD P. McCALL, JR.,**  
**Plaintiff,**

**AFFIDAVIT OF PATRICK J. COLBECK**

-vs-

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**Defendants.**

**David A. Kallman (P34200)**  
**Erin E. Mersino (P70886)**  
**Jack C. Jordan (P46551)**  
**Stephen P. Kallman (P75622)**  
**GREAT LAKES JUSTICE CENTER**  
**Attorneys for Plaintiff**  
**5600 W. Mount Hope Hwy.**  
**Lansing, MI 48917**  
**(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Robert Cushman, being first duly sworn, hereby deposes and states as follows:

1. My name is Patrick J. Colbeck, I was a poll challenger for the November 3, 2020 election, and I am a resident of Wayne County.
  
2. At approximately 5:30pm on November 3, 2020, I asked Daniel Baxter if Tabulation Computers were connected to internet. Mr. Baxter said simply "No."

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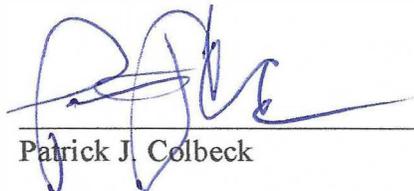
3. At approximately 5:45pm on November 3, 2020, I first asked Chris Thomas how the tabulated results were to be transferred to the County and other parties. He said he didn't know, but he would find out. I repeated this inquiry throughout the evening until Mr. Thomas responded that he would not be able to release that information until the end of the next day. Early during the morning, I was able to look at a copy of the Detroit Election manual which specified that the tabulated votes would be copied from the adjudicator computers to a series of flash drives.

4. At approximately 7:30pm on November 3, 2020, about 50% of Poll Workers left the AV Counting Board before 8pm in violation of MCL 168.792a(11). An announcement was made by Detroit Election Officials at 7:45pm calling them back but most had already left the AV Counting Board area.

5. At approximately 11pm on November 3, 2020, I asked David Nathan if any of the computers were connected to the internet. He said "No." When I asked for confirmation, he said "Trust me." I stated that he may have been misled. When I pressed for a demonstration, he repeated "Trust me." All it takes to confirm the connectivity status of a Windows computer is to roll the cursor over the LAN connection icon in the bottom right corner of the display. When there is no internet connection, a unique icon showing a cross-hatched globe appears. I proceeded to review the terminal screens for the Tabulator and Adjudicator computers and I observed the icon that indicates internet connection on each terminal. Other poll challengers can attest to this observation as required (e.g. Kristina Karamos and Randy Bishop).

6. Sometime during the evening I proceeded to examine the physical cabling connections between all of the computers in the facility. The results of this observation are captured in the attached network topology diagram. The IT technician stationed on the stage actively discouraged any close-up observation of the network. Phone usage ban discouraged taking photographs of equipment. There were no observed ethernet connections for Electronic Poll Books at AV Counting Boards, but Wi-Fi Routers were present with attached active Wi-Fi networks in area including one called "AV\_Connect" and a separate one for "CPSStaff" which were both of sufficient signal strength to be accessed outside of the Counting Board as well as inside. I did not confirm presence of internet connection for Electronic Poll Books but the "security incident" at 10am on 11/3 would seem to indicate that they were connected to internet via Wi-Fi.

7. Further affiant says not.

  
\_\_\_\_\_  
Patrick J. Colbeck

000420

On this 8<sup>th</sup> day of November, 2020, before me personally appeared Patrick J. Colbeck, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.

*Patrick J. Colbeck*  


*Barbara A. Harrell*

Notary Public, Oakland County, Michigan  
My Commission Expires: Aug 4, 2025

BARBARA A. HARRELL  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 4, 2025  
ACTING IN COUNTY OF *Wayne*

GREAT LAKES JUSTICE CENTER

# EXHIBIT G

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PROMOTE THE VOTE,

Plaintiff-Appellant,

V

SECRETARY OF STATE,

Defendant-Appellee,

and

HOUSE OF REPRESENTATIVES and SENATE,

Intervening Appellees.

FOR PUBLICATION

July 20, 2020

9:00 a.m.

No. 353977

Court of Claims

LC No. 20-000002-MZ

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PRIORITIES USA and RISE, INC.,

Plaintiffs-Appellants,

V

SECRETARY OF STATE

Defendant-Appellee,

and

SENATE and HOUSE OF REPRESENTATIVES,

Intervening Defendants-Appellees.

No. 354096

Court of Claims

LC No. 19-000191-MZ

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Before: METER, P.J., and RONAYNE KRAUSE and GADOLA, JJ.

METER, P.J.

In Docket No. 353977, plaintiff, Promote the Vote (PTV), appeals by right a June 24, 2020 order entered by the Court of Claims. In Docket No. 354096, plaintiffs, Priorities USA and Rise, Inc. (collectively, the Priorities USA plaintiffs), also appeal by right the June 24, 2020 order. The Court of Claims order denied PTV's motion for summary disposition, as well as the Priorities USA plaintiffs' motion for a preliminary injunction, and granted the motions for summary disposition of the Secretary of State (Secretary) and the Senate and House of Representatives (collectively, the Legislature). This Court consolidated the two cases and ordered that the appeals would be decided without oral arguments. *Promote the Vote v Secretary of State*, unpublished order of the Court of Appeals, entered July 8, 2020 (Docket Nos. 353977, 354096).

Priorities USA is a "voter-centric progressive advocacy and service organization," which spends resources, including in the state of Michigan, to register young individuals to vote. Rise, Inc., is a "nonprofit organization that runs statewide advocacy and voter mobilization programs" in Michigan and California, as well as on a number of campuses throughout the country. Part of its mission is to increase voting access for college students. PTV is "a ballot question committee" that drafted the language of Proposal 3, a 2018 ballot proposal to amend Michigan's Constitution, collected more than 400,000 signatures in order to get the proposal placed on the ballot, and led the campaign for the proposal's passage.

On appeal, PTV and the Priorities USA plaintiffs argue that the proof of residency requirements in MCL 168.497(2)-(4), the challenged ballot procedure in MCL 168.497(5), and the Secretary's automatic voter registration policy unduly burden the rights in 1963 Const, art 2, § (4)(1), and are therefore unconstitutional. PTV and the Priorities USA plaintiffs also argue that MCL 168.497 violates the Equal Protection Clause of the Michigan Constitution. For the reasons discussed below, we affirm.

## I. LEGAL BACKGROUND

In the 2018 general election, Michigan voters approved Proposal 3, which made changes to Michigan's election law. Specifically, Proposal 3 amended 1963 Const, art 2, § 4. The article now provides:

(1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The right, once registered, to vote a secret ballot in all elections.

\* \* \*

(d) The right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card, unless the person declines such registration.

(e) The right to register to vote for an election by mailing a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications.

(f) The right to register to vote for an election by (1) appearing in person and submitting a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications, or (2) beginning on the fourteenth (14th) day before that election and continuing through the day of that election, appearing in person, submitting a completed voter registration application and providing proof of residency to an election official responsible for maintaining custody of the registration file where the person resides, or their deputies.<sup>[1]</sup> Persons registered in accordance with subsection (1)(f) shall be immediately eligible to receive a regular or absent voter ballot.

\* \* \*

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstances, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States[,] the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.<sup>[2]</sup>

<sup>1</sup> We will refer to the period "beginning on the fourteenth (14th) day before that election and continuing through the day of that election" as the "14-day period."

<sup>2</sup> Before the passage of Proposal 3, 1963 Const, art 2, § 4 consisted of one paragraph, which was very similar to the current paragraph in § 4(2). It provided:

The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when

Following the 2018 general election, the Legislature enacted 2018 PA 603, which amended MCL 168.497. The first five provisions of MCL 168.497 now provide:

(1) An individual who is not registered to vote but possesses the qualifications of an elector as provided in [MCL 168.492] may apply for registration to the clerk of the county, township, or city in which he or she resides in person, during the clerk's regular business hours, or by mail or online until the fifteenth day before an election.

(2) An individual who is not registered to vote but possesses the qualifications of an elector as provided in [MCL 168.492] or an individual who is not registered to vote in the city or township in which he or she is registering to vote may apply for registration in person at the city or township clerk's office of the city or township in which he or she resides from the fourteenth day before an election and continuing through the day of the election. An individual who applies to register to vote under this subsection must provide to the city or township clerk proof of residency in that city or township. For purposes of this subsection, proof of residency includes, subject to subsection (3), any of the following:

(a) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an enhanced driver license issued under the enhanced driver license and enhanced official state personal identification act, 2008 PA 23, MCL 28.301 to 28.308.

(b) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or an enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.<sup>3]</sup>

(3) If an application for voter registration under subsection (2) does not have proof of residency as that term is defined in subsection (2), the applicant may provide as his or her proof of residency any other form of identification for election

required for identification of candidates for the same offense which have the same or similar surnames.

<sup>3</sup> A person registering to vote in the 14-day period does not provide proof of residency simply by presenting a Michigan driver's license or personal identification card. Because the individual "must provide to the city or township clerk proof of residency in that city or township," the Michigan driver's license or personal identification card must include an address located in either the city or township. Both the Priorities USA plaintiffs and the Secretary read MCL 168.497(2) in the same manner. We will refer to a Michigan's driver's license or personal identification card that can establish proof of residency under MCL 168.497(2) as a "current Michigan driver's license or personal identification card."

purposes as that term is defined in [MCL 168.2] and 1 of the following documents that contains the applicant's name and current residence address:

- (a) A current utility bill.
- (b) A current bank statement.
- (c) A current paycheck, government check, or other government document.

(4) If an application for voter registration under subsection (2) does not have identification for election purposes, the applicant may register to vote if he or she signs an affidavit indicating that the applicant does not have identification for election purposes and the applicant provides 1 of the following documents that contains the applicant's name and current residence address:

- (a) A current utility bill.
- (b) A current bank statement.
- (c) A current paycheck, government check, or other government document.

(5) Immediately after approving a voter registration application, the city or township clerk shall provide to the individual registering to vote a voter registration receipt that is in a form as approved by the secretary of state. If an individual registers to vote in person 14 days or less before an election or registers to vote on election day, and that applicant registers to vote under subsection (3) or (4), the ballot of that elector must be prepared as a challenged ballot as provided in [MCL 168.727] and must be counted as any other ballot is counted unless determined by a court of law under [MCL 168.747 or MCL 168.748] or any other applicable law.

MCL 168.2(k) defines "identification for election purposes" as the following: "[a]n operator's or chauffeur's license issued under the Michigan vehicle code . . . or an enhanced driver license issued under the enhanced driver license and enhanced official state personal identification card act"; "[a]n official state personal identification card . . . or an enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act"; a current operator's or chauffeur's license issued by another state; a current state personal identification card issued by another state; a current state government issued photo identification card; a current United States passport or federal government issued photo identification card; a current military photo identification card; a current tribal photo identification card; or "[a] current student photo identification card issued by a high school in this state, an institution of higher education in this state described in section 4, 5, or 6 of article VIII of the state constitution of 1963, a junior college or community college established under section 7 of article VIII of the state constitution of 1963, or another accredited degree[-] or certificate[-]granting college or university, junior college, or community college located in this state."

An election inspector must identify, as provided in MCL 168.745 and MCL 168.746, a challenged ballot. MCL 168.727(2)(a).<sup>4</sup> Under MCL 168.745, the election inspectors “shall cause to be plainly endorsed on said ballot, with pencil, before depositing the same in the ballot box, the number corresponding to the number placed after such voter’s name on the poll lists without opening the same[.]” To prevent the identification of challenged ballots, the election inspectors “shall cause to be securely attached to said ballot, with mucilage or other adhesive substance, a slip or piece of blank paper of the same color and appearance, as nearly as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said endorsement but not to injure or deface the same[.]” MCL 168.746.

MCL 168.747 provides:

In case of a contested election, on the trial thereof before any court of competent jurisdiction, it shall be competent for either party to the cause to have produced in court the ballot boxes, ballots and poll books used at the election out of which the cause has arisen, and to introduce evidence proving or tending to prove that any person named on such poll lists was an unqualified voter at the election aforesaid, and that the ballot of such person was received. On such trial, the correspondence of the number endorsed on a ballot as herein provided with the number of the ballot placed opposite the name of any person on the poll lists shall be received as prima facie proof that such ballot was cast by such person: Provided, That the ballot of no person shall be inspected or identified under the provisions of this chapter unless such person shall consent thereto in writing, or unless such person has been convicted of falsely swearing in such ballot, or unless the fact that

<sup>4</sup> Any voter may be challenged under MCL 168.727. *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich 1, 14 n 24; 740 NW2d 444 (2007). Under MCL 168.727(1), an election inspector shall challenge an applicant applying for a ballot if the inspector knows or has good reason to know that the applicant is not a qualified and registered elector of the precinct. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that the individual is not a registered elector in that precinct. *Id.* Additionally, an election inspector or other qualified challenger may challenge the right of an individual attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot. *Id.* These challenges shall not be made indiscriminately or without good cause. MCL 168.727(3). If a person attempting to vote is challenged, the person shall be sworn by one of the election inspectors to truthfully answer the questions asked of the person concerning the person’s qualifications as an elector. MCL 168.729. If the person’s answers to the questions show that the person is a qualified elector in the precinct, the person “shall be entitled to receive a ballot and vote.” *Id.* The person’s ballot shall be marked as required by MCL 168.745 and MCL 168.746, but it is counted as a regular ballot. MCL 168.727(2)(a); *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 14 n 24.

such person was an unqualified elector at the time of casting such ballot has been determined.<sup>[5]</sup>

See also *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich 1, 14 n 24; 740 NW2d 444 (2007) (“The ballot cast by a challenged voter is marked (and the mark subsequently concealed) with a number corresponding to the voter’s poll list number, and is counted as a regular ballot. MCL 168.745; MCL 168.746. The marked ballot becomes relevant only in the event of litigation surrounding a contested election, where the challenged voter’s qualifications to vote are disputed.”).

According to the Priorities USA plaintiffs, following the passage of Proposal 3, the Secretary began to automatically register to vote those who conducted business with her regarding a driver’s license or personal identification card if they were at least 17½ years of age (the AVR Policy). To support this claim, the Priorities USA plaintiffs provide a press release from the Secretary that announced that she had instituted automatic voter registration.<sup>6</sup> But the press release says nothing about automatic voter registration only applying to those who are at least 17½ years of age. However, the Secretary does not dispute the Priorities USA plaintiffs’ claim.

## II. PROCEDURAL HISTORY

On November 22, 2019, Priorities USA filed suit against the Secretary in the Court of Claims. An amended complaint was filed on January 21, 2020, by the Priorities USA plaintiffs.

<sup>5</sup> MCL 168.748 provides:

After issue joined in any case of contested election, either party to the cause may present a petition to the court before which the said cause is to be tried, setting forth among other things that the petitioner has good reason to believe and does believe that 1 or more voters at the election out of which the cause has arisen, naming him or them, and stating his or their place of residence, were unqualified to vote at such election; that he believes the same can be established by competent testimony; that the ballot or ballots of such voter or voters were received after being challenged, as provided by law; and praying that the court may try and determine the question of the qualification of such voter or voters at said election, which petition shall be verified by the oath of the petitioner or some other person acquainted with the facts, and thereupon the court shall direct an issue to be framed, within a time to be fixed therefor, for the purpose of determining the question of the qualifications of the voter or voters named in said petition to vote at said election; and such issue shall stand for trial as in other cases, and the verdict of the jury or judgment of the court upon such issue so made shall be received, upon the trial of the principal issue in said cause, as conclusive evidence to establish or to disprove the said qualifications of said voter or voters.

<sup>6</sup> Secretary of State, *Secretary Benson Announces Modernized Voter Registration on National Voter Registration Day* <[https://www.michigan.gov/sos/0,4670,7-127-1640\\_9150-508246--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1640_9150-508246--,00.html)> (accessed July 14, 2020).

On January 6, 2020, PTV filed suit against the Secretary in the Court of Claims. PTV's complaint and the Priorities USA plaintiffs' amended complaint both advanced similar allegations. PTV and the Priorities USA plaintiffs asserted that the Legislature's proof of residency definition in MCL 169.497 and the requirement that some voters be issued a challenge ballot unduly burdened the self-executing provisions in 1963 Const, art 2, § 4. Additionally, the proof of residency definition violated the Equal Protection Clause of the Michigan Constitution by burdening the right to vote, and by treating similarly situated voters differently: those who registered to vote within the 14-day period, but who could not show proof of residency with a current Michigan driver's license or personal identification card were issued a challenged ballot. The Priorities USA plaintiffs finally asserted that the Secretary's AVR Policy burdened and curtailed the right in 1963 Const, art 2, § 4(1)(d).

Following the consolidation of the two cases, and the Legislature's intervention, the Legislature filed a motion for summary disposition under MCR 2.116(C)(10).<sup>7</sup> The Legislature argued that the proof of residency amendment in MCL 168.497 was a constitutional exercise of its power to preserve the purity of elections, guard against abuses of the elective franchise, and provide for a system of voter registration and absentee balloting. The Legislature further argued that the Michigan Constitution, following the passage of Proposal 3, did not define proof of residency, which essentially required the Legislature to exercise its constitutional powers to define the phrase. The definition of proof of residency did not violate the Equal Protection Clause because the statute provided reasonable, nondiscriminatory restrictions; thus, it was subject to only rational basis review. The state's interest in preventing voter fraud justified the restrictions. Finally, the Legislature argued that the AVR Policy was consistent with 1963 Const, art 2, § 4 because the right to be automatically registered to vote only applies to those who are entitled to register to vote, namely individuals who are 17½ years of age or older.

The Secretary also moved for summary disposition under MCR 2.116(C)(10). Regarding the AVR Policy, the Secretary was automatically registering individuals to vote pursuant to the Michigan Constitution and statute, not a policy. The Secretary also argued that the definition of proof of residency did not impose an unconstitutional burden on the right to vote because the Legislature properly supplemented 1963 Const, art 2, § 4. Furthermore, an individual can register to vote in the 14-day period by signing an affidavit that the individual does not have a form of identification for election purposes and by presenting a document from a broad array of documents listed in the statute. Relatedly, an individual whose ballot must be marked as a challenged ballot casts either a regular ballot or an absent voter ballot. The ballot is merely marked so that it can later be identified if an election is contested. A challenged ballot does not require the individual to reveal the content of the ballot. Individuals who cannot produce a current Michigan driver's license or personal identification card and are required to vote a challenged ballot are not denied equal protection. Individuals who must vote a challenged ballot are not similarly situated to individuals who have a current Michigan's driver's license or personal identification card. The

<sup>7</sup> The Court of Claims granted the Legislature's motion to intervene in lower court no. 19-000191-MZ, and the Priorities USA plaintiffs do not challenge that order on appeal.

use of alternative, and sometimes less objective, forms of proof of residency reasonably warrants additional procedural requirements.

In PTV's motion for summary disposition under MCR 2.116(C)(10), PTV argued that MCL 168.497 imposed additional obligations on the self-executing rights of 1963 Const, art 2, § 4. The term "residence" is generally understood as the place where a person lives. In MCL 168.497, the Legislature defined proof of residency to mean more than simply proof of where one lives. It defined proof of residency to include proof of identity, i.e., a driver's license or personal identification card. Although MCL 168.497 did not require a person registering to vote in the 14-day period to provide a current Michigan driver's license or personal identification card, the Legislature narrowly limited the documents that it would accept as proof of residency, which curtailed and burdened the rights guaranteed by 1963 Const, art 2, § 4. Additionally, under MCL 168.497, only those who provide a current Michigan driver's license or personal identification card receive a regular or absent voter ballot. All others receive a challenged ballot, which is not a regular or absent voter ballot and which is also not a secret ballot.

PTV also argued that MCL 168.497 failed to provide equal protection of the law. The statute creates three classes of voters: (1) those who present a current Michigan driver's license or personal identification card, and who are allowed to vote a regular or absent voter ballot; (2) those who either submit other proof of identity, or who execute an affidavit attesting that they do not possess any of the acceptable forms of proof of identity, with one of a limited number of documents establishing residency, and who are required to vote a challenged ballot, and (3) those who do not have one of the limited number of documents establishing residency, and who are not allowed to vote. MCL 168.497 imposed a severe burden on the rights of the voters in the second class. Those voters had to vote a challenged ballot, which required extra time by the clerk's office, which required the voters to wait longer. MCL 168.497 also imposed a severe burden on the rights of the voters in the third class. These voters were deprived of their right to vote, and there was no compelling state interest justifying the deprivation, according to PTV.

The Priorities USA plaintiffs moved for a preliminary injunction, attaching three affidavits from two students at the University of Michigan and one student at Michigan State University that detailed their difficulties in registering to vote in the 14-day period. The Priorities USA plaintiffs also attached a report from Michael E. Herron, Ph.D., which detailed the results from two surveys he commissioned. In the first survey, 2,000 Michigan residents, who were eligible to vote and planned to vote in 2020, were asked about whether they had the documents listed in MCL 168.497. According to Dr. Herron, 1.6% of the participants answered that they did not have documentation that would satisfy the requirements of MCL 168.497. 1.6% of citizens of voting age in Michigan is 159,320 individuals. According to Dr. Herron, the survey also showed that approximately 6% of the participants who were younger than 25 years of age lacked documentation that would satisfy the requirements of MCL 168.497. The participants in the second survey were students at Michigan colleges or universities. According to Dr. Herron, of the students who were United States citizens and not registered to vote in Michigan, 16.9% of them did not have documentation that would satisfy the requirements of MCL 168.497. Dr. Herron believed that approximately 15,514 of the college and university students in Michigan would not be able to provide proof of residency under MCL 168.497. Dr. Herron also reviewed records provided by the Secretary, which indicated that, in the five elections following the passage of Proposal 3, 264 individuals (94

of whom were 21 years of age or younger) were not able to register in the 14-day period for the upcoming election because they lacked proof of residency.

On June 24, 2020, the Court of Claims issued an opinion and order granting the Legislature's and the Secretary's motions for summary disposition, denying PTV's motion for summary disposition, and denying the Priorities USA plaintiffs' motion for a preliminary injunction. The Court of Claims first addressed the claim that the amendments of 1963 Const, art 2, § 4, following the passage of Proposal 3, were "self-executing" and that the requirements of MCL 168.497(2)-(5) were unconstitutional because they unduly restricted the new rights recognized in the Michigan Constitution. The Court of Claims held that while the Legislature may not enact laws that impose additional burdens on self-executing constitutional provisions, it may enact laws that supplement those provisions, such as laws that provide clarity and safeguard against abuses. Because the phrase proof of residency was undefined in Const 1963, art 2, § 4, and the residence of a voter is essential for voting purposes, the Legislature properly supplemented the constitutional provision when it defined proof of residency.

Next, the Court of Claims rejected the argument that the AVR Policy unduly burdened and curtailed the rights in 1963 Const, art 2, § 4. The AVR Policy was not a policy, but "rather a restatement of state law, specifically MCL 168.493a and MCL 168.492, and is consistent with the right of 'electors qualified to vote' being entitled to automatically register to vote when doing business with the secretary of state offices." Further, the Michigan Constitution defines an elector qualified to vote as any resident who has reached the age of 18, and a qualified voter may be automatically registered to vote as a result of conducting business with the secretary of state. Under MCL 168.492, an elector qualified to vote is someone 17½ years of age or older, "and nowhere does the Constitution grant individuals under the age of [17½] the right to be automatically registered when conducting business with the secretary of state."

The Court of Claims then addressed whether MCL 168.497 placed an unconstitutional burden on voters. The court noted that, although the right to vote was not enumerated in either the federal or state constitutions, the United States Supreme Court has held that citizens have a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction. Furthermore, the court held, the right to vote is not absolute. A state has the power to impose voter qualifications and to regulate access to the franchise in many different ways. The court rejected the argument that the Legislature's definition of proof of residency in MCL 168.497 placed a severe burden on the constitutional right to register to vote in the 14-day period. The statute imposed some burden on voters—the statute requires an individual to bring to the election office or polling place some form of proof of residency. But, this was a reasonable, nondiscriminatory restriction, given the wide variety of documents that constituted acceptable ways to establish proof of residency. Additionally, if a voter did not have an acceptable proof of residency in the form of a driver's license or a personal identification card, "that person may vote with a challenged ballot that is counted that day, the same as all other ballots," so long as they produce one of the acceptable forms of proof of residency.

The Court of Claims also rejected the Priorities USA plaintiffs' suggestion that younger voters will be most harmed by MCL 168.497. First, because it was a facial challenge to MCL 168.497, there could not be a focus on any possible effects on a discrete population; the focus must be on the voting population as whole. Second, the argument "overlook[ed] the broad range of

documents that suffice under the statute, the majority of which are readily available to college students, and the fact that registration can be accomplished over the internet, something ‘younger voters’ are surely able to utilize.” Third, the argument gave no credence to the young voters’ ability to understand and follow clear voter registration procedures.

Finally, the Court of Claims rejected the argument that the requirement in MCL 168.497(5) that challenged ballots be issued to those who register to vote in the 14-day period without providing a current Michigan driver’s license or personal identification card violates equal protection because it denied those voters the right to a secret ballot. The court reasoned that challenged ballots were treated the same as any other ballot on election day. “[D]espite [the challenged ballot] being marked on the outside as challenged, upon presentment of identification, the voter was eligible to receive, and did receive, a regular ballot,” which complied with 1963 Const, art 2, § 4(1)(f). To the extent that any burden was placed on a voter’s right, it was minimal. A challenged ballot was a secret ballot because it was counted in the same way as a normal ballot, and the contents were not revealed to the public. The Court of Claims explained:

It is only in the event of a contested election, where the challenged ballot is at issue, that the ballot may be inspected or identified; however, this inspection may only occur with either: the voter’s written consent; or only *after* the individual has been convicted of falsely swearing the ballot; or the voter was deemed to be unqualified. MCL 168.474. Therefore, the only way for the vote to be revealed—absent express written consent—is under court order and even then, only in two limited circumstances that require a prior determination of falsehood. This is not a severe burden, and it places no burden on the voter at the time of voting, nor does it impact the tabulation of those particular votes cast on election day.

In contrast, the state has an interest in ensuring the integrity of ballots should it be needed. This specific interest is properly served by this regulation, as in the event of suspected voter fraud, the court may reveal the identity of the voter and a determination can be made. Overall, the burden imposed on voters’ rights is minimal, and the legislation is within the scope of the state’s interest in preserving the purity of elections.

Thus, the Court of Claims granted summary disposition in favor of the Legislature and the Secretary, and dismissed the complaints with prejudice. This appeal follows.

### III. DISCUSSION

On appeal in Docket No. 353977, PTV argues that the Court of Claims erred in concluding that there is no constitutional right to vote; MCL 168.497 impermissibly imposed additional obligations on the self-executing provisions of 1963 Const, art 2, § 4(1)(a) and § 4(1)(f)(2); the requirement of issuing a challenged ballot was burdensome, unconstitutional, and served no legitimate state interest. In Docket No. 354096, the Priorities USA plaintiffs similarly argue that the Court of Claims erred in concluding that MCL 168.497 did not violate the self-executing provisions of 1963 Const, arts 1, § 2 and 2, § 4; the AVR Policy did not violate the self-executing provision of 1963 Const, art 2, § 4; and they were entitled to a preliminary injunction. We disagree.

## A. STANDARD OF REVIEW

This Court reviews de novo a trial court’s decision on a motion for summary disposition. *Ellison v Dep’t of State*, 320 Mich App 169, 175; 906 NW2d 221 (2017). Summary disposition is proper under MCR 2.116(C)(10) if, “[e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.”

This Court also reviews de novo questions of constitutional law. *Bonner v Brighton*, 495 Mich 209, 221; 848 NW2d 390 (2014). “A statute challenged on a constitutional basis is ‘clothed in a presumption of constitutionality,’ and the burden of proving that a statute is unconstitutional rests with the party challenging it.” *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich 1, 11; 740 NW2d 444 (2007) (citation omitted).

A challenge to the constitutionality of a statute is either a facial challenge or an as-applied challenge. *Bonner*, 495 Mich at 223 nn 26-27; *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 11 & n 20. “A facial challenge is a claim that the law is invalid *in toto*—and therefore incapable of any valid application,” whereas an as-applied challenge “considers the specific application of a facially valid law to individual facts.” *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 11 & n 20 (quotation marks and citation omitted). The challenges to MCL 168.497 are facial challenges. PTV and the Priorities USA plaintiffs are asking that MCL 168.497(2)-(5) be declared unconstitutional in all circumstances. They do not claim the statute is unconstitutional only when applied in a specific circumstance.

“A party challenging the facial constitutionality of a [statute] ‘faces an extremely rigorous standard.’ ” *Bonner*, 495 Mich at 223 (citation omitted). A plaintiff “must establish that no set of circumstances exists under which the act would be valid” and “[t]he fact that the . . . act might operate unconstitutionally under some conceivable set of circumstances is insufficient” to render the act invalid. *Council of Orgs & Others for Ed About Parochial, Inc v Governor*, 455 Mich 557, 568; 566 NW2d 208 (1997) (quotation marks, alteration marks, and citation omitted). Indeed, “if any state of facts reasonably can be conceived that would sustain [a legislative act], the existence of the state of facts at the time the law was enacted must be assumed.” *Id.* (quotation marks, alteration marks, and citation omitted). “[B]ecause facial attacks, by their nature, are not dependent on the facts surrounding any particular decision, the specific facts surrounding plaintiffs’ claim are inapposite.” *Bonner*, 495 Mich at 223.

## B. CONSTITUTIONAL RIGHT TO VOTE

PTV and the Priorities USA plaintiffs argue that the Court of Claims erred by stating that the right to vote was not expressly enumerated in the Michigan Constitution. Before addressing this argument, we find it necessary to detail the history of the right to vote.

In the Court of Claims opinion and order, the court stated that “the right to vote is not enumerated in either the federal or state constitution . . . .” Although there are numerous provisions in the United States Constitution that prevent states from discriminating against specific groups by taking away their right to vote, there is no specific enumeration of the right to vote. See

*San Antonio Indep Sch Dist v Rodriguez*, 411 US 1, 35 n 78; 193 S Ct 1278; 36 L Ed 2d 16 (1973) (“[T]he right to vote, per se, is not a constitutionally protected right . . .”). For example, the Fifteenth Amendment states: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” US Const, Am XV. Nearly identical language is used in the Nineteenth and Twenty-Sixth Amendments, which prohibit denying or abridging the right to vote on the basis of gender or age, respectively. See US Const, Ams XIX and XXVI.

Despite the lack of a positive right to vote, the United States Supreme Court, “[i]n decision after decision, . . . has made clear that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” *Dunn v Blumstein*, 405 US 330, 336; 92 S Ct 995; 31 L Ed 2d 274 (1972). Indeed, “[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v Sanders*, 376 US 1, 17; 84 S Ct 526, 534-535; 11 L Ed 2d 481 (1964). However, “[t]his equal right to vote is not absolute; the States have the power to impose voter qualifications, and to regulate access to the franchise in other ways.” *Dunn*, 405 US at 336 (quotation marks and citation omitted).

Following the passage of Proposal 3 in Michigan, this state’s constitution now reads: “Every citizen of the Unites States who is an elector qualified to vote in Michigan shall have the following rights: The right, once registered, to vote a secret ballot in all elections.” 1963 Const, art 2, § 4(1)(a). Although decided before the passage of Proposal 3, and the relevant amendment of our state’s constitution, our Supreme Court stated in *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 16, that “the right to vote is an implicit fundamental political right that is preservative of all rights.” (Quotation marks and citation omitted). Our Supreme Court continued: “However, ‘[t]his equal right to vote is not absolute . . .’ ” *Id.*, quoting *Dunn*, 405 US at 336 (alteration in original; internal quotation marks omitted).

PTV and the Priorities USA plaintiffs assert that 1963 Const, art 2, § 4(1)(a) provides a constitutional right to vote. This section unambiguously provides that a qualified citizen has the “right, once registered, to vote a secret ballot in all elections.” 1963 Const, art 2, § 4(1)(a). However, this section does not provide that an individual has an absolute constitutional right to vote; the individual must first be a qualified elector who has registered to vote. *Id.* Although the Michigan Constitution now expressly provides for the right to vote, certain requirements must be met before an individual can exercise his or her fundamental political right to vote. Despite the Court of Claims’ quotation of caselaw predating the passage of Proposal 3, the court’s opinion recognized the constitutionally protected status of the right to vote. Thus, there is no error requiring reversal.

### C. SELF-EXECUTING CONSTITUTIONAL PROVISIONS

PTV and the Priorities USA plaintiffs argue that the Legislature’s definition of proof of residency in MCL 168.497 and the requirement in MCL 168.497(5) that a challenged ballot be issued to anyone who registers to vote in the 14-day period without providing a current Michigan driver’s license or personal identification card unduly burden the rights in 1963 Const, art 2, § (4)(1)(f). They claim that, because the rights in 1963 Const, art 2, § 4(1) are self-executing

rights, the statutory provisions are unconstitutional. The Priorities USA plaintiffs also argue that the Secretary's AVR Policy unduly burdens the right in 1963 Const, art 2, § (4)(1)(d). We disagree.

There is no dispute among the parties that the rights in Const 1963, art 2, § 4(1) are self-executing. "A constitutional provision is deemed self-executing, if it supplies a sufficient rule, by means of which the right given may be enjoyed and protected, or the duty imposed may be enforced[.]" *League of Women Voters of Mich v Secretary of State*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (2020) (Docket Nos. 350938, 351073); slip op at 11 (quotation marks and citation omitted). While the Legislature may not impose additional obligations on a self-executing constitutional provision, *Wolverine Golf Club v Secretary of State*, 384 Mich 461, 466; 185 NW2d 392 (1971); *Durant v Dep't of Ed (On Second Remand)*, 186 Mich App 83, 98; 463 NW2d 461 (1990), it may enact laws that supplement a self-executing constitutional provision, see *Wolverine Golf Club*, 384 Mich at 466. Statutes that supplement a self-executing constitutional provision may not curtail the constitutional rights or place any undue burdens on them. See *id.*; *Durant*, 186 Mich App at 98. Additionally, the statutes must be in harmony with the spirit of the Michigan Constitution and their object must be to further the exercise of the constitutional rights and make them more available. *League of Women Voters of Mich*, \_\_\_ Mich App at \_\_\_; slip op at 11. Statutes that supplement a self-executing provision may be desirable, "by way of providing a more specific and convenient remedy and facilitating the carrying into effect or executing of the rights secured, making every step definite, and safeguarding the same so as to prevent abuses." *Wolverine Golf Club v Secretary of State*, 24 Mich App 711, 730; 180 NW2d 820 (1970) (opinion by LESINSKI, C.J.), *aff'd* 384 Mich 461 (1971) (quotation marks and citation omitted).

## 1. PROOF OF RESIDENCY

Under 1963 Const, art 2, § 4(1)(f)(2), a person who seeks to register to vote "beginning on the fourteenth (14th) day before that election and continuing through the day of that election" must submit "a completed voter registration application" and provide "proof of residency." A person's residence, for purposes of Michigan election law, is the "place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence . . . that place at which the person resides the greater part of the time shall be his or her official residence[.]" MCL 168.11(1). An individual may only vote in the township or city in which the individual resides. See MCL 168.491; MCL 168.492. Because an individual may only vote in the township where he or she resides, the individual's residence dictates which candidates and proposals the individual can vote for.

MCL 168.497(2) requires an individual who applies to register to vote in the 14-day period to provide proof of residency. This is not an additional requirement; 1963 Const, art 2, § 4(1)(f)(2) specifically provides that a person who registers to vote in the 14-day period must provide proof of residency. In MCL 168.497(2)-(5), the Legislature defined proof of residency. Because there is no definition of proof of residency in 1963 Const, art 2, § 4(1), the Legislature's definition of proof of residency is a law that supplements the constitutional provision.

A definition from the Legislature of proof of residency was desirable. *Wolverine Golf Club*, 24 Mich App at 730. Absent a statutory definition of proof of residency, confusion and disorder could arise during the 14-day period and on election day itself. Any person who wanted

to register to vote in the 14-day period would be left to wonder what documents would be accepted as proof of residency. Each city or township clerk would have to make his or her own determination regarding what is acceptable proof of residency. Under these individualized determinations, the documents that would be accepted as proof of residency could be different in each of Michigan's cities and townships. Consequently, a definition of proof of residency makes definite what documents an individual must bring to register to vote in the 14-day period and creates a uniform standard in each of Michigan's voting jurisdictions. *Id.* Furthermore, the Legislature has the constitutional authority under 1963 Const, art 2, § 4(2) to enact laws to preserve the purity of elections,<sup>8</sup> to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. Accordingly, a legislative definition of proof of residency, which makes definite what documents can be used as proof of residency, is in harmony with the Legislature's obligations under the Michigan Constitution concerning the administration of elections and furthers the exercise of voter registration in the 14-day period. *League of Women Voters of Mich*, \_\_\_ Mich App at \_\_\_; slip op at 11.

Additionally, even though the Priorities USA plaintiffs have presented evidence that the Legislature's definition of proof of residency in MCL 168.497 has prevented, and may prevent, individuals who are qualified to vote from registering in the 14-day period, the Legislature's definition of proof of residency does not unduly burden the right to register to vote in the 14-day period. Under MCL 168.497, a person provides proof of residency if the person presents either of the following: (1) a current Michigan driver's license or personal identification card, MCL 168.497(2); (2) "any other form of identification for election purposes," which includes driver's licenses and personal identification cards issued by other states and student photo identification cards, see MCL 168.2(k), along with a current utility bill, a current bank statement, or a current paycheck, government check, or other government document, MCL 168.497(3); or (3) an affidavit indicating that the individual does not have "identification for election purposes" and a current utility bill, a current bank statement, or a current paycheck, government check, or other government document, MCL 168.497(4).

The Legislature's definition of proof of residency allows a person to register to vote in the 14-day period with a broad array of common, ordinary types of documents that are available to persons of all voting ages. The Legislature did not provide a narrow list of documents that individuals who register to vote in the 14-day period must present as proof of residency. Moreover, 1963 Const, art 2, § 4(1)(f) requires an individual to provide proof of residency when registering to vote in the 14-day period, and MCL 168.497(2)-(4) defines what documents are acceptable to fulfill that constitutional requirement. Because the Legislature's definition does not unduly burden the right to register to vote in the 14-day period, the definition is a proper supplement to 1963 Const, art 2, § 4(1)(f).

<sup>8</sup> "The phrase 'purity of elections' does not have a single precise meaning. However, it unmistakably requires fairness and evenhandedness in the election laws of this state." *Barrow v Detroit Election Comm*, 305 Mich App 649, 676; 854 NW2d 489 (2014) (quotation marks and citation omitted).

## 2. CHALLENGED BALLOTS

We reject the claims of PVT and the Priorities USA plaintiffs that MCL 168.497(5), which requires that a challenged ballot be issued to anyone who registers to vote in the 14-day period without providing a current Michigan driver's license or personal identification card, unduly burdens the rights in 1963 Const, art 2, § 4(1)(a) and (f). Under 1963 Const, art 2, § 4(1)(f), a person who registers to vote in accordance with that subsection "shall be immediately eligible to receive a regular or absent voter ballot." Under 1963 Const, art 2, § 4(1)(a), a voter is entitled to "a secret ballot."

Michigan election law defines a "regular ballot" as "a ballot that is issued to a voter on election day at a polling place location." MCL 168.3(h). An "absent voter ballot" is "a ballot that is issued to a voter through the absentee voter process." MCL 168.2(b). A challenged ballot is not a third type of ballot. Rather, a challenged ballot is either a regular ballot or an absent voter ballot that is marked (and the mark subsequently concealed) with the number corresponding to the voter's poll list number. See MCL 168.745; MCL 168.746; MCL 168.761(6); *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 14 n 24. Notably, a challenged ballot is entered and tabulated with all the other ballots that are cast. See MCL 168.497(5); *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 14 n 24.

Furthermore, a challenged ballot is a secret ballot. Generally, a secret ballot is one that prevents anyone else from knowing how the individual voted. See *Helme v Bd of Election Comm'rs of Lenawee Co*, 149 Mich 390, 391-393; 113 NW 6 (1907); *People v Cicott*, 16 Mich 283, 297 (1868), overruled on other grounds by *Petrie v Curtis*, 387 Mich 436 (1972). The mark on a challenged ballot, either before or after it is concealed, does not indicate to anyone how the individual voted. Long before Proposal 3 was passed, the Supreme Court recognized that 1963 Const, art 2, § 4 provided a right to a secret ballot. *Belcher v Mayor of Ann Arbor*, 402 Mich 132, 134; 262 NW2d 1 (1978). This right is not absolute; upon a showing that the voter acted fraudulently, the right can be abrogated. *Id.* ("We hold that a citizen's right to a secret ballot in all elections as guaranteed by Const 1963, art 2, § 4, cannot be so abrogated in the absence of a showing that the voter acted fraudulently."). In a contested election, a challenged ballot may be inspected. See MCL 168.747. But, it may only be inspected if the person consents, the person has been convicted of falsely swearing in such ballot, or if it has been determined that such person was an unqualified elector at the time of casting the ballot. *Id.* Because the right to a secret ballot is not absolute, the fact that a challenged ballot may be inspected in a contested election, MCL 168.474, does not mean that it is not a secret ballot.

## 3. AVR POLICY

The Secretary's AVR Policy does not unduly burden the right in 1963 Const, art 2, § 4(1)(d). Under 1963 Const, art 2, § 4(1), "[e]very citizen of the United States who is an elector qualified to vote in Michigan shall have [certain] rights[.]" In other words, the rights listed in 1963 Const, art 2, § 4(1), including "[t]he right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card," are rights of "any citizen of the United States who is an elector qualified to vote in Michigan." An individual is not an elector qualified to vote in Michigan—and entitled to

the rights listed in 1963 Const, art 2, § 4(1)—until the individual reaches 18 years of age. See US Const, Am XXVI; 1963 Const, art 2, § 1; *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 at 47 n 1 (CAVANAGH, J., dissenting).

The AVR Policy, which allows those who are 17½ years of age or older to be automatically registered to vote as a result of conducting business with the Secretary regarding a driver’s license or personal identification card, is consistent with MCL 168.492. The statute provides:

Each individual who has the following qualifications of an elector is entitled to register as an elector in the township or city in which he or she resides. The individual must be a citizen of the United States; not less than 17-½ years of age; a resident of this state; and a resident of the township or city. [MCL 168.492.]

Because a person under the age of 18 is not an elector qualified to vote in Michigan, and because the AVR Policy is consistent with MCL 168.492, which allows an individual who is not less than 17½ years of age to register to vote, the argument that the AVR Policy unduly burdens the right in 1963 Const, art 2, § 4(1)(d) is without merit.

#### D. EQUAL PROTECTION

PTV and the Priorities USA plaintiffs argue that MCL 168.497 violates the Equal Protection Clause of the Michigan Constitution. 1963 Const, art 1, § 2 provides that “[n]o person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin.” The Equal Protection Clause in the Michigan Constitution is coextensive with the Equal Protection Clause of the United States Constitution. *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318; 783 NW2d 695 (2010). Equal protection applies when a state either classifies voters in disparate ways or places undue restrictions on the right to vote. *Obama for America v Husted*, 697 F3d 423, 428 (CA 6, 2012).

The Priorities USA plaintiffs argue that MCL 168.497(5) violates equal protection because it treats similarly situated voters differently. According to them, although Const 1963, art 2, § 4(1)(f) guarantees that all individuals who register to vote in the 14-day period shall receive a regular or absent voter ballot, under MCL 168.497(5), only those who submit a current Michigan driver’s license or personal identification card as their proof of residency receive a regular or absent voter ballot. PTV similarly argues that many people who register to vote in the 14-day period are denied the right to receive a regular or absent voter ballot. The basis for these arguments is that a challenged ballot does not constitute a regular or absent voter ballot. But, as previously discussed, a challenged ballot is a regular or absent voter ballot. As also laid out previously, a challenged ballot does not lose its character as a secret ballot unless the election is contested. Regardless how an individual provides proof of residency, as defined in MCL 168.497, the individual receives a regular or absent voter ballot that is also a secret ballot. Similarly situated voters are not treated differently under MCL 168.497(5).

The Priorities USA plaintiffs argue that the Legislature’s definition of proof of residency in MCL 168.497 severely burdens the right to vote because it has, and will, disenfranchise

hundreds, if not thousands, of individuals in Michigan who are qualified to vote. According to the Priorities USA plaintiffs, strict scrutiny should be applied to the definition.

Every election law, “whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least to some degree—the individual’s right to vote and his right to associate with others for political ends.” *Anderson v Celebrezze*, 460 US 780, 788; 103 S Ct 1564; 75 L Ed 2d 547 (1983).<sup>9</sup> Consequently, subjecting every voting regulation to strict scrutiny, thereby requiring that the regulation be narrowly tailored to advance a compelling state interest, would tie the hands of states seeking to assure that elections are operated equitably and efficiently. *Burdick v Takushi*, 504 US 428, 433; 112 S Ct 2059; 119 L Ed 2d 245 (1992). In *Burdick*, the United States Supreme Court held that “a more flexible standard” applies:

A court considering a challenge to a state election law must weigh the “character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against “the precise interests put forward by the State as justifications for the burden imposed by its rule,” taking into consideration “the extent to which those interests make it necessary to burden the plaintiff’s rights.”

Under this standard, the rigorousness of our inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights. Thus, as we have recognized when those rights are subjected to “severe” restrictions, the regulation must be “narrowly drawn to advance a state interest of compelling importance.” But when a state election law provision imposes only “reasonable, nondiscriminatory restrictions” upon the First and Fourteenth Amendment rights of voters, “the State’s important regulatory interests are generally sufficient to justify” the restrictions. [*Id.* at 434 (citations omitted).]

See also *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 21-22, where the Supreme Court, after quoting these two paragraphs, stated:

Thus, the first step in determining whether an election law contravenes the constitution is to determine the nature and magnitude of the claimed restriction inflicted by the election law on the right to vote, weighed against the precise interest identified by the state. If the burden on the right to vote is severe, then the

<sup>9</sup> Regardless whether the right to vote, following the passage of Proposal 3, is now an expressly enumerated right in the Michigan Constitution, the United States Supreme Court has recognized that the right to vote is a “ ‘a fundamental political right’ ” that “is preservative of other basic and civil political rights.” *Reynolds v Sims*, 377 US 533, 562; 84 S Ct 1362; 12 L Ed 2d 506 (1964) (citation omitted). A citizen has “a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” *Dunn*, 405 US at 336. The right to vote, however, is not absolute; a state has the power to impose voter qualifications, and to regulate access to the franchise in other ways. *Id.*; see also 1963 Const, art 2, § 4(2).

regulation must be “narrowly drawn” to further a compelling state interest. However, if the restriction imposed is reasonable and nondiscriminatory, then the law is upheld as warranted by the important regulatory interest identified by the state. The United States Supreme Court has stressed that each inquiry is fact and circumstance specific, because “[n]o bright line separates permissible election-related regulation from unconstitutional infringements[.]” [Citation omitted.]

In resolving an equal protection challenge to an election law under the Michigan Constitution, this Court applies the *Burdick* test. *Id.* at 35.

The Legislature’s definition of proof of residency does not impose a severe burden on the right to vote. Because Const 1963, art 2, § 4(1) does not define proof of residency, the Legislature provided a definition in MCL 168.497, and the Legislature’s definition allows individuals to provide proof of residency with a broad array of ordinary, common documents that are available to persons of all voting ages. The Priorities USA plaintiffs have presented evidence that there are individuals who are qualified to vote and who could not provide proof of residency, as defined in MCL 168.497, in the 14-day period leading up to the March 2020 presidential primary.

However, in arguing that the Legislature’s definition of proof of residency has, and will, disenfranchise these individuals, the Priorities USA plaintiffs fail to recognize that an individual can register to vote in several ways. An individual can register to vote by mailing a completed voter registration application on or before the 15th day before the election. 1963 Const, art 2, § 4(1)(e). An individual can register to vote by appearing in person and submitting a completed voter registration application on or before the 15th day before the election. 1963 Const, art 2, § 4(1)(f)(1). See also MCL 168.497(1), which allows an individual to register to vote in person, by mail, or online until the 15th day before the election. Additionally, an individual can register to vote in the 14-day period by appearing in person, submitting a completed voter registration application, and providing proof of residency. 1963 Const, art 2, § 4(1)(f)(2).

The Priorities USA plaintiffs make no claim that any person who is unable to provide proof of residency, as defined in MCL 168.497, in the 14-day period would not be able to register to vote on or before the 15th day before the election. Notably, election days are set by the Michigan Constitution and by statute. See 1963 Const, art 2, § 5; MCL 168.641. Consequently, one should not be uninformed regarding when an election is to be held. Furthermore, it is not unreasonable to expect an individual who wishes to vote in an election, but who is not registered to vote or who has moved since registering to vote, to make inquiries or conduct research—in advance of the election—regarding how to register to vote. In doing so, an individual can learn the different options for registering to vote and the documents that are needed for each method. These inquiries are not a severe or substantial burden. Cf. *Crawford v Marion Co Election Bd*, 553 US 181, 198; 128 S Ct 1610; 170 L Ed 2d 574 (2008) (opinion by STEVENS, J.) (indicating that the inconvenience for those who need a photo identification to vote by gathering the required documents, making a trip to the bureau of motor vehicles, and posing for a photograph does not qualify as a substantial burden); *id.* at 205 (SCALIA, J., concurring) (stating that burdens are severe if they go beyond the merely inconvenient and that “[o]rdinary and widespread burdens, such as those requiring ‘nominal effort’ of everyone, are not severe”) (citation omitted). Furthermore, while the Priorities USA plaintiffs claim that the Legislature’s definition of proof of residency is narrow, they make no claim that a more expansive list of specific documents, such as those which the Secretary allows

to constitute proof of residency when one applies for a driver's license or personal identification card,<sup>10</sup> would allow a significant number of individuals who cannot provide proof of residency, as defined by MCL 168.497, to provide it.

The Legislature's definition of proof of residency in MCL 168.497 is a reasonable, nondiscriminatory restriction that applies to all individuals who seek to register to vote in the 14-day period. See *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 497 Mich at 25. It does not, therefore, violate equal protection of the laws.

Furthermore, the Legislature's definition of proof of residency is warranted by the state's regulatory interests. *Id.* at 22. The Legislature has constitutional authority to enact laws to preserve the purity of elections, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. 1963 Const, art 2, § 4(2). These obligations include ensuring that fraudulent voting does not dilute the votes of lawful voters. *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 497 Mich at 19-20. Because a person's residence dictates which candidates and proposals the person can vote for, see MCL 168.492, the Legislature has an interest in ensuring that only residents of a city or township vote in that city or township. By defining proof of residency, a phrase undefined by 1963 Const, art 2, § 4(1), the Legislature has enacted a statute that helps to preserve the purity of elections and aids in providing for a system of voter registration. The clerks of Michigan's cities and townships, as well as those qualified to vote in Michigan, now know what documents are needed to establish proof of residency in the 14-day period.

Furthermore, the Legislature's definition of proof of residency is a reasonable means to prevent voter fraud. By defining proof of residency as requiring either a current Michigan driver's license or personal identification or a utility bill, bank statement, paycheck, government check, or other government document with the person's name and current address, the Legislature has required the person to provide a document—created by a neutral, detached third party—that connects the person with their place of residence.

We reject the Priorities USA plaintiffs' claim that voter fraud does not justify the Legislature's definition of proof of residency because voter fraud is not a problem in Michigan and there is no reason to believe that voter fraud would be more prevalent during the 14-day period than in any preceding period. Recall that it is the Michigan Constitution that requires different treatment of persons who register to vote in person on or before the 15th day before the election and those who register in the 14-day period. See 1963 Const, art 2, § 4(1)(f).<sup>11</sup> Additionally, the

<sup>10</sup> These documents include a credit card bill, bank statement, Michigan school transcript, mortgage, lease, or rental agreement, insurance policy, and vehicle title and registration. See Michigan Secretary of State, *Driver's License or ID Requirements*, SOS-428 (June 2020).

<sup>11</sup> “[T]he primary objective of constitutional interpretation, not dissimilar to any other exercise in judicial interpretation, is to faithfully give meaning to the intent of those who enacted the law.” *Nat'l Pride at Work, Inc v Governor*, 481 Mich 56, 67; 748 NW2d 524 (2008). Under 1963 Const, art 2, § 4(1)(f), when a person registers to vote in person, the documents that the person must present to the election official depends on when the person registers to vote. If the person registers

Legislature was not required to wait until there was proven voter fraud during the 14-day period before it could enact a definition of proof of residency. See *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 26-27, where the Supreme Court rejected the argument that the state’s interest in preventing in-person voter fraud was illusory because there was no significant evidence of such fraud:

[T]here is no requirement that the Legislature “prove” that significant in-person voter fraud exists before it may permissibly act to prevent it. The United States Supreme Court has explicitly stated that “elaborate, empirical verification of the weightiness of the State’s asserted justifications” is *not required*. Rather, a state is permitted to take prophylactic action to respond to potential electoral problems:

To require States to prove actual [harm] as a predicate to the imposition of reasonable . . . restrictions would invariably lead to endless court battles over the sufficiency of the “evidence” marshaled by a State to prove the predicate. Such a requirement would necessitate that a State’s political system sustain some level of damage before the legislature could take corrective action. Legislatures, we think, should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively, provided that the response is reasonable and does not significantly impinge on constitutionally protected rights.

Therefore, the state is not required to provide *any* proof, much less “significant proof,” of in-person voter fraud before it may permissibly take steps to prevent it. [Citations omitted.]

We also reject the Priorities USA plaintiffs’ claim that the Legislature’s definition of proof of residency was not justified because other statutes adequately prevent voter fraud. They point to MCL 168.933, which provides that “[a] person who makes a false affidavit or swears falsely while under oath . . . for the purpose of securing registration, for the purpose of voting at an election . . . is guilty of perjury.” In *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 28 n 69, the Supreme Court rejected a similar argument that the picture identification requirement of MCL 168.523(1) was not justified because there were statutes that imposed criminal penalties for those who impersonated another for voting purposes. It explained:

to vote on or before the 15th day before the election the person must submit “a completed voter registration application.” 1963 Const, art 2, § 4(1)(f)(1). But, if the person registers to vote during the 14-day period, the person must submit “a completed voter registration application” and provide “proof of residency.” 1963 Const, art 2, § 4(1)(f)(2). Consequently, it is apparent that the voters who enacted Proposal 3 intended that those who register to vote in the 14-day period must provide additional documentation than those who register to vote on or before the 15th day before the election—in addition to submitting a completed voter registration application, they must also provide proof of residency.

[T]hat Michigan criminalizes in-person voter fraud does not address Michigan's undisputed interest in *preventing* fraud in the first instance, nor do criminal sanctions provide a means of *detecting* fraud. Moreover, it is unclear how the imposition of criminal penalties could remedy the harm inflicted on our electoral system by a fraudulently cast ballot. [*Id.*]

Accordingly, MCL 168.933 does not dispel the Legislature's interest in preventing voter fraud during the 14-day period.

Finally, PTV, in arguing that MCL 168.497 violates equal protection, focuses on the burden that is caused by the actual issuance of challenged ballots. According to PTV, because it takes longer for a challenged ballot to be issued, which results in longer lines, the requirement that challenged ballots be issued to those who register in the 14-day period without a current Michigan driver's license or personal identification card burdens the right to vote.

The burden of long lines, which results in people having to wait longer to register to vote, is not a severe burden. Long lines are certainly an inconvenience, but a burden must go beyond mere inconvenience to be severe. *Crawford*, 553 US at 205 (SCALIA, J., concurring). Additionally, the burden is justified by the state's interest in preventing voter fraud. See *In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71*, 479 Mich at 19-20. The challenged ballot provides a procedure, in a contested election, to identify a ballot that was cast by someone who engaged in voter fraud. See MCL 168.747; *Belcher*, 402 Mich at 132. It was reasonable for the Legislature to conclude that it was less likely that those persons who register to vote in the 14-day period with a current Michigan driver's license or identification card would be committing fraud than those who register without one. Those who register to vote with a current Michigan driver's license or personal identification card have a government issued identification that contains their picture and their current address. But someone who registers to vote by providing "any other form of identification for election purposes," may have picture identification with a noncurrent address, such as a driver's license or personal identification card issued by another state, or no address for the person, such as a student photo identification card, and someone who registers to vote by submitting an affidavit that he or she does not have "identification for election purposes" simply provides no photo identification at all.

#### IV. RESPONSE TO THE DISSENT

Our dissenting colleague concedes that the Legislature was within its rights to establish what constitutes "proof of residency" within the 14-day period. Indeed, the dissent states that the Legislature "can and should" provide guidance as to what is acceptable proof of residency. By making this concession, our colleague must also acknowledge that the legislative choice reflected in MCL 168.497 represents a considered policy judgment of the political branches of our government. That policy judgment is one with which our dissenting colleague clearly disagrees. Indeed, our colleague states that she might have upheld the statute had the Legislature enacted a definition of proof of residency more in line with what she considers to be its "well-understood

meaning.”<sup>12</sup> But in our view it is not part of the judicial role to second guess the Legislature’s policy judgment in this regard, so long as what has been enacted does not run afoul of the constitution. See *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 149; 644 NW2d 715 (2002) (“It is not the role of the judiciary to second-guess the wisdom of a legislative policy choice; our constitutional obligation is to interpret—not to rewrite—the law.”). We have laid out in painstaking detail why the statutory enactments at issue in this case are well within constitutional bounds.

Finally, the dissent posits that there is a well-accepted meaning of the term “proof of residency.” If so, why should the Legislature have need of defining the term, as the dissent concedes that it “can and should” have done? More fundamentally, we disagree that the Legislature has substituted “proof of identity” for “proof of residency.” In the context of this statute, a State of Michigan driver’s license or personal identification card is being used not as proof of identity, but as proof of residency. Indeed, the Legislature considers it to be the highest and best proof of residency, as a prospective voter need not supply any other documentation within the 14-day period so long as the voter presents either of those documents reflecting an address within the voting jurisdiction.

## V. CONCLUSION

We affirm the June 24, 2020 opinion and order of the Court of Claims. The Secretary and the Legislature were entitled to summary disposition. The Legislature’s definition of proof of residency in MCL 168.497 and the requirement in MCL 168.497(5) that a challenged ballot be issued to any person who registers to vote in the 14-day period without providing a current Michigan driver’s license or personal identification card does not unduly burden any of the rights in 1963 Const, art 2, § 4(1)(a) and (f). The Secretary’s AVR Policy also does not unduly burden the right in 1963 Const, art 2, § 4(1)(d). Additionally, the Legislature’s definition of proof of residency in MCL 168.497 and the requirement in MCL 168.497(5) concerning the issuance of challenged ballots do not violate equal protection.

Affirmed.

/s/ Patrick M. Meter  
/s/ Michael F. Gadola

<sup>12</sup> The dissent lays out the list of documents the Secretary of State accepts as proof of residency when seeking to obtain a driver’s license or personal identification card, which is more expansive than the list in MCL 169.497. First, given the Legislature’s duty to preserve the purity of elections, and to ensure that the votes of qualified electors are not unfairly diluted, the Legislature was within its rights to require a higher standard of proof of residency for voting purposes than for driving purposes. As to the dissent’s argument that the list the Legislature chose discriminates on the basis of income, we note that the more expansive list the dissent appears to prefer includes items such as utility bills, bank statements, mortgages, pay stubs, life insurance policies, and other documents that presume a certain economic status. This appears unavoidable in any scheme designed to establish a person’s residency.

000445

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

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**MELLISSA A. CARONE,**

**Plaintiff,**

**-vs-**

**AFFIDAVIT OF MELLISSA A.**

**CARONE**

**CITY OF DETROIT: DETROIT ELECTION  
COMMISSION; JANICE M. WINFREY, in  
her official capacity as the CLERK OF THE  
CITY OF DETROIT and the Chairperson of  
The DETROIT ELECTION COMMISSION;  
CATHY M. GARRETT, in her official  
Capacity as the CLERK OF WAYNE COUNTY  
BOARD OF CANVASSERS,**

**Defendants,**

**FILE NO: \_\_\_\_\_ -AW**

**JUDGE**

**BOBBY TENORIO**  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF WASHTENAW  
My Commission Expires February 19, 2021  
Acting in the County of Wayne

**David A. Kallman (P43200)**

**Erin E. Mersino (P70886)**

**Jack C. Jordan (P46551)**

**Stephan P. Kallman (P75622)**

**GREAT LAKES JUSTICE CENTER**

**Attorneys for Plaintiff**

**5600 W. Mount Hope Hwy.**

**Lansing, MI 48917**

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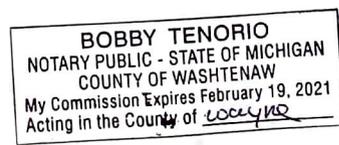
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**AFFIDAVIT**

The Affiant, Mellissa A. Carone, being the first duly sworn, hereby deposes and states as follows:

000446

1. My name is Mellissa A. Carone, I was contracted by Dominion Voting Services to do IT work at the TCF Center for the November 3, 2020 election, and I am a resident of Wayne County.
2. I arrived at the TCF Center at approximately 6:15 AM November 3, 2020 and worked until 4:00 AM November 4, 2020. I went home to get some sleep, then arrived back at the TCF Center at 10:00 AM in which I stayed until 1:45 PM. During this time I witnessed nothing but fraudulent actions take place.
3. The counters (which were trained very little or not at all), were handed a "batch" (stack of 50) of mail-in ballots in which they would run through the tabulator. The tabulators would get jammed 4-5 times an hour, when they jammed the computer would put out an error that tells the worker the ballot number that was jammed and gives an option to either discard the batch or continue scanning at which the counter should discard the batch, put the issue ballot on top of the batch and rescan the entire batch. I witnessed countless workers rescanning the batches without discarding them first which resulted in ballots being counted 4-5 times.
4. At approximately midnight I was called over to assist one of the counters with a paper jam and noticed his PC had a number of over 400 ballots scanned- which means one batch was counted over 8 times. This happened countless times while I was at the TCF Center. I confronted my manager, Nick Ikonomakis saying how big of a problem this was, Nick told me he didn't want to hear that we have a big problem. He told me we are here to do assist with IT work, not to run their election.
5. The adjudication process, from my understanding there's supposed to be a republican and a democrat judging these ballots. I overheard numerous workers talking during shift change in which over 20 machines had two democrats judging the ballots-resulting in an unfair process.
6. Next, I want to describe what went on during shift change, it was a chaotic disaster. It took over two hours for workers to arrive at their "assigned areas", over 30 workers were taken upstairs and told they didn't have a job for them to do. These people were chosen to be counters, in which 6 workers admitted to me that they received absolutely no training at all.
7. The night shift workers were free to come and go as they pleased, they could go out and smoke from the counting room. This is illegal, as there were boxes and stacks of ballots everywhere, anyone could have taken some out or brought some in, and No one was watching them.
8. There was two vans that pulled into the garage of the counting room, one on day shift and one on night shift. These vans were apparently bringing food into the building because they only had enough food for not even 1/3 of the workers. I never saw any food coming out of these vans, coincidentally it was announced on the news that Michigan had discovered over 100,000 more ballots- not even two hours after the last van left.
9. When a worker had a ballot that they either could not read, or it had something spilled on it, they would go to a table that had blank ballots on it and fill it out. They were supposed to be filling them out exactly like the one they had received but this was not the case at all. The workers would also sign the name of the person that the ballot belonged to-which is clearly illegal.
10. Samuel Challandes and one more young man in his mid-20 were responsible for submitting the numbers into the main computer. They had absolutely no overhead, my manager Nick would assist them with any questions but Nick was on the floor assisting with IT most of the time.



000447

- 11. There was a time I overheard Samuel talking to Nick about losing tons of data, they all got on their phones and stepped to the side of the stage. I asked Nick what was going on and he told me it was all taken care of and not to worry about it. I fully believe that this was something very crucial that they just covered up.
- 12. I was the only republican working for Dominion Voting, and on the stage there was many terrible comments being made by the city workers and Dominion workers about republicans. I did not give out any indication that I was a republican, I have a family at home and knew I was going to have to walk to my car at the end of my shift. If anyone had an American flag on their shirt or mask, they were automatically deemed to be Trump supporters.
- 13. I called the FBI and made a report with them, I was told that I will be getting a call back.
- 14. I am doing my best to make sure something is done about this, I was there and I seen all of this take place.

On this 8<sup>th</sup> day of November, 2020, before me personally appeared Mellissa A. Carone, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and behalf, and as to those matters he believes them to be true.

Mellissa A. Carone *Mellissa Carone* 11/08/20

Notary Public, Washtenaw County, Michigan

My Commission Expires: 02 19, 2021  
Feb 19, 2021

*Bobby Tenorio* 11/8/2020

BOBBY TENORIO
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires February 19, 2021
Acting in the County of <u>Washtenaw</u>

## **EXHIBIT 6**

STATE OF MICHIGAN  
COURT OF CLAIMS

DONALD J. TRUMP FOR	)	
PRESIDENT, INC., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 20-000225-MZ
	)	
SECRETARY OF STATE JOCELYN	)	
BENSON,	)	
	)	
Defendant.	)	

**AFFIDAVIT OF JESSICA CONNARN**

I, Jessica Connarn, being first duly sworn, depose and state the following:

1. I was working as the attorney acting as poll challenger with the Michigan Republican Party in a designated area of zone 12-15 when I was approached by a Republican Party poll challenger, who stated that a hired poll worker of the TCF Center, in Wayne County, Michigan, was nearly in tears because she was being told by other hired poll workers at her table to change the date the ballot was received when entering ballots into the computer.

2. When I approached the poll worker, she stated to me that she was being told to change the date on ballots to reflect that the ballots were received on an earlier date. I went to inform a supervisor of this, and I was asked to get the poll worker's name. When I went back to the poll worker's table, I was yelled at by the other poll workers working at her table, who told me that I needed to go away and that I was not allowed to talk to the poll worker with whom I spoke earlier. The poll worker slipped me a note that read "entered receive date as 11/2/20 on 11/4/20." I have attached a photograph I took of this note as Exhibit 1.

3. Based upon what I was told by this poll worker, I believe that poll workers working at the adjudication table were changing the dates ballots were received.

4. I was told to obtain a photo of the poll worker and upon returning to see if the poll worker was still at her location, I noticed the poll worker was moved up on to the adjudication stage where we were not able to communicate with her.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of November, 2020.

Jessica Connarn  
JESSICA CONNARN

Subscribed and sworn to before me this 4th day of November, 2020.

Paul Garon  
Notary Public

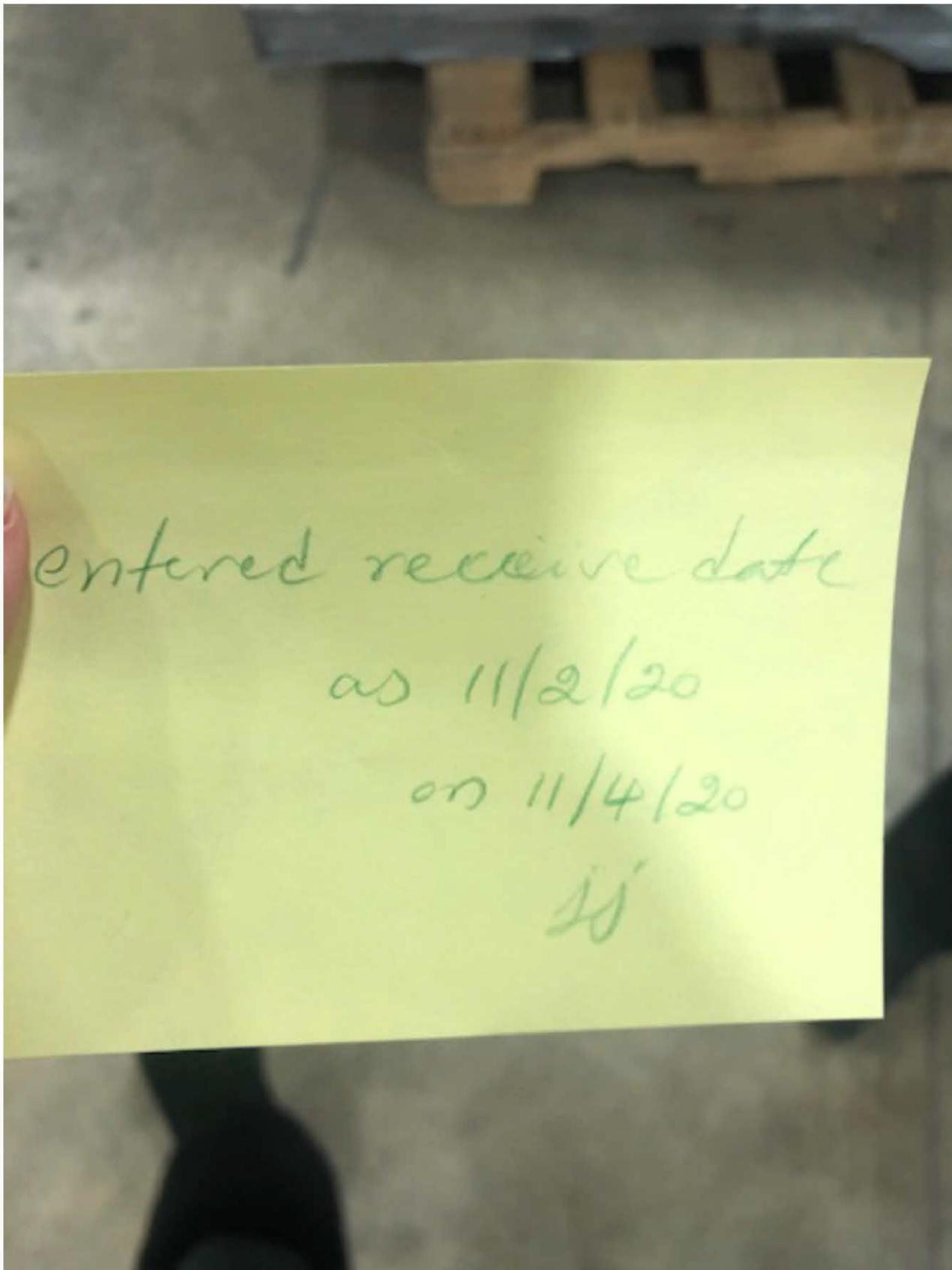
Washtenaw County, Michigan

11/4/2020

My Commission Expires:

July 2021

PAUL GARON



entered receive date

as 11/2/20

on 11/4/20

ij

## **DECLARATION OF MATT CIANTAR**

I, Matt Ciantar, this 17<sup>th</sup> day of November, under the penalties of perjury and upon personal knowledge that the contents of this Declaration are true, accurate and correct and that I am competent to testify:

1. My name is Matt Ciantar.
2. I am a resident of Plymouth, Michigan.
3. The afternoon following the election as I was taking my normal dog walk (mid-afternoon), I witnessed a dark van pull into the small post office located in downtown Plymouth, MI.
4. I witnessed a young couple late teens / early 20's pull into the parking lot of the post office and proceed to exit their van (no markings) to approach the rear of the van and opened up the back hatch and proceeded to take 3-4 very large clear plastic bags out of the rear of the van and walk them over to a running USPS Vehicle that appeared as if it was "waiting" for them.
5. The two individuals 1 man, 1 woman proceeded to drop these bags at the rear of the post office vehicle that was equipped with a lift gate.
6. There was no interaction between the couple and any USPS employee which I felt was very odd... They did not walk inside the post office like a normal customer to drop of mail. It was as if the postal worker was told to meet and standby until these large bags arrived.

7. As you can see in the pictures the bags were clear plastic with markings in black on the bag and on the inside of these clear bags was another plastic bag that was not clear (could not see what was inside) it was black “garbage bag” looking bag. These bags were all the same, clear bag on outside, black bag on inside, markings on the clear bag and what looked like a black security zip tie on each back as if it were “tamper evident” type of device to secure the bag.
8. I didn’t get a chance to snap a license plate of the van nor the couple because by the time I realized I should take pictures of the bags once I noticed that this looked “odd” they had taken off.
9. The other oddity was that the appearance of the couple. After the drop, they were smiling, laughing at one another.
10. What I witnessed and considered that what could be in those bags could be ballots going to the TCF center or coming from the TCF center I felt that it was important to try and capture a picture in an indiscriminate way.
11. I attach photographs that I took at the time of the bag drop. The bags have identification markings on them that can be seen in the photographs.



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Matt Ciantar



000455



# STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget

525 W. Allegan, Lansing MI 48913  
P.O. Box 30026, Lansing, MI 48909

## NOTICE OF CONTRACT

CONTRACT NO. **071B7700117**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Dominion Voting Systems Inc.
	1201 18 <sup>th</sup> Street, Suite 210
	Denver, CO 80202
	Gio Costantiello
	416-762-8683 ext. 241
	<a href="mailto:gio.costantiello@dominionvoting.com">gio.costantiello@dominionvoting.com</a>
	5149

<b>STATE</b>	Program Manager	Sally Williams	MDOS
		517-241-2747	
		williams1@michigan.gov	
<b>STATE</b>	Contract Administrator	Sue Cieciva	DTMB
		517-284-7007	
		cieciwas@michigan.gov	

CONTRACT SUMMARY			
<b>DESCRIPTION:</b> Voting System Hardware, Firmware, Software and Service – Department of State			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
March 1, 2017	February 28, 2027	None	February 28, 2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days		Refer to Section 2.1 Time Frames	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
There is no minimum order requirement.			
MISCELLANEOUS INFORMATION			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$0.00</b>

000456

CONTRACT NO. 071B7700117

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**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Authorized Agent Signature**

\_\_\_\_\_  
**Authorized Agent** (Print or Type)

\_\_\_\_\_  
**Date**

**FOR THE STATE:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name & Title**

\_\_\_\_\_  
**Agency**

\_\_\_\_\_  
**Date**



# STATE OF MICHIGAN

## VOTING SYSTEM HARDWARE, SOFTWARE AND SERVICES CONTRACT TERMS

This VOTING SYSTEM, HARDWARE, SOFTWARE AND SERVICES CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Dominion Voting Systems Inc. (“**Contractor**”), a Delaware corporation. This Contract is effective on March 1, 2017 (“**Effective Date**”), and unless terminated, expires on February 28, 2027 (the “**Term**”). The parties agree as follows:

1. **Definitions.** For the purposes of this Contract, the following terms have the following meanings:

“**Acceptance**” has the meaning set forth in **Section 8.e**.

“**Audit Period**” has the meaning set forth in **Section 30**.

“**Authorized Users**” means all Michigan counties, cities, or townships.

“**Business Day**” means a day other than a Saturday, Sunday or other day on which the State is authorized or required by Law to be closed for business.

“**Change**” has the meaning set forth in **Section 4**.

“**Change Notice**” has the meaning set forth in **Section 4.b**.

“**Change Proposal**” has the meaning set forth in **Section 4.a**.

“**Change Request**” has the meaning set forth in **Section 4**.

“**Confidential Information**” has the meaning set forth in **Section 28.a**.

“**Configuration**” means State-specific changes made to the Software without Source Code or structural data model changes occurring.

“**Contract**” has the meaning set forth in the preamble.

“**Contract Administrator**” is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party’s Contract Administrator will be identified in the Statement of Work.

“**Contractor**” has the meaning set forth in the preamble.

“**Contractor Personnel**” means all employees of Contractor and any Permitted Subcontractors involved in the performance of Services hereunder.

“**Deliverables**” means the voting system tabulators and all related components, and the accessible voting system components, and all other materials that Contractor is required to or otherwise does provide to the State or Authorized Users under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in the Statement of Work.

000458

CONTRACT #071B7700117



Notwithstanding the foregoing, the term Deliverable shall not include the EMS Software or System Software.

“**Dispute Resolution Procedure**” has the meaning set forth in **Section 39**.

“**Documentation**” means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of any Deliverable.

“**Effective Date**” has the meaning set forth in the preamble.

“**EMS Software**” means the Election Management System (EMS) software provided by Contractor under the Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Configurations or Modifications made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract and the License Agreement.

“**Extended Service Period**” has the meaning set forth in Section 1.6 of the Statement of Work.

“**Fees**” means the prices for Services, EMS Software and Deliverables set forth in an attachment to the Statement of Work.

“**Harmful Code**” means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.

“**Initial Service Period**” has the meaning set forth in Section 1.6 of the Statement of Work.

“**Intellectual Property Rights**” means any and all intellectual property rights in any part of the world, whether registered or unregistered, and all applications for and renewals or extensions of such rights, including rights comprising or relating to: (a) patents, patent disclosures and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith; (c) works of authorship, designs, copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all similar or equivalent rights or forms of protection.

“**Key Personnel**” means any Contractor Personnel identified as key personnel in the Statement of Work.

“**License Agreement**” has the meaning set forth in **Section 5**.

“**Maintenance Release**” means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

“**Modification**” means State-specific changes made to the Source Code of the Software to enhance, improve or otherwise create derivative works of the Software.



**“New Version”** means any new version of the Software that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor’s designation of a new version number.

**“Operating Environment”** means, collectively, the platform, environment and conditions on, in or under which the EMS Software is intended to be installed and operate, as set forth in the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.

**“Permitted Subcontractor”** has the meaning set forth in **Section 10.e**.

**“Person”** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

**“Program Manager”** is the individual appointed by each party to (a) monitor and coordinate the day-to-day activities of this Contract, and (b) for the State, to co-sign off on its notice of Acceptance for Services, the EMS Software and Deliverables. Each party’s Program Manager will be identified in the Statement of Work.

**“Purchase Order”** means an order for EMS Software, Services or Deliverables to be provided by Contractor and the corresponding fees to be paid by the State or Authorized User, issued by the State or Authorized User, and subject to these terms and conditions.

**“Representatives”** means a party’s employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors and permitted assigns.

**“Services”** means any of the services Contractor is required to or otherwise does provide under this Contract or the Statement of Work (including any exhibits or attachments), as more fully described in the body of this Contract and the Statement of Work.

**“Software”** means both the EMS Software and the System Software.

**“Source Code”** means the human readable source code of the Software to which it relates, in the programming language in which the Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the EMS Software.

**“Specifications”** means, for the Software, the specifications collectively set forth in the Business Requirements Specification and Technical Specification, together with any other specifications set forth in the Statement of Work or Documentation.

**“State”** means the State of Michigan.

**“State Data”** has the meaning set forth in **Section 27**.

**“Statement of Work”** means the statement of work attached as **Schedule A** to this Contract, including all attachments and exhibits thereto.

**“State Resources”** means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State or Authorized Users in connection with this Contract.



**“System Software”** means the operating system code, including software, firmware and microcode, (object code version) for each Deliverable, including any subsequent revisions, as well as any applicable Documentation.

**“Term”** has the meaning set forth in the preamble.

**“Third Party”** means any Person other than the State, an Authorized User, or Contractor.

**“Third-Party Products”** software or hardware that are not Contractor’s proprietary software or hardware, provided by Contractor’s distributors or other Third Parties to State.

**“Transition Period”** has the meaning set forth in **Section 22**.

**“Transition Responsibilities”** has the meaning set forth in **Section 22**.

**“Unauthorized Removal”** has the meaning set forth in **Section 10.d.ii**.

**“Unauthorized Removal Credit”** has the meaning set forth in **Section 10.d.iii**.

2. **Statement of Work.** Contractor shall provide the Deliverables, EMS Software and Services, pursuant to the executed License Agreement (defined below) and to the executed Statement of Work, which is attached as **Schedule A** to this Contract. The terms and conditions of this Contract will apply at all times to the Statement of Work.
3. **Statement of Work Requirements.** The Statement of Work will include the following:
  - a. A detailed description of the Services to be provided by Contractor, including any service and maintenance obligations and training obligations of Contractor;
  - b. A detailed description of the EMS Software to be provided by Contractor;
  - c. A detailed description of the Deliverables to be provided by Contractor;
  - d. Names and contact information for Contractor’s Contract Administrator, Program Manager and Customer Service Manager, and any other Key Personnel of Contractor;
  - e. Names and contact information for the State’s Contract Administrator and Program Manager;
  - f. An exhibit detailing the Fees payable under the Statement of Work, the manner in which such Fees will be calculated, any invoicing requirements, including any time frames on which any such Fees are conditioned, and such other information as the parties deem necessary; and
  - g. A detailed description of all State Resources required to complete the Services and Deliverables set forth in the Statement of Work.
4. **Change Control Process.** The State may at any time request in writing (each, a **“Change Request”**) changes to the Statement of Work, including changes to the Services, EMS Software (subject to Section 1.5D Statement of Work) and Deliverables (each, a **“Change”**). Upon the State’s submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section 4**.
  - a. As soon as reasonably practicable, and in any case within twenty (20) Business Days following receipt of a Change Request, Contractor will provide the State with a written proposal for implementing the requested Change (**“Change Proposal”**), setting forth:
    - i. a written description of the proposed Changes to any Services, EMS Software or Deliverables;
    - ii. a schedule for commencing and completing any additional or modified Services, EMS Software or Deliverables, and the effect of such Changes, if any, on completing any other Services under the Statement of Work;



- iii. any additional State Resources Contractor deems necessary to carry out such Changes; and
    - iv. any increase or decrease in Fees resulting from the proposed Changes, which increase or decrease will reflect only the increase or decrease in time and expenses Contractor requires to carry out the Change.
  - b. Within thirty (30) Business Days following the State's receipt of a Change Proposal, the State will by written notice to Contractor, approve, reject, or propose modifications to such Change Proposal. If the State proposes modifications, Contractor must modify and re-deliver the Change Proposal reflecting such modifications, or notify the State of any disagreement, in which event the parties will negotiate in good faith to resolve their disagreement. Upon the State's approval of the Change Proposal or the parties' agreement on all proposed modifications, as the case may be, the parties will execute a written agreement to the Change Proposal ("**Change Notice**"), which Change Notice will be signed by the State's Chief Procurement Officer (or his or her designee), and will constitute an amendment to the Statement of Work.
  - c. If the parties fail to enter into a Change Notice within fifteen (15) Business Days following the State's response to a Change Proposal, the State may, in its discretion:
    - i. require Contractor to perform the Services under the Statement of Work without the Change;
    - ii. require Contractor to continue to negotiate a Change Notice;
    - iii. initiate a Dispute Resolution Procedure; or
    - iv. if the Change Request is initiated due to changes in the applicable federal or state certification standards or laws, then, notwithstanding any provision to the contrary in the Statement of Work, terminate this Contract for cause under **Section 20**, or otherwise, terminate this Contract for convenience under **Section 21**.
  - d. No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with the Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Each party is responsible for its own costs and expenses of preparing, evaluating, negotiating, and otherwise processing any Change Request, Change Proposal, and Change Notice.
  - e. The performance of any functions, activities, tasks, obligations, roles and responsibilities comprising the Services or Deliverables as described in this Contract are considered part of the Services and Deliverables and, thus, will not be considered a Change. This includes the delivery of all Deliverables in accordance with their respective specifications, and the diagnosis and correction of non-conformities discovered in Deliverables prior to their Acceptance by the State or, subsequent to their Acceptance by the State, as necessary for Contractor to fulfill its associated service and maintenance obligations under this Contract.
  - f. Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

000462

CONTRACT #071B7700117



5. **EMS Software and System Software Licenses.** Contractor hereby grants to the State and Authorized Users the right and license to use the EMS Software, System Software and related Documentation in accordance with the terms and conditions of this Contract and the License Agreement set forth in **Schedule B** (the “**License Agreement**”).
6. **Scope of Use for Deliverables.** The State and Authorized Users may use the Deliverables, and any software licensed in connection with such Deliverable, on a worldwide basis for the benefit of themselves. Contractor further authorizes use of the Deliverables by third parties who are under contract with the State or the Authorized User to provide outsourcing services for the benefit of the State or the Authorized User. There are no restrictions on subsequent resale or distribution of Deliverables that the State or Authorized User had paid for in full.
7. **Support and Maintenance.** Contractor shall provide support and maintenance for the EMS Software and all Deliverables in accordance with the applicable service level agreement set forth in the Statement of Work, Section 1.6, and the licensing restrictions set forth in the License Agreement and the terms and conditions of this Contract.
8. **Purchase, Delivery, Installation and Acceptance.**
  - a. Purchase Orders. The State or Authorized User will order the EMS Software, Services or Deliverables pursuant to a signed Purchase Order issued by the State or an Authorized User. The State or Authorized User reserves the right to cancel any Purchase Order at any time prior to shipment of the Deliverables or delivery of the Services and shall not be subject to any charges or other fees whatsoever as a result of such cancellation. The State or Authorized User may by written communication cancel or make changes to any Purchase Order subject to an equitable adjustment in the price, delivery schedule, or both, where appropriate. THE TERMS AND CONDITIONS OF THIS CONTRACT WILL APPLY AT ALL TIMES TO ANY PURCHASE ORDERS ISSUED BY THE STATE OR ANY AUTHORIZED USER UNDER THIS CONTRACT. ALL CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT IN CONNECTION WITH A PURCHASE ORDER PLACED BY AN AUTHORIZED USER ARE THE SOLE OBLIGATION OF THE AUTHORIZED USER PLACING THE ORDER AND NOT THE RESPONSIBILITY OF THE STATE.
  - b. Delivery Procedure for Deliverables. Contractor shall deliver all Deliverables within the timeframe set forth in the applicable Purchase Order, FOB destination, with such destination being the "ship to" address as specified in the applicable Purchase Order. Contractor shall bear all risk of loss of or damage to the Deliverable until receipt of delivery at the “ship to” address, and shall arrange and pay for all transportation and insurance sufficient to fully protect the Deliverable while in transit. Each shipment shall include a packing slip indicating the Authorized User's order number, a description of the Deliverable shipped and the quantity shipped. If any loss to, or damage of, the Deliverable occurs prior to receipt of delivery at the “ship to” address by the Authorized User, Contractor shall immediately provide a replacement Deliverable. Title shall pass upon receipt of delivery. Contractor shall make available all appropriate or related user Documentation at the time of delivery of the first unit of each different Deliverable type. Deliverables delivered without the appropriate and required Documentation shall be considered "shipped short" until the applicable Documentation has been received.
  - c. EMS Software Installation.
    - i. Unless otherwise set forth in the Statement of Work or the applicable Purchase Order, Contractor will deliver, install, and configure the EMS Software in accordance with the criteria set forth in the Statement of Work.

000463

CONTRACT #071B7700117



- ii. Unless otherwise set forth in the Statement of Work or applicable Purchase Order, Contractor is responsible for ensuring the relevant Operating Environment is set up and in working order to allow Contractor to deliver and install the EMS Software. Contractor will provide the Authorized User with such notice as is specified in the Statement of Work, prior to delivery of the EMS Software to give the Authorized User sufficient time to prepare for Contractor's delivery, and if applicable, installation of the EMS Software. If the Authorized User is responsible for site preparation or installation, Contractor will provide such assistance as Authorized User requests to complete such preparation and installation on a timely basis.
  - iii. During the Term, Contractor shall provide the State with all Maintenance Releases and New Versions in accordance with the Statement of Work (Section 1.5D, Modification Requirements), each of which will constitute EMS Software and be subject to the terms and conditions of this Contract and the License Agreement.
  - iv. The State has no obligation to install or use any Maintenance Release or New Version. If the State wishes to install any Maintenance Release or New Version, the State shall have the right to have such Maintenance Release or New Version installed, in the State's discretion, by Contractor or other authorized party as set forth in the Statement of Work.
- d. Deliverable Installation. Unless otherwise specified in the Statement of Work or applicable Purchase Order, Contractor shall provide the initial installation of all Deliverables at no additional charge. Installation shall include: unpacking, removal of all shipping and packing materials from the premises, positioning, connecting to internal utility services, and related necessary services to allow for Testing and Acceptance by the Authorized User. All Deliverable installations shall comply with building and facilities standards established by the State or Authorized User. If the Authorized User installs the Deliverable, Contractor shall provide all reasonably necessary telephone assistance at no additional cost during installation.
- e. Acceptance. Acceptance procedures for Services, EMS Software and Deliverables is set forth in the Statement of Work. Upon completion of testing set forth in the Statement of Work, the State or Authorized User will notify Contractor of its acceptance ("**Acceptance**"), provided such Acceptance occurs and is completed within fifteen (15) calendar days of delivery to the ship to address, after which it will be deemed accepted by the Authorized User or the State, as applicable.

**9. Invoicing and Payment.**

- a. Invoicing. Contractor will invoice the State or Authorized user for Fees in accordance with the requirements set forth in the Statement of Work. Contractor must submit each invoice in electronic format, via such delivery means and to such address as are specified by the State or Authorized User. Each separate invoice must:
  - i. clearly identify this Contract;
  - ii. list each Fee item separately;
  - iii. include sufficient detail for each line item to enable the State or Authorized User to satisfy its accounting and charge-back requirements;



- iv. for Fees determined on a time and materials basis, report details regarding the number of hours performed during the billing period, the skill or labor category for such Contractor Personnel and the applicable hourly billing rates;
    - v. include such other information as may be required by the State or Authorized User; and
    - vi. any other requirements set forth in the Statement of Work.
  - b. Payment. Invoices are due and payable by the State, within forty-five (45) calendar days after Acceptance, provided the State determines that the invoice was properly rendered. The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Invoices are due and payable by Authorized Users in accordance with the Authorized User's standard payment procedures.
  - c. Payment Disputes. The State or Authorized User may withhold from payment any and all payments and amounts it disputes in good faith, pending resolution of such dispute, provided that the State or Authorized User:
    - i. timely renders all payments and amounts that are not in dispute;
    - ii. notifies Contractor of the dispute prior to the due date for payment, specifying in such notice (A) the amount in dispute; and, (B) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties;
    - iii. works with Contractor in good faith to resolve the dispute promptly; and
    - iv. promptly pays any amount determined to be payable by resolution of the dispute.
  - d. Not to Withhold Services. Contractor shall not withhold any Services or Deliverables or fail to perform any obligation hereunder by reason of the State's or Authorized User's good faith withholding of any payment or amount or any dispute arising therefrom.
  - e. Firm Pricing. Unless otherwise set forth in the Statement of Work, all Fees set forth in this Contract are firm and will not be increased during the Term, or any renewal thereof. For purpose of clarity, the parties may negotiate pricing for replacement hardware or components that reach end of life.
  - f. Taxes. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services or Deliverables purchased under this Contract are for the State's exclusive use or Authorized users. Notwithstanding the foregoing, all Fees are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.
  - g. Right of Setoff. Without prejudice to any other right or remedy it may have, the State and Authorized Users reserve the right to set off at any time any amount owing to it by Contractor against any amount payable by the State or Authorized User to Contractor under this Contract.
10. **Performance of Services**. Contractor will provide all Services and Deliverables in a timely, professional and workmanlike manner and in accordance with the terms, conditions, and specifications set forth in this Contract and the Statement of Work.



**a. State Standards**

- i. To the extent that Contractor has access to the State's computer system or will be handling State Data, Contractor must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at [http://www.michigan.gov/dmb/0,4568,7-150-56355-108233--\\_00.html](http://www.michigan.gov/dmb/0,4568,7-150-56355-108233--_00.html)
- ii. To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see [http://michigan.gov/cybersecurity/0,1607,7-217-34395\\_34476---\\_00.html](http://michigan.gov/cybersecurity/0,1607,7-217-34395_34476---_00.html). All Contractor personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

**b. Contractor Personnel**

- i. Contractor is solely responsible for all Contractor personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.
  - ii. Prior to any Contractor personnel performing any Services, Contractor will:
    1. ensure that such Contractor personnel have the legal right to work in the United States; and
    2. require such Contractor personnel to execute written agreements, in form and substance acceptable to the State or Authorized User, that bind such Contractor personnel to confidentiality provisions that are at least as protective of the State's information (including all Confidential Information) as those contained in this Contract.
  - iii. Contractor and all Contractor Personnel will comply with all rules, regulations, and policies of the State or Authorized User that are communicated to Contractor in writing, including security procedures concerning systems and data and remote access, building security procedures, including the restriction of access by the State or Authorized User to certain areas of its premises or systems, and general health and safety practices and procedures.
  - iv. The State or Authorized User reserves the right to require the removal of any Contractor Personnel found, in the judgment of the State or Authorized User, to be unacceptable. The request must be written with reasonable detail outlining the reasons for the removal request. Replacement personnel for the removed person must be fully qualified for the position. If the State or Authorized User exercises this right, and Contractor cannot immediately replace the removed personnel, the parties agree to negotiate an equitable adjustment in schedule or other terms that may be affected by the required removal.
- c. Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at



the discretion of the State or Authorized User and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State or Authorized User, in its sole discretion, may also perform background checks.

d. **Contractor's Key Personnel**

- i. The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Program Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- ii. Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State, not to be unreasonably withheld. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under **Section 20**.
- iii. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 20**, Contractor will issue to the State the corresponding credits set forth below (each, an "**Unauthorized Removal Credit**"):
  1. For the Unauthorized Removal of any Key Personnel designated in the Statement of Work, the credit amount will be \$1,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.
  2. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 Calendar Days, in addition to the \$1,000.00 credit specified above, Contractor will credit the State \$1,000.00 per Business Day for each day of the 30 calendar Day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$30,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 Calendar Days of shadowing will not exceed \$31,000.00 per individual.

000467

CONTRACT #071B7700117



- iv. Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed under **Subsection iii** above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract.
- e. **Subcontractors.** Contractor will not, without the prior written approval of the State, which consent may be given or withheld in the State's sole discretion, engage any Third Party to perform Services. The State's approval of any such Third Party (each approved Third Party, a "**Permitted Subcontractor**") does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will:
  - i. be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, shall be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees;
  - ii. name the State a third party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services;
  - iii. be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits
- 11. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

<p><b>If to State:</b>                  Sue Cieciva                  DTMB Procurement                  Constitution Hall                  525 West Allegan Street                  PO Box 30026                  Lansing, MI 48909                  Email: <a href="mailto:ciecivas@michigan.gov">ciecivas@michigan.gov</a>                  Phone: (517) 284-7007</p>	<p><b>If to Contractor:</b>                  Gio Constantiello                  Dominion Voting Systems                  1201 18<sup>th</sup> Street, Suite 210                  Denver, CO 80202                  Email: <a href="mailto:gio.costantiello@dominionvoting.com">gio.costantiello@dominionvoting.com</a>                  Phone: (416) 762-8683 x 241</p>
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12. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better and a financial size of VII or better.

Insurance Type	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<p><u>Minimal Limits:</u>                  \$1,000,000 Each Occurrence Limit</p>	<p>Contractor must have their policy endorsed to add "the State of Michigan, its departments,</p>

000468

CONTRACT #071B7700117



<p>\$1,000,000 Personal &amp; Advertising Injury Limit  \$2,000,000 General Aggregate Limit  \$2,000,000 Products/Completed Operations</p> <p><u>Deductible Maximum:</u>  \$50,000 Each Occurrence</p>	<p>divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.</p>
<b>Automobile Liability Insurance</b>	
<p><u>Minimal Limits:</u>  \$1,000,000 Per Occurrence</p>	
<b>Workers' Compensation Insurance</b>	
<p><u>Minimal Limits:</u>  Coverage according to applicable laws governing work activities.</p>	<p>Waiver of subrogation, except where waiver is prohibited by law.</p>
<b>Employers Liability Insurance</b>	
<p><u>Minimal Limits:</u>  \$500,000 Each Accident  \$500,000 Each Employee by Disease  \$500,000 Aggregate Disease.</p>	
<b>Crime Insurance</b>	
<p><u>Minimal Limits:</u>  \$1,000,000 Employee Theft Per Loss</p>	<p>Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as Loss Payees.</p>
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<p><u>Minimal Limits:</u>  \$5,000,000 Each Occurrence  \$5,000,000 Annual Aggregate</p> <p><u>Deductible Maximum:</u>  \$50,000 Per Loss</p>	
<b>Property Insurance</b>	
<p>The Contractor is responsible for Property Insurance covering any loss or damage to State-owned owned property that results from this agreement including cargo while in transit, and State-owned office space used by the Contractor for any reason under this Contract, together with State-owned equipment, software and other contents of the office space, including without limitation, those contents used by the Contractor to provide the Services to the State, up to its replacement value, where the property is under the care, custody and control of the Contractor.</p>	<p>The State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents must be endorsed on the policy as a loss payee as its interests appear.</p>



If any of the required policies provide claim-made coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Services; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Services; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

**13. Reserved**

- 14. Extended Purchasing Program.** This Contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal). Upon written agreement between the State and Contractor, this Contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Services, EMS Software and Deliverables at the established Contract prices and terms. The State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis. ALL CONTRACTUAL OBLIGATIONS UNDER THIS CONTRACT IN CONNECTION WITH A PURCHASE ORDER PLACED BY A MIDEAL MEMBER ARE THE SOLE OBLIGATION OF THE MIDEAL MEMBER PLACING THE ORDER AND NOT THE RESPONSIBILITY OF THE STATE

- 15. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.
- 16. Assignment.** Contractor may not assign this Contract to any other party without the prior written approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party.
- 17. Change of Control.** Contractor will notify the State, within 90 calendar days of the effective date, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock resulting in a circumstance described by (e); (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in more than 50% ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change

000470

CONTRACT #071B7700117



of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

18. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in the Statement of Work.
19. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract. The State will not pay for Services or Deliverables, Contractor's lost profits, or any additional compensation during a stop work period. The State or Authorized User, as applicable will pay for any Services or Deliverables that have been ordered, prior to the issuance of the Stop Work Order.
20. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any State or Authorized User location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State or an Authorized User to liability; (d) breaches any of its material duties or obligations under this Contractor, including but not limited to obtaining and maintaining, throughout the Term of the Contract, Federal and/or State voting system certification; or (e) fails to cure a breach within the time stated in a notice of breach provided Contractor shall be afforded no less than thirty (30) days to cure any such breach under this Contract unless otherwise mutually agreed upon by the parties. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 21**.

The State will only pay for amounts due to Contractor for Services and Deliverables accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination, including any prepaid Fees for support and maintenance services. Further, Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, and court costs. For purposes of clarity, Contractor will not be responsible for any transition costs or costs of obtaining substitute Services or Deliverables.

21. **Termination for Convenience.** Upon thirty (30) days prior written notice, the State may terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Services immediately, or (b) continue to perform the Services in accordance with **Section 22**. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities. The State or Authorized User, as applicable will pay for any Services or Deliverables that have been Accepted, prior to the effective date of the termination.

000471

CONTRACT #071B7700117



22. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days)(the “**Transition Period**”), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Services and Deliverables to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services and Deliverables to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Services at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services and Deliverables, training, reports and other documentation, to the State or the State’s designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State’s discretion, all completed or partially completed Deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, “**Transition Responsibilities**”). This Contract will automatically be extended through the end of the transition period.
23. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to third party claims arising out of: (a) any breach by Contractor (or any of Contractor’s employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any Intellectual Property Right or other right of any third party, excluding any Third-Party Products; and (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to the negligence or misconduct of Contractor (or any of Contractor’s employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; and (iii) employ its own counsel. Contractor will not, without the State’s written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim; provided that, in such event, Contractor will be relieved of its obligations under this Section with respect to that particular claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

24. **Infringement Remedies; Exclusions.** Excluding any Third-Party Products, if, in either party’s opinion, any of the Services, EMS Software or Deliverables supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense do one of the following at State’s option: (a) procure for the State the right to continue using the Services or Deliverables, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing, or if this option is not reasonably available to Contractor, (c) accept its return by the State with appropriate credits to the State against Contractor’s charges and reimburse



the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it. Contractor will not defend or indemnify the State if any claim of infringement or misappropriation (a) is asserted by an affiliate of the State; (b) results from the State's design or alteration of any Services, EMS Software or Deliverables; (c) results from use of any Deliverable or EMS Software in combination with any non-Contractor product, except to the extent, if any, that such use in combination is restricted to the EMS Software system designed by Contractor or Contractor has directed such use; (d) relates to Third-Party Products; or (e) arises from State-specified customization work undertaken by Contractor or its designees that are made in response to State specifications. THIS SECTION 24 AND THE STATE'S INDEMNIFICATION RIGHTS UNDER SECTION 23 STATES THE ENTIRE LIABILITY OF CONTRACTOR AND STATE'S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT AND INTELLECTUAL PROPERTY MISAPPROPRIATION; PROVIDED THAT, THE STATE MAY ALSO TERMINATE THIS CONTRACT FOR CAUSE.

25. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES. IN ADDITION, IN NO EVENT WILL THE STATE'S OR THE CONTRACTOR'S AGGREGATE LIABILITY TO THE OTHER OR TO ANY AUTHORIZED USER UNDER THIS CONTRACT EXCEED THE MAXIMUM AMOUNT OF FEES SPECIFIED IN THE STATEMENT OF WORK WITH RESPECT TO THE STATE OR THE MAXIMUM AMOUNT OF FEES SPECIFIED IN THE APPLICABLE PURCHASE ORDER FOR SUCH AUTHORIZED USER.
26. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract and that could reasonably be expected to affect Contractor's ability to comply with this Agreement, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
27. **State Data.** The State's data ("**State Data**"), which will be treated by Contractor as Confidential Information, includes all of the State's or Authorized User's data collected, used, processed, stored, or generated as the result of the Services. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
28. **Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.



- a. Meaning of Confidential Information. For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA) by the receiving party; (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor’s responsibilities; and (c) the receiving party obligates the subcontractor in a written contract to maintain the disclosing party’s Confidential Information in confidence. At a party’s request, any employee or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, the immediate termination without penalty to the terminating party, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party’s possession, custody, or control. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.



29. **Data Privacy and Information Security.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of State Data; (b) protect against any anticipated threats or hazards to the security or integrity of State Data; (c) protect against unauthorized disclosure, access to, or use of State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing.

30. **Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Services are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Services in connection with this Contract.

31. **Warranties and Representations.**

- a. Authority. Contractor represents and warrants to the State that:
  - i. It is duly organized, validly existing, and in good standing as a corporation or other entity as represented under this Contract under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;
  - ii. It has the full right, power, and authority to enter into this Contract, to grant the rights and licenses granted under this Contract, and to perform its contractual obligations;
  - iii. The execution of this Contract by its Representative has been duly authorized by all necessary organizational action; and
  - iv. When executed and delivered by Contractor, this Contract will constitute the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms.
- b. Pass through Warranties. Contractor further represents and warrants to the State that:
  - i. it shall pass through all manufacturer supplied end-user warranties to the Authorized User or the State, as applicable, and that with respect to all of the Deliverables provided hereunder, it has obtained from manufacturers of such Deliverables provided hereunder and will assign or pass through to each Authorized User the following representations and rights from said manufacturers: that said manufacturers agree to defend, indemnify and hold



harmless Contractor and the end user customer at manufacturer's expense from and against any claim, charge, demand, proceeding, suit, liability, loss, cost, expense, order, decree, attorneys fees, court costs, trial or appeal and judgments including damages of any kind resulting from, arising out of or in connection with any actual or claimed: (a) personal injury (including death), property damage or loss of any nature whatsoever alleged to have occurred as a result of the use of any of the Deliverable, (b) any defect in material, workmanship or design and (c) patent, trademark or copyright infringement with respect to any of the Deliverables. Notwithstanding the foregoing, the State and Authorized Users acknowledge that all Third Party Products which have been purchased by the Contractor for the State or Authorized Users hereunder are owned by parties other than Contractor. The State and Authorized Users further acknowledge that except for the payment to Contractor for the Third Party Products, all of its rights, warranties and obligations with respect thereto flow from and to the Third Parties. Contractor is only obligated to pass through the foregoing rights, warranties and obligations as may be provided by the Third Party.

- c. EMS Software and Deliverable Representations and Warranties. Contractor further represents and warrants to the State that:
- i. except for any Third Party Products used in conjunction with the EMS Software or any Deliverable (including System Software) provided hereunder, it is the legal and beneficial owner of the entire right, title and interest in and to the EMS Software and Deliverables (including any System Software), including, all Intellectual Property Rights relating thereto necessary to perform hereunder;
  - ii. it has, and throughout the license term, will retain the unconditional and irrevocable right, power and authority to grant and perform the license hereunder;
  - iii. the EMS Software and Deliverables (including any System Software), and the State's use thereof, is and throughout the license term will be free and clear of all encumbrances, liens and security interests of any kind;
  - iv. when used by the State or any Authorized User in accordance with this Contract, the EMS Software or Deliverable (including any System Software) as delivered or installed by Contractor does not or will not infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party;
  - v. Contractor uses industry standard software and tools designed to ensure that the EMS Software or any System Software does not or will not at any time during the license term contain any Harmful Code;
  - vi. when delivered, the EMS Software and System Software shall be at the current State certified release level unless otherwise requested by the State or Authorized Users; and
  - vii. all Documentation is and will be complete and accurate in all material respects when provided to the State such that at no time during the license term will the EMS Software or any Deliverables (including any System Software) have any material undocumented feature.
- d. Performance Warranty.



- i. Contractor warrants that during the Term of the Contract: (A) the EMS Software and the Deliverables (including System Software, but, excluding any Third-Party Products) will function in conformity with this Contract, the specifications set forth in the Statement of Work, and the Documentation; and (B) all Deliverables (but excluding any Third-Party Products) will be free of damage or defect in design, material and workmanship, and will remain so under ordinary use as contemplated by this Contract, the specifications set forth in the Statement of Work, and the Documentation. Contractor will, at the State's discretion, replace or repair any Contractor hardware that does not comply with this warranty, at no additional charge to State. The foregoing warranty shall not include the repair or replacement of any Deliverable components that are consumed in the normal course of operating the Deliverables, including printer ribbons, printer cartridges, paper rolls, backup batteries, removable media storage devices or marking devices. These warranties are effective provided that (I) the State or Authorized User promptly notifies Contractor of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the Deliverable, EMS Software or System Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by Contractor, (III) the Deliverable, EMS Software or System Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by Contractor or causes beyond the reasonable control of Contractor or the State or Authorized User, including, but not limited to, acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, power failures, surges or electrical damage, transportation delays, governmental regulations and utility or communication interruptions, and (IV) the State or Authorized User has installed and is using the most recent Update, provided to it by Contractor. This warranty is void for any units of a Deliverable which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product.
- ii. Contractor further warrants that the EMS Software and the Deliverables (including System Software) will operate in conjunction with the Third Party Products during the Term of the Contract, provided that (i) the State or Authorized User has installed and is using the most recent State certified update provided to it by Contractor, and (ii) the Third Party Products are performing in accordance with their own specifications and documentation in all material respects and are not defective in material or workmanship. In the event of a breach of this warranty, Contractor will, in accordance with Section 1.6 of the Statement of Work, use commercially reasonable efforts to remedy or provide a suitable workaround for defects, errors or malfunctions in the EMS Software or the Deliverables (including System Software) that is causing such breach to occur. The State and Authorized Users acknowledge that Contractor has merely purchased the Third Party Products for resale to State or Authorized User, and that the proprietary and intellectual property rights to the Third Party Products are owned by parties other than Contractor. Subject to the Statement of Work, the State and Authorized User further acknowledge that except for the payment to Contractor for the Third Party Products, all of its rights and obligations with respect thereto flow from and to the Third Parties.
- iii. If the Contractor breaches any of the warranties set forth in this **Subsection d** Contractor will, upon written notice from the State, remedy such breach in



**Schedule C**

## Pricing

36. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
37. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Services or Deliverables from other sources.
38. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
39. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision (the “**Dispute Resolution Procedure**”). The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
40. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
41. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
42. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
43. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, limitations of liability, and confidentiality (and any surviving provisions in the License Agreement), will survive the expiration or termination of this Contract.
44. **Entire Agreement.** This Contract, including its Schedules, constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms of this Contract and those of the

000479

**CONTRACT #071B7700117**



Statement of Work or other Schedule, the following order of precedence governs: (a) first, this Contract; and (b) second, the Statement of Work or other Schedule. NO TERMS ON CONTRACTOR'S WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, EMS SOFTWARE, DELIVERABLES, OR DOCUMENTATION HEREUNDER WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE, EMS SOFTWARE, DELIVERABLE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.



# STATE OF MICHIGAN

Voting System Hardware, Firmware, Software and Service

## SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This Contract is for voting systems approved for use in Michigan for the Michigan Department of State (MDOS) and includes hardware and firmware (tabulators and all related components, including those for use by voters with disabilities); related Election Management System (EMS) software provided to counties and select local jurisdictions; initial and extended service and maintenance; training and training documentation for county/local jurisdiction clerks and election staff and replacement components/consumables.

This is a multiple-vendor contract award with vendor selection coordinated at the county level and will be a gradual rollout. The rollout is anticipated to begin in conjunction with the August 2017 election, with the anticipated statewide completion by the August 2018 primary election. These schedules will be coordinated at the county level. The accessible voting system component will be rolled out in conjunction with the new voting system. Ownership will be granted directly to the counties and local jurisdictions. Upon agreement with jurisdictions in a county, ownership may be granted to the county for jurisdictions within the county.

A detailed list of the voting system components covered by this Contract, along with associated firmware and EMS software (including version numbers), is included in Exhibit 1 to Schedule A, Federal Voting System Testing / Certification Matrix.

### BACKGROUND

#### *In Scope:*

This Contract includes:

- Purchase of voting system tabulators and all related components (Election Day precincts: one tabulator per precinct; and Absent Voter Counting Board, based on a formula determined by the State.) In addition, one tabulator per county.
- Purchase of accessible voting system components, for use by voters with disabilities (one per Election Day polling location [with some exceptions]). In addition, one accessible device per county.
- Related Election Management System or 'EMS' software. Two EMS software options will be available at the county level:
  - 1) **Full EMS ("Program Your Own")**, for counties that fully program their elections internally (without reliance on the voting system Contractor/subcontractor for programming); and
  - 2) **Accumulation-Only EMS**, for counties that rely on the voting system Contractor/subcontractor for programming; the accumulation-only functionality for these counties includes the capability to burn media, read media, transmit results and produce accumulation reports.
- Initial training and training documentation for county/local jurisdiction clerks and election staff.
- Voting System component / consumables costs (replacement or additional components not already covered in initial purchase).

000481

CONTRACT #071B7700117



- Initial system/software service and maintenance (acquisition year + four years).
- Extended service and maintenance (after the expiration of the initial service and maintenance period, + 5 years). Note: in the absence of a State appropriation, local counties and jurisdictions will be solely responsible for the cost of extended service and maintenance.
- Preventative maintenance (every two years).
- NOTE: The Contractor shall provide the State with one full set of all system components at no charge (precinct tabulator; AVCB tabulator; accessible voting device; full EMS software (“Program Your Own” version); all related training and documentation).

**Anticipated Key Implementation Timeframes:**

Initial acquisition and implementation is expected to progress over the following anticipated planned phases:

- Early to Mid 2017: For counties / jurisdictions that plan to implement the new system’s first use in Michigan’s August 8, 2017 election;
- Mid-2017: For counties / jurisdictions that plan to implement the new system’s first use in Michigan’s November 7, 2017 election;
- Early 2018: For counties / jurisdictions that plan to implement the new system’s first use in Michigan’s May 8, 2018 election;
- Mid-2018: For counties / jurisdictions that plan to implement the new system’s first use in Michigan’s August 7, 2018 primary election.
- Statewide implementation is expected to be completed by August 2018.

**Detailed Specifications**

**1. Specifications**

**Exhibit 2, Attachments 1.1 – 1.4 to Schedule A** contain detailed technical specifications and requirements for Michigan’s next generation voting system.

**1.1 Voting System HARDWARE Technical Requirements**

**Exhibit 2, Attachment 1.1 to Schedule A** lists detailed voting system **hardware** technical specifications and requirements. This attachment is broken into several categories, including:

- A. Ballot Counter / Tabulator Requirements
- B. Ballot Requirements
- C. Memory Device Requirements
- D. Ballot Box Requirements
- E. COTS (Commercial Off the Shelf) Options
- F. Reliability Requirements
- G. Security Requirements

Refer to Exhibit 2, Attachment 1.1 to Schedule A for additional details of these requirements.

**1.2 Voting System ELECTION MANAGEMENT SYSTEM (EMS) SOFTWARE Technical Requirements**

**Exhibit 2, Attachment 1.2 to Schedule A** lists detailed voting system **Election Management System (EMS) software** technical specifications and requirements. This attachment is broken into several categories, including:

- A. Election Management System (EMS) General Requirements
- B. EMS Programming Requirements
- C. Ballot Programming and Layout Requirements

000482

CONTRACT #071B7700117



- D. Election Night Reporting (ENR) Capabilities / Requirements
- E. Reports Requirements
- F. Audit Capabilities / Requirements
- G. System / Software Ownership Requirements

Refer to Exhibit 2, Attachment 1.2 to Schedule A for additional details of these requirements.

### 1.3 Voting System ABSENTEE VOTING (AV) Technical Requirements

**Exhibit 2, Attachment 1.3 to Schedule A** lists detailed voting system **absentee voting (AV)** technical specifications and requirements. This attachment is broken into the following categories:

- A. AV Processing General Requirements
- B. High Speed AVCB Tabulator Requirements

Refer to Exhibit 2, Attachment 1.3 to Schedule A for additional details of these requirements.

### 1.4 Voting System ACCESSIBLE VOTING SYSTEM COMPONENT Technical Requirements

**Exhibit 2, Attachment 1.4 to Schedule A** lists detailed voting system **Accessible Voting System Component** technical specifications and requirements. This attachment is broken into several categories, including:

- A. Accessible Voting System General Requirements
- B. Accessible Voting System – Use of Touch Screen Interface Requirements
- C. Accessible Voting System – Use of Paper Ballots (Requirements related to 3 possible scenarios)
- D. Reliability Requirements

Refer to Exhibit 2, Attachment 1.4 to Schedule A for additional details of these requirements

### 1.5 State and Federal Testing / Certification Requirements

#### A. Federal Testing and Certification Requirements

Contractor's system shall have been tested and successfully completed all certification steps required by the U.S. Election Assistance Commission (EAC) before the system will be approved for implementation in Michigan. Documentation detailing the system to be implemented in Michigan is included in **Exhibit 1 to Schedule A, Federal Voting System Testing / Certification Matrix**.

For systems still in the process of obtaining EAC certification, the Contractor shall provide a copy of the EAC certification prior to final State certification and prior to a Purchase Order being placed for the system in any county. If the Contractor's system is not EAC certified by March 31, 2017, the State reserves the right to terminate this Contract and remove it from the program.

Contractor authorizes the State of Michigan to independently verify the status of any system's (or upgrades) Federal testing and certification status with the identified VSTL and the EAC, and authorize the identified VSTL and the EAC to provide information to the State of Michigan.

NOTE: Also see Section **1.5 D – Modification Requirements** (below), related to compliance requirements with future Federal standards.

#### B. State Testing and Certification Requirements

All voting systems approved for use in Michigan must complete the State voting system certification process, as required by Michigan Election Law. For systems that have not yet completed EAC certification, the State will coordinate the details and timeframes for completing final State certification and testing.

In sum, this process is designed to ensure that that all voting systems approved for use in Michigan comply with all applicable requirements of Michigan Election Law, 1954 PA 116, MCL 168.1 *et seq.*, and related Rules for Electronic Voting Systems, Mich Admin Code R 168.771 *et seq.*

000483

CONTRACT #071B7700117



#### C. State Uniform Data Format

Contractor agrees and will comply with Michigan-specific uniform data format requirements and Federal IEEE Standards. **Exhibit 6 to Schedule A, Michigan QVF Export File Format** contains the State's current uniform data structure for use with Contractor's voting system EMS software.

Federal IEEE Standards: Upon finalization of voting system uniform data format standards currently under development at the Federal level (commonly referred to as IEEE standards), Contractor shall work with the State to seamlessly convert the State uniform data structure to comply with and implement the IEEE uniform data format at an agreed-upon time.

#### D. Modification Requirements

In the event that any modifications become available and/or necessary after delivery due to changes in the applicable Federal and/or State certification standards and/or laws that occur during the Contract period, the Contractor and the State will jointly review and agree upon the scope of, and cost for, any modifications required by such subsequent changes in Federal and/or State certification requirements and/or law. As part of this determination process, the Contractor shall thoroughly review the impact of such changes and develop a scope of work and cost analysis for review and approval by the State before proceeding with any applicable modifications.

System changes that are implemented through this process shall be accepted through the change notice process and included in the Contract as described in **Section 4** in the Contract Terms.

The Contractor shall provide written notice to the State Program Manager of any system modifications made on behalf of jurisdictions outside the State of Michigan. Such notice shall be provided no later than one month after the modification is made available.

#### 1.6 Service and Maintenance

The Contractor shall maintain a physical presence in Michigan. The Contractor must include a proposed regional office structure and regional service and maintenance plan. This plan shall include the number and names of support personnel and geographic location/region assigned to each.

If a subcontractor is to be used for service and maintenance, the subcontractor must be identified, along with any Key Personnel (see **Section 3.3**); as well as relevant experience the subcontractor has with relation to the service and maintenance of the system being proposed.

In order to achieve the best possible level of service for Michigan customers, the Contractor will utilize two subcontractors. The two subcontracting companies, Grand Rapids-based ElectionSource and Governmental Business Systems (GBS), have an existing footprint in the State of Michigan, having provided services and support to a wide range of county customers for many years. The Contractor, together with ElectionSource and GBS, will work to ensure that the regional office structure, service and maintenance plan meets the needs of Michigan county customers.

In order to ensure adequate service coverage, ElectionSource proposes to open up an additional office located in South-East Michigan, which will add at least four new positions including - but not limited to - experienced service technicians, an elections programmer, and customer services liaisons for counties in the region.

Similarly, Governmental Business Services (GBS) Michigan-based personnel possess extensive experience in election supply/services in Michigan. Every GBS account manager's office will be equipped with back-up voting equipment, spare parts and any other ancillary supply items germane to the ImageCast product line. All GBS staff (based and/or assigned to Michigan) have been thoroughly trained on every aspect of the Democracy Suite system. A larger inventory of Dominion Voting products will also be maintained at GBS' corporate office in Lisle, Illinois, a 90-minute drive to the Michigan state line.

The Contract includes initial, ongoing and extended service and maintenance to include all of the following:

##### A. Service and Maintenance

The Contract shall cover an initial service and maintenance period on all Deliverables, System Software, and EMS Software (as those terms are defined under the Contract Terms) that shall be in effect throughout the acquisition

000484

CONTRACT #071B7700117



year + 4 years (the “**Initial Service Period**”), and shall be provided be at no additional cost. Extended service and maintenance on all Deliverables, System Software, and EMS Software shall cover the time period from the expiration of the Initial Service Period + 5 years (the “**Extended Service Period**”). Both the Initial Service Period and the Extended Service Period must cover all Deliverables, System Software and EMS Software, including any parts and labor. During the contract period, the Contractor shall repair or replace any Deliverable, System Software and/or EMS Software that becomes inoperable, is defective in material or workmanship, or otherwise fails to perform substantially in accordance with the Documentation and Contract requirements.

**Deliverables and System Software:**

During the term of the Contract, Contractor shall provide the following support and maintenance services (including unlimited telephonic support and all necessary travel and labor) to maintain the Deliverables and associated System Software in accordance with the Documentation and Contract requirements:

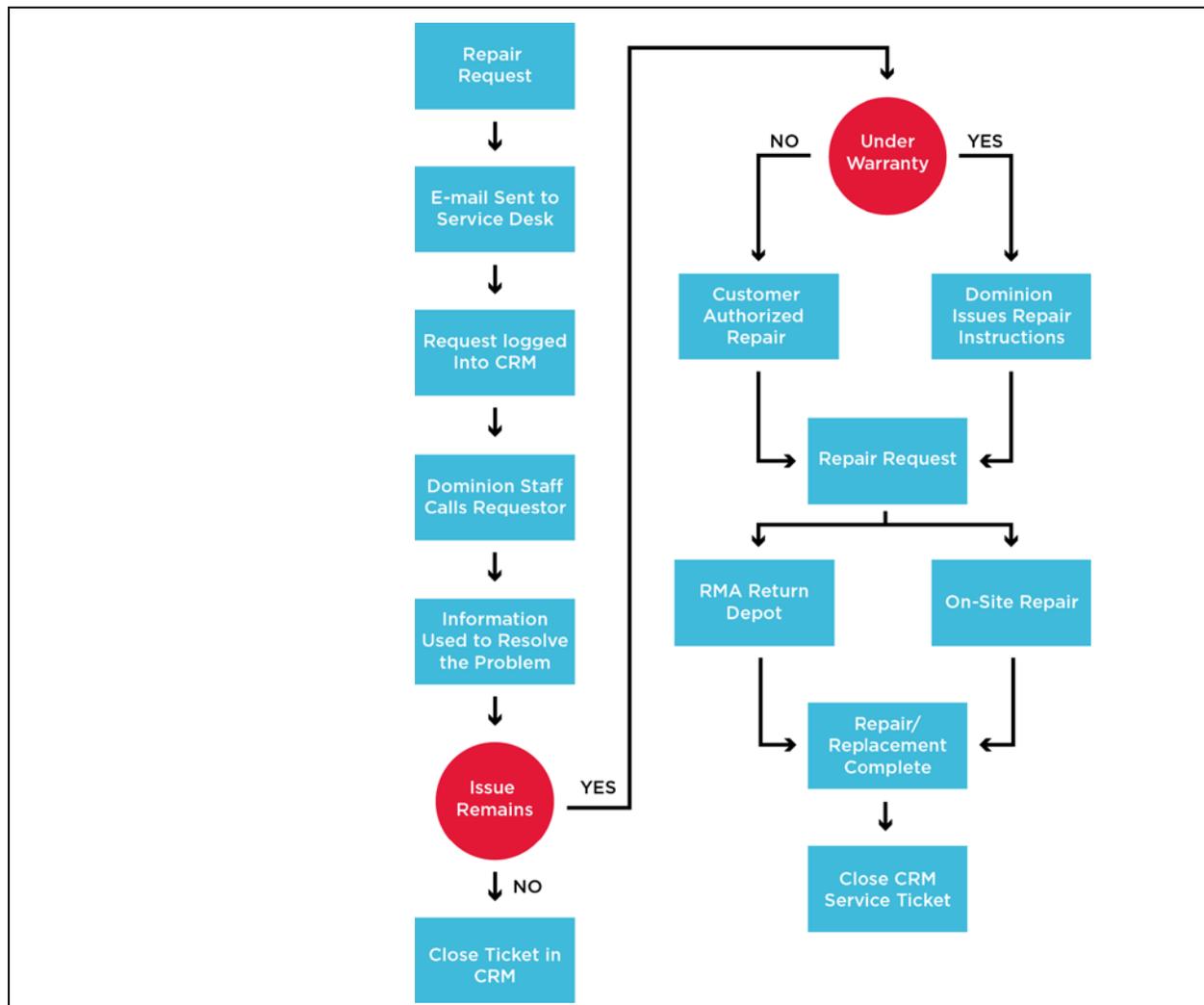
1. Upgrades to System Software. Make available to the State and any Authorized User no later than the first day of general release, or such other time as may be mutually agreed upon by the parties, copies of the System Software and documentation revised to reflect any enhancements (including New Versions and upgrades) to the System Software. Acceptance of system upgrades will proceed as outlined in **Section 1.5D, Modification Requirements**.
2. Known Defects. Contractor shall promptly notify the State and any Authorized User of any defects or malfunctions in the Deliverable, associated System Software or Documentation of which it learns from any source, correct any such defects or malfunctions or provide a workaround until corrected within five (5) Business Days of knowledge of such defect or malfunction and provide the State or Authorized User with corrections of same, at no additional cost to the State or Authorized User. If the correction of known defects requires Federal or State certification, acceptance of the correction will proceed as outlined in **Section 1.5D, Modification Requirements**.
3. Coverage. See Section 1.6(C)(1) below.
4. Service Levels. Respond to problems with the Deliverable identified by the State or an Authorized User in no more than two (2) hours after notification. Resolve all problems as specified in Section 1.6(C)(2) below. For purposes of this section, “resolve” means that Contractor has provided all parts, components and services required to correct the defect and restore such Deliverable so that it functions as warranted, and the State or Authorized User has confirmed such correction and its acceptance of it in writing; or Contractor shall replace it, so that it functions as warranted, and the State or Authorized User has confirmed such replacement and its acceptance of it in writing. Services provided by Contractor to correct the defect shall be on-site, and Contractor shall be solely responsible for any shipping cost to return any Deliverable to Contractor.

Contractor and its subcontractors address warranty, repair, and maintenance in a comprehensive and effective manner as characterized by the following:

- **Engineering** – Key components are designed with redundancy.
- **Manufacture Quality** – All components are manufactured using ISO 9001 practices.
- **Design** – The solution architecture is redundant (redundant servers, redundant storage, etc.)
- **Warranty** – We provide hardware and software warranty to meet customer specification.
- **Preventative Maintenance** – Contractor and its subcontractors provide preventative maintenance as required by the Contract and as presented in this section.
- **Repair** – Contractor maintains distributed warehouse of spare parts. Contractor maintains spare systems in depots as contingency replacements.
- **Readiness** – During the identified pre-election period, Contractor and its subcontractors will comply with all requirements for enhanced response time to all repair requests. All staff are available as required in the Contract. These technicians are well trained, experienced, and have spare systems available to them to ensure required timelines can be met.
- **Tracking and Reporting** – Contractor and its subcontractors utilize its Automated Ticket Tracking (ATT) system to manage repair and maintenance tickets. This is the same ticket tracking system that is used for problem escalation.

000485

CONTRACT #071B7700117



Since voting systems are unique in that they must be available and fully operational on every voting day, the Contractor and its subcontractors will offer only one level of service to all of its customers. This is the highest possible level of service. Every problem or issue will be addressed as high priority.

The Contractor and its subcontractors use a CRM database to capture service calls so no issue is overlooked. The CRM system tracks service request from the initial point of contact to issue resolution. It provides us with a management control tool as well as a status/historical reporting capability. The CRM system will also be used to retain/reference repair orders, maintenance checklists and all other documents reflecting any work performed on any voting system component. Once a call/email is received, a work ticket is created and the initiating party will be contacted by a member of the service team.

Initial contact will be established no more than two hours after notification. At that time, additional troubleshooting instructions may be provided to help the service team better respond to the failure or defect. If the defect or failure cannot be addressed in this manner, the service representative will make the appropriate arrangements for resolution. The diagram on the previous page summarizes this process.

If a failed component is under warranty, Contractor's subcontractors will schedule an onsite visit by a technician to repair / rectify the defective or failed component. Where a failed or defective component is not covered by warranty, the State or Authorized User may request an on-site visit to assess and repair the failed / defective component. Normal rates will apply.

000486

CONTRACT #071B7700117



5. Remedies. If Contractor is unable to make the Deliverable conform, in all material respects, to the Contract requirements and Documentation within thirty (30) calendar days following written notification by the State or an Authorized User, Contractor shall, at the State's or such Authorized User's request, return all monies paid by the State or such Authorized User per the direction of the State Program Manager for the non-conforming Deliverable and Documentation and such other related Service(s) rendered unusable, including any prepaid maintenance fees associated with that Deliverable.

Contractor will accept return of the Deliverable and refund to the State a pro rata portion of the purchase price paid to Contractor for the defective Deliverable, such refund based on a straight line depreciation over a ten (10) year term beginning on the date of purchase.

**EMS Software:** During the term of the Contract, Contractor shall provide the following support and maintenance services (including unlimited telephonic support and all necessary travel and labor) to maintain the EMS Software in accordance with the Documentation and Contract requirements:

1. Maintenance Releases and New Versions. Contractor shall provide to the State and Authorized Users, at no additional charge, and no later than the first day of general release or such other time as may be mutually agreed upon by the parties, with all Maintenance Releases and New Versions (as those terms are defined in the Contract Terms) of the EMS Software. Acceptance of maintenance releases and new versions will proceed as outlined in **Section 1.5D, Modification Requirements**.
2. Known Defects. Promptly notify the State and all Authorized Users of any defects or malfunctions in the EMS Software or Documentation of which it learns from any source other than the State or an Authorized User and provide to all Authorized Users a correction of any such defects or malfunctions, or a work around until a correction is available, within five (5) days of Contractor's knowledge of such defect or malfunction. If the correction of known defects requires Federal or State certification, acceptance of the correction will proceed as outlined in **Section 1.5D, Modification Requirements**.
3. Coverage. See Section 1.6(C)(1) below.
4. Service Levels. Respond to problems with the EMS Software identified by the State or an Authorized User in no more than two (2) hours after notification. Resolve all problems according to the following:
  - Priority 1 (EMS Software inoperable) within one week.
  - Priority 2 (certain processing interrupted or malfunctioning but EMS Software able to process) within two weeks.
  - Priority 3 (minor intermittent malfunctioning, EMS Software able to process data) within 30 days.

The level of severity (e.g., Priority 1, 2, or 3), shall be defined by the State or Authorized User. For purposes of this section, "resolve" means that Contractor has corrected the problem that prompted the support request so that the EMS Software functions as warranted, and that the State or Authorized User has confirmed such correction and its acceptance of it in writing; or Contractor shall reinstall the EMS Software, so that it functions as warranted, and the State or Authorized User has confirmed such reinstallation and its acceptance of it in writing.

Should the EMS Software be found inoperable (following priority 1 standards) and cannot be repaired, a new installation of the EMS Software will be performed on-site and all testing of the software will be performed.

When responding to priority 2 issues, the Contract and its subcontractors will ensure that on-site testing is performed on the computer system and EMS Software to determine the cause of the problem with the EMS Software. Contractor may provide assistance to perform programming for Authorized User in the event that they cannot use the software while testing is being performed.

Similarly with priority 3 problems (minor intermittent malfunctioning, EMS Software able to process data), on-site testing will be performed on the system to determine the cause of the problem with the EMS

000487

CONTRACT #071B7700117



Software within 30 days. Contractor may also provide assistance to perform programming for Authorized Users in the event that they cannot use the software while testing is being performed.

Service Requests will be completed for each Priority type. The Service Request will consist of the following information:

- Authorized User information
- Date the Service Request was submitted
- Reason for the Service Request
- Technician performing the service/repair
- Explanation of diagnosis and service performed
- Length of time service/repair was performed
- Date Service Request was completed
  - Copies of Service Requests will be given to the Authorized User and to the State for record keeping.

5. Remedies. If Contractor is unable to make the EMS Software conform, in all material respects, to the Contract requirements and Documentation within thirty (30) calendar days following written notification by the State or an Authorized User, Contractor shall, at the State's or such Authorized User's request, cancel the license to such EMS Software, accept return of such EMS Software and Documentation, if applicable, rendered unusable, and return all monies paid by the State or such Authorized User per the direction of the State Program Manager for the non-conforming EMS Software and Documentation and such other related Service(s) rendered unusable, including any prepaid maintenance fees associated with the EMS Software.

Contractor will accept return of the EMS Software and refund to the State a pro rata portion of the license fee paid to Contractor for the EMS Software, such refund based on a straight line amortization over a ten (10) year term beginning on the date of purchase.

**B. Preventative Maintenance (Tabulators/accessible voting system components only)**

- Biennial (every two years) preventative maintenance package
- Preventative maintenance must consist of standard steps and checklists for each tabulator/accessible voting system component

Service and maintenance also includes preventative maintenance (PM) for tabulators / accessible voting system components throughout the contract term. Preventative maintenance includes both remedial and preventative maintenance services, including all labor and parts except consumables such as printer cartridges, paper rolls, and backup batteries that can be accessed/changed by the local jurisdiction. NOTE: batteries associated with the system motherboard shall be covered by warranty.

Refer to Schedule C-Pricing for pricing on all consumables, as well as information on how and when to obtain replacement consumables, and consumables that are available commercially off-the-shelf (COTS).

Contractor and its subcontractors shall provide preventative maintenance on a biennial basis (every two years). Preventative maintenance schedules for individual counties shall be finalized with input and approval by the individual counties. See **Section 1.6C(4)** below.

Preventative maintenance must consist of standard steps and checklists for each ImageCast precinct tabulator, ImageCast X accessible voting system component and ImageCast Central high speed AVCB tabulator. Refer to **Exhibit 3 to Schedule A Preventative Maintenance Checklists**. The State has final approval over all preventative maintenance checklists.

Preventative maintenance for Contractor's Democracy Suite is designed to minimize all maintenance, and is primarily focused on the mechanical components.

The State of Michigan requires assurances from the Contractor that the purchased system has high availability, will be well maintained, and repaired promptly. The Contractor shall provide these assurances as follows:

000488

CONTRACT #071B7700117



The Contractor's subcontractors will be responsible for repairing Voting System components and performing preventative maintenance during the warranty period. Warranty and repair parts shall be new. The Contractor's subcontractors will track and retain documentation on maintenance and repair activities. The Contractor will coordinate all repair and maintenance actions with the State or Authorized User. The jurisdictions will be given written documentation to confirm completion of work performed and status of the Voting System.

The Contractor provides standard costs for all consumables as well as information on how and when to obtain replacement consumables, and consumables that are available COTS. Refer to **Schedule C – Pricing**.

**C. Technical Support Response Requirements**

- Help Desk Telephone Support
- Equipment Repair/Replace
- Reporting Requirements
- Support Personnel

**NOTE: counties and local jurisdictions may contract and pay separately for Election Day Support, which will entail dedicated Election Day support resources and specific additional requirements beyond what is listed here. Counties and local jurisdictions will not be limited in the number of help desk calls.**

**1. Help Desk Telephone Support**

- a. Toll-Free Number: 1-886-654-8683 (VOTE)

Contractors must provide a single toll-free number for Help Desk Support.

This toll-free number must allow callers to speak directly to live support representatives that are equipped to handle Michigan customer service, technical support, and other needs identified in the Contract.

In addition, the Contractor and its subcontractors will also provide local ongoing technical support. Each county, depending on the specifics of their contract agreement, will have the option of having an Election Day support team in their county that they can contact directly.

- b. Timeframe availability: Help Desk support is available during regular business hours (Mon-Fri, 8 am – 5 pm, Michigan local time) and 6 am – midnight on Election Day. In addition, support personnel have company cell phones for after-hours support.

- c. Response time for calls: Response to calls is required within two hours of receipt of the call.

Contractor's process for escalating and ensuring all Election Day support calls are handled and resolved as expeditiously as possible, is as follows:

The Contractor and its subcontractors will use an automated ticket tracking system. The target resolution time serves as a trigger point for escalation of the problem. The following table characterizes types, severity, and response times for problems.

Phase	Initial Response	Estimation Response	Subsequent Responses	Target Resolution Time
Election Day	Immediate	30 minutes	30 minutes	1 Hour
Ballot Programming <sup>1</sup>	Immediate	1 Hour	Every 2 hours	4 Hours
Pre-Election Period <sup>2</sup>	Immediate	4 hours	Each Calendar Day	1 Business Day
Non-Election Period	Immediate	Next Business Day	Each Business Day	As Agreed

1. The period beginning with the release of final geopolitical data for a given election, and ending with the creation of the approved ballot images and election files.
2. The period beginning 60 days prior to a scheduled election and ending on certification of official results reports.

- d. For local jurisdictions contracting for Election Day support, an after-hours “emergency” toll-free number must be available for on-call service and support.

000489

CONTRACT #071B7700117



Contractor's toll-free number for support is 1-886-654-8683 (VOTE). The Contractor shall provide Election Day support from 6:00 am until all counties report in, with live call center to dispatch technician, if needed.

## 2. Equipment Repair/Replace

- a. Contractor must maintain a reasonable supply of certified manufacturer replacement parts and components at distributed warehouses necessary to repair malfunctioning equipment and return it to service as soon as possible. Contractor's subcontractor, ElectionSource, for example, maintains spare systems in its Grand Rapids office and in depots as contingency replacements. Technicians must be equipped with all commonly required spare parts.
- b. Equipment repair shall occur on-site, unless there is a demonstrable need to ship the equipment off-site for service, repair, or replacement. (See paragraph e. below.)
- c. Equipment shall be repaired or replaced within ten business days. On Election Day, equipment shall be repaired or replaced as soon as possible that day. Contractor shall have a process for escalating and ensuring all Election Day equipment problems are handled and repaired/replaced as expeditiously as possible. Prior to Election Day, repaired/replaced equipment shall be available to allow for adequate time for pre-election testing and successful use on Election Day.
- d. In the event of inoperability on Election Day, the Contractor and its subcontractors will have technicians strategically placed throughout the state in order to be no more than one hour away from trouble calls on Election Day. Technicians will have parts and loaner equipment available at no cost to the local jurisdictions.
- e. If a demonstrable need exists to ship equipment for service, repair, or replacement, the Contractor shall pay the full cost of shipping and all related expenses, including packing materials.

## 3. Reporting Requirements

- a. Contractor shall promptly provide the counties and local jurisdictions with written information on any tabulator/accessible voting system hardware, firmware and/or EMS software problems that are encountered wherever the equipment is in use (inside or outside of Michigan), along with written instructions explaining the solution to those problems. Copies of these communications shall also be provided to the State's Contract Administrator and Program Manager at the time of issuance to the counties and local jurisdictions. The State's Contract Administrator and Program Manager shall also receive prompt written notice whenever a problem exists that may affect multiple jurisdictions.
- b. Contractor shall provide written reports on a monthly basis (or on a regular timeframe mutually agreed upon between the State and the Contractor) that summarize all service and maintenance work completed during the reporting period; all service and maintenance work scheduled for the upcoming reporting period; and any unresolved problems or other issues that may affect multiple jurisdictions. These reports shall be submitted via email to the State's Program Manager.
- c. Contractor shall promptly notify the State's Contract Administrator and Program Manager in writing of any material errors or defects in the tabulator/accessible voting system hardware, firmware, software and/or EMS software deliverables known, or made known to Contractor from any source (inside or outside of Michigan) during the Contract term that could cause the production of incomplete, inaccurate, or otherwise materially incorrect, results. Contractor shall immediately initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

## 4. Support Personnel

The Contractor shall provide well-trained and knowledgeable election service technicians for all activities that are the Contractor's responsibility. The Contractor must maintain election service technicians in various areas of the state to meet the counties' and local jurisdictions' service and maintenance needs and to conform with response time requirements. Counties and local jurisdictions have the right of approval for any support personnel provided at the county/local level.

The Contractor and its subcontractors will provide qualified technicians and a range of necessary parts on-site to enable immediate repairs to commonly identified problems. Technicians are factory trained and can handle most repairs on-site. However, the sophisticated nature of the ImageCast system may require that some systems are repaired in Contractor's depot facility. In this event, a spare will be provided if needed to meet an election deadline. Technicians will have cell phones and company vehicles.

For preventative maintenance visits and when service and maintenance needs require an in-person visit by an election service technician, Contractor staff must work with counties and local jurisdictions to establish mutually agreeable timeframes and locations for repairs and preventative maintenance services. The Contractor must develop a proposed preventative maintenance schedule for review and approval by the counties and local

000490

CONTRACT #071B7700117



jurisdictions; counties/local jurisdictions are not responsible for developing this schedule. It will be up to the counties and/or local jurisdiction to select on-site vs. centralized locations for preventative maintenance.

While on-site, election service technicians must establish contact with the designated jurisdiction representative upon arrival and before leaving. Contractor staff must provide jurisdiction staff with a copy of the completed Preventative Maintenance Checklist, a written status report upon completion of support/maintenance work, indicating the work that was completed, any outstanding issues and the plan for resolving those issues.

All service technicians shall:

- a. Be well trained, professional, knowledgeable and experienced in the maintenance and repair of tabulators, accessible voting components, firmware and EMS software; and capable of replacing malfunctioning equipment in county/local jurisdiction offices, storage facilities and/or the polling place.
- b. Have reliable dedicated transportation of sufficient size to accommodate the transport of voting equipment as needed.
- c. Maintain a reasonable supply of certified manufacturer replacement parts and components necessary to repair malfunctioning equipment and return it to service.
- d. Have cellular telephones or other means of real-time communication, and must provide this information to the designated jurisdiction representatives.

#### **1.7 Product Recall Requirements and Procedures**

Any issues with the voting system will always be immediately addressed by working directly with the Bureau of Elections and the State. In the case of a recall, Contractor's response plan starts with defining a plan that is acceptable to all parties, performing the recall, and repeating acceptance testing.

Contractor's procedures related to product recall, covering how and when it is determined that a product recall is needed, how information on product recalls is communicated to customers and how product recalls are tested, scheduled, deployed and completed are described as follows:

Firstly, to communicate and formulate a product recall plan:

1. Notify Contractor's communications assigned contact with the State by telephone without delay to discuss the recall situation, and begin to create the recall plan which would cover scheduling, retesting, and redeployment
2. Provide the State with a Product Advisory Notice document so the information is in writing
3. Notify the counties by telephone and then in writing
4. Notify remaining jurisdictions by telephone and then in writing
5. Finalize recall plan

Finally, execute the agreed recall plan with the State, which could follow the following suggested steps:

1. Provide release notes and test results to the State
2. Repeat certification testing
3. If the recall is on physical units:
  - a. Return units that are being recalled to the repair facility
  - b. Update the units at repair facility
  - c. Return units to customer sites
  - d. Perform acceptance testing
4. If the recall is on software:
  - a. Distribute the software to customer sites
  - b. Reinstall the software
  - c. Perform acceptance testing

#### **1.8 Quality Assurance Program**

Contractor must have Quality Assurance programs in place for the voting system, accessible voting system components and related EMS software products, covering ongoing programs that test, validate and upgrade hardware, firmware, software and other key components.

Contractor uses multi-level quality assurance and quality control processes to ensure that all elements of its integrated voting system perform properly with every use. Contractor uses a top tier contract manufacturer, based in the United States, and recognized as a leader in the industry for manufacturing. Internal acceptance testing is performed on each voting system on receipt from the manufacturer. By the time its products are purchased by the State or Authorized End User, they have gone through three full rounds of acceptance testing. Independent reviews of election databases are

000491

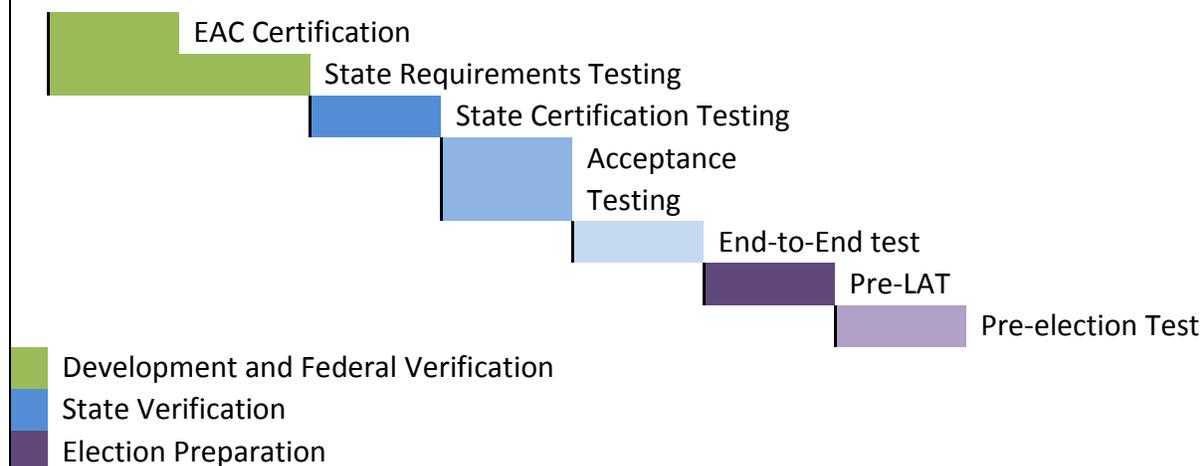
CONTRACT #071B7700117



conducted prior to Logic & Accuracy testing. Contractor recommends (and supports their customers to conduct) precinct-level pre-election testing.

In addition to this rigorous testing and control program designed to catch errors, Contractor regularly conducts process audits of our acceptance testing, and programming processes to ensure that errors never occur.

### Testing Phase Summary



Contractor tests its equipment to the highest standards in the industry. Contractor's test plan is multi-layered, and designed to complement County tests. Key attributes of the test plan are as follows:

1. EAC Certification – Contractor's products are certified as EAC compliant. This is the highest certification standard in the industry and is your assurance that all products have undergone the highest level of testing.
2. State Requirements Testing – Contractor's Engineers work to configure the EAC certified platform to meet Michigan's specific certification requirements.
3. State Certification Testing – Contractor's team works with the State board to demonstrate compliance of the system with state requirements.
4. Acceptance Testing – Each component of the system is tested for functionality on site at the customer warehouse. Contractor's subcontractor will provide training and documentation to county officials to assist them in undertaking this task.
5. End-to-End test – Contractor and its subcontractors will work with the county to conduct end-to-end testing. Contractor recommends that this test is completed following EMS training on a project reflecting Election Day requirements. In this test, an election project is created, and a representative sample of tabulators is programmed. Test ballots with known results are prepared and cast. Results are uploaded into the election management system and reports generated. The results are then compared to the expected outcomes to verify the system is performing properly. This test is performed on site at the customer warehouse.
6. Pre-Election Logic & Accuracy Testing – In advance of all elections Dominion Voting recommends that Logic & Accuracy Testing of each voting system is tested with final Election Day ballots. This complete end-to-end test provides certainty that the system will perform as planned on Election Day. This test is performed on site at the customer warehouse.
7. Pre-election test – Contractor advocates the use of a pre-election system readiness test. Prior to the beginning of voting, following the distribution of election systems to the precincts, customers have the option to run a small, mock-election. This test familiarizes poll staff in election night procedures, and provides additional assurance that all elements of the system are functioning properly after transport.
8. Automated Test Deck Creation – The creation of automated, comprehensive test decks is an optional service provided by Contractor to assist customers in conducting Logic & Accuracy testing. Using the Election Day database a series of pre-marked ballots are generated based on a computer algorithm designed to provide the highest assurance of system accuracy. When scanned these decks create known outcomes that can be compared with tabulated results. The elimination of error due to mistakes in hand-marking provides a higher degree of confidence in test results.

000492

CONTRACT #071B7700117



Available system upgrades shall be communicated and offered through the life of this Contract as described in **Section 1.5 D** (State Certification Process, Modification Requirements).

### 1.9 Incentives

Contractor offers a trade-in allowance incentive program for legacy tabulators and ballot marking devices, whereby the Contractor would take possession and ownership of existing voting systems, to assist counties and local jurisdictions in disposing of voting systems currently in place in the State of Michigan. **Refer to Schedule C, Pricing** for trade-in discount program available under this Contract.

### 2. Service Levels

#### 2.1 Time Frames – Order Placement and Processing

Refer to the Background and Purpose section (under *KeyTimeframes*), for detail on the planned multiple purchasing phases.

After Contract execution, a vendor selection process will occur at the County level. Counties, in consultation with their local jurisdictions, will select a single system for the county. MCL 168.771a. Counties will also work with their local jurisdictions to determine a local funding plan (if necessary) and select a purchase phase for each jurisdiction.

Given the State's proposed implementation approach and timeframes, Contractor has provided details on the planned timeframes for delivery, testing and training for each purchase phase.

The State of Michigan requires a comprehensive implementation that is based on well-established principles of project management. The structure of the plan includes key milestones, which allow Michigan to see tangible progress.

#### Procurement and Delivery

Initiation of the procurement and delivery phase begins immediately on receipt of a signed purchase order from the State (POs will be issued for each county).

Contractor maintains a moderate inventory of all components, consumables, and parts that are available for immediate delivery. Through a network of suppliers, Contractor is able to procure supplies and consumables within 15-30 days to replenish inventory. When hardware orders are received, production is increased accordingly.

During the procurement phase of the project, all of the commercial off the shelf components used in Contractor's election system are purchased.

**Hardware Manufacturing** – Tabulators provided to counties in Michigan will be newly manufactured by Flextronics in their Plano, Texas manufacturing facility. Approximately ninety (90) days is required to procure all necessary components and complete manufacturing of the first tabulator, with the final system ready for delivery to the client approximately 14 days later. At this time purchase orders for ancillary equipment (i.e., buttons, additional compact flash cards, etc.) and any election consumables are generated.

#### *Responsibility – County*

#### Documentation

**Finalize user documentation** – All Dominion products are supplied with comprehensive technical documentation used by local election officials in the process of certifying and accepting voting systems. In addition, user documentation, forms and quick reference guides will be provided to reflect the specific needs of Michigan users.

#### *Responsibility – County*

#### Acceptance Testing of Election Equipment

County officials must formally accept all tabulators. To ensure complete functionality at the time of delivery, Dominion Voting follows a rigorous acceptance testing process.

**County Acceptance** – Counties are responsible for system acceptance testing. However, Dominion subcontractors will provide support to individual counties for acceptance testing. Acceptance testing involves:

#### Tabulator Acceptance Testing:

1. Physical inspection of tabulator
2. Functional testing using provided test materials, including the State-provided Acceptance Checklist

#### EMS Acceptance Testing:

1. Utilization of the EMS system to restore or create a simple election project

000493

CONTRACT #071B7700117



2. Creation of sample election files and ballots for the tabulator
3. Record sample ballot audio
4. Directly load sample results from tabulator memory cards
5. Create Election Results Reports

County representatives will verify that the acceptance test has been successful, and complete a *Receipt/Acceptance* form to be submitted to the State.

Acceptance testing is an essential part of the quality assurance process. Dominion's goal is that all election equipment arrives at the client warehouse in perfect condition, however it is normal to see a small number of tabulators that fail initial acceptance. Where the equipment in question can easily be repaired, the on-site Dominion subcontractor hardware technician will address these deficiencies immediately. When this is not possible, the equipment in question will be returned to our central depot and replaced.

*Responsibility – County, Subcontractor*

System Training

**EMS Training** – Dominion and its subcontractors will provide on-site training to County officials in the use of the election management system.

*Responsibility – Dominion, Subcontractor*

**Tabulator and Accessible Voting System Training** – Dominion and its subcontractors will provide on-site training to County officials in the use of the tabulator(s) and the accessible voting devices.

*Responsibility – Dominion, Subcontractor*

Refer to **Section 9.9 Project Plan** for further details. Also refer to **Section 2.2 (Delivery)**, **Section 2.6 (Training)** and **Section 5 (Ordering)** for additional details.

**2.2 Delivery**

Contractor shall develop a county-by-county implementation plan for delivering and conducting acceptance testing in each county/jurisdiction prior to each purchasing phase. Delivery plans, timeframes and locations must be mutually agreed upon between the Contractor and the County.

Voting systems, accessible voting system components, related EMS software and all related components must be delivered and acceptance testing completed no later than 90 calendar days prior to the system's first use. Acceptance testing will consist of accuracy tests as prescribed under the Electronic Voting System Promulgated Rules, Mich Admin Code R 168.771 *et seq.* and State standard test deck processes, for both primary and general elections.

**2.3 RESERVED**

**2.4 RESERVED**

**2.5 RESERVED**

**2.6 Training**

Training Plan Overview

The State of Michigan requires a robust state-of-the-art training approach to fully internalize the new voting system solution into the voting operations of the state. All levels of staff - from poll workers to highly technical IT personnel - need to not only understand the new technology, but also how it integrates with the procedures and practices of Michigan elections.

Contractor and its subcontractors also understand that some election jurisdictions may have additional or special needs. For instance, a large County with a full time IT department will have different training requirements than a small County where there may not be a full time Elections Director. Given the unique circumstances of each Michigan county customer, Dominion and its subcontractors will work closely with each jurisdiction to ensure that the training program is customized to meet the County's specific needs.

Training is the primary tool for organizational change integration. The voting system solution will require election workers to learn a new suite of hardware, software, and procedures. Our suite of training materials (documents, presentation, guides,

000494

CONTRACT #071B7700117



reference cards, web resources, and self-paced learning) all contribute to integrating the new solution into the day-to-day routine of the organization.

- A. Training Documentation - within 30 calendar days after Contract execution, the Contractor shall provide 10 copies of user manuals and step-by-step procedures for using the voting system and all components, accessible voting system components and EMS software to the State Program Manager or designee. Contractor and its subcontractors prepare all needed training material, which includes training manuals, training videos, quick reference guides, website instructional courses, and technical reference manuals when necessary. This material shall be provided both in paper and electronic (e.g., pdf) form. Delivery of equipment and software to the Counties and local jurisdictions must include at least one complete set of training documentation (both electronic (e.g. pdf) and paper form) for each County and local jurisdiction. Contractor and its subcontractors understand that training must support the local county election process. Contractor works in conjunction with county election staff to define training for each county so it will fit into the county's normal election process.
- B. Electronic Training Modules – Within 30 calendar days after Contract execution, the Contractor shall provide an electronic training course (e.g., video, web-based, etc.) that can be viewed, downloaded, and published online by the State, county and local election officials, covering end-to-end operation of the system; step-by-step procedures covering equipment set up, processing and close-down procedures; and other relevant information related to the use of the voting system and its components, and accessible voting system components. The electronic training module must be no longer than 30 minutes in length and be suitable for use as part of a training program for election inspectors (Election Day precinct workers). The electronic training modules must be provided in a format that allows the State to utilize the content (in whole or in part) in State-specific online training courses.

The Contractor offers flexibility to deliver training in multiple formats that gives the State or Authorized End User a choice of many different delivery methods for training. One aspect of the customization is utilizing different formats when creating training, including instructor-led classes in person, instructor-led classes online, and self-paced online eLearning.

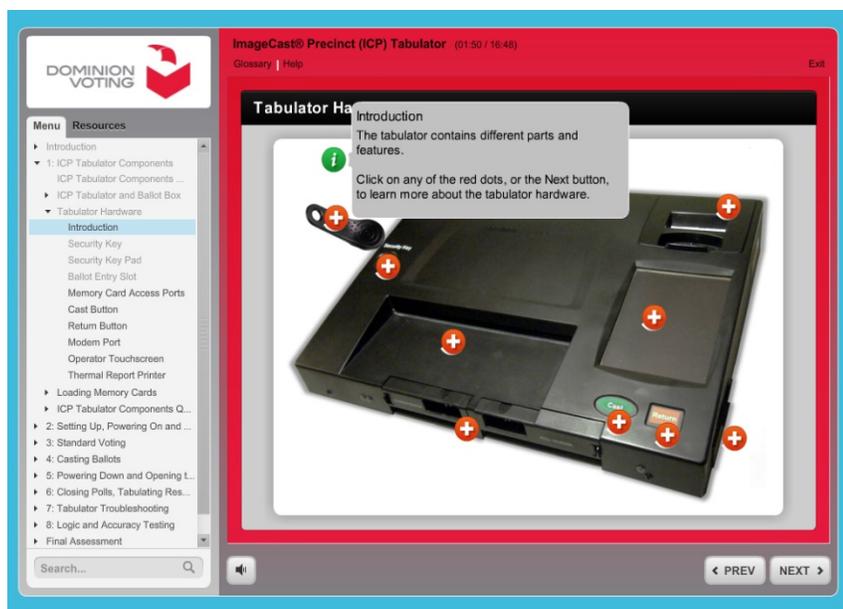
Often, election preparation schedules prevent the delivery of training at the optimal time for retention on Election Day. This can be particularly apparent in small counties, where a very limited team is responsible for all election related activities. In these situations the use of in person, instructor-led hands-on training, complemented with self-paced online eLearning courses not only allows the benefit of practical hands-on equipment experience to users (and their supervisors) but also provides the opportunity to refresh knowledge immediately prior to the election. Similarly, the Contractor has made extensive use of video training for locations where eLearning was not felt to be practical.

Self-Paced e-learning –Contractor offers a complete library of self-paced e-learning courses which includes both hardware and software training. These courses are designed to deliver training in a unique format while still keeping the student engaged and active.

Contractor's online training courses provide step-by-step explanations of the needed information. Contractor uses eLearning tools such as Captivate and Articulate to create interactive and engaging training. At the end of a course, a student is required to pass an assessment in order to receive a certificate of completion.

000495

CONTRACT #071B7700117



- C. In-Person Training – Contractor’s plan for training State staff and local election officials (including but not limited to county and local clerks) on the operation and use of the new voting system, accessible voting system components and EMS software, includes, but will not be limited to the following:
- a. Use of the EMS to set up an election and design and layout ballots
  - b. Programming of tabulators and related component(s)
  - c. Programming of accessible voting system component(s)
  - d. Programming and use of tabulators and related component(s) used in AVCBs
  - e. Preparation of tabulators and accessible voting system components, including setup and pre-election testing
  - f. Election day operations from the opening to the closing of the polls
  - g. Processing of voters and absentee ballots
  - h. Processing write-in votes
  - i. Adjudicating ballots that may require manual review
  - j. Troubleshooting – identifying and resolving basic problems (issues that do not require a service call)
  - k. Security, including safeguards to prevent and detect tampering
  - l. Tabulation of results
  - m. Electronic transmission of election results
  - n. Printing standard reports
  - o. Customizing reports
  - p. Checks and balances – methods for ensuring the accuracy of precinct results
  - q. Full understanding of audit procedures



- r. Any special requirements related to conducting a recount using the tabulator
- s. Records preservation
- t. How and when to place service calls
- u. Any other pertinent processing steps as recommended by the Contractor

Through each stage of the implementation process, Contractor and its subcontractors' support staff assigned to the implementation project will provide hands-on training to election staff for the operation of the election management system.

#### State Staff and Local Election Officials Training

Contractor and its subcontractors will provide in-depth and hands-on training to elections staff personnel in all functional areas of the voting system(s) implementation. Dominion and its subcontractors will work with the State and local elections staff to determine which key staff members need specialized training. It is recommended that all department personnel receive training on how to operate the Democracy Suite system so that they will understand the implementation and can answer questions from the general public.

With regards to specific functional areas, it is recommended to limit the training to those departmental personnel with responsibilities specific to those functional areas. Cross training can be performed at a later date.

#### Poll Worker Training

Contractor and its subcontractors recommend that each jurisdiction divide the poll worker training program into classes with as few poll workers as is feasible given the available trainers, training facilities, and the limited time on the election calendar. Past implementations have proven that it is very important for all poll workers to have a chance to operate the machines "hands-on" in class, or at least participate in a small group and review. This allows poll workers to operate equipment while others observe and ask questions.

Contractor and its subcontractors will assist each jurisdiction in integrating the new voting system training into its current poll worker-training program's content and format, as well as in the development of training materials, and providing "train the trainers" courses.

Such a change in voting systems requires a change in polling place forms and procedures and as such, Dominion and its subcontractors will provide sample forms from previous implementations and will assist in redesigning forms and procedures accordingly.

The goal is to assist in training poll workers to comfortably, confidently operate voting machines and readily provide voters with simple instructions and assistance in voting on them.

#### Curriculum

Contractor's standard course offerings include the full range of the Democracy Suite classes. Training agendas and curriculum particular to the resources, staff and needs of each jurisdiction will be developed as part of the implementation meetings.

#### Precinct Tabulator and Accessible Voting Systems Training

This course provides an introduction to the Contractor's ImageCast Precinct tabulator and the ImageCast X used for accessible voting. Topics include:

- Setup of the equipment
- Security, including safeguards to prevent and detect tampering
- Opening polls
- Processing ballots
- Processing write-in votes
- Accessible voting
- Closing polls
- Electronic transmission of election results
- Acceptance testing
- Troubleshooting - identifying and resolving basic problems (issues that do not require a service call)
- Performing Logic & Accuracy testing

#### Absentee Voter Counting Board Systems Training

000497

CONTRACT #071B7700117



This course provides an introduction to the ImageCast Central. Topics include:

- Setup of the equipment
- Security, including safeguards to prevent and detect tampering
- Opening polls
- Processing ballots
- Adjudicating ballots that may require manual review
- Processing write-in votes
- Closing polls
- Acceptance testing
- Troubleshooting - identifying and resolving basic problems (issues that do not require a service call)
- Performing L&A

Democracy Suite EMS Training:

This course introduces election programming concepts in EMS. Topics include:

- System security
- Creating and editing geo-political data (if applicable)
- Creating and editing offices and contests (if applicable)
- Adding choices (if applicable)
- Creating and editing ballot layout (if applicable)
- Programming tabulators (if applicable)
- Creating Audio Files for accessible voting (if applicable)
- Records preservation
- Creating Memory Cards
- Tabulating Results
- Election Night Reporting (Results Tally & Reporting, including customizing and printing reports)
- Checks and balances – methods for ensuring the accuracy of precinct results
- Full understanding of audit procedures
- Any special requirements related to conducting a recount using the tabulator

D. Refer to Contractor’s course descriptions in the training plan below for details related to the conduct of in-person training, including the length of the training session; proposed structure for the sessions (e.g., multiple day training; separate courses covering specific topics, such as EMS-only training; number of contractor staff hours per session; recommended number of participants per session; and use of alternative training formats, such as *train-the-trainer*).

Contractor’s standard course offerings include the full range of the Democracy Suite classes. As noted above, training agendas and curriculum particular to the resources, staff and needs of each jurisdiction will be developed as part of the implementation meetings.

The following is the Contractor’s class listings with the recommended target audience, number of hours or days for the training, and the recommended number of participants per session. Train-the-trainer courses are recommended for larger counties, and include additional topics such as training techniques and presentation skills.

Precinct Tabulator and Accessible Voting Systems Training

Training Class	Target Audience	Number of Days/ Hours	Max Number of Students
Precinct Tabulator and Accessible Voting Systems Training	Election Administrators, Clerks, Poll Workers’ Trainers, Poll workers, Election Day Technicians	3 Days / 24 hours	25 students with two trainers
Train the Trainer (recommended for larger counties)	Poll Workers’ Trainers, Clerks, Election Administrators	3 Days / 24 hours	15 students with two trainers

000498

CONTRACT #071B7700117



Poll Worker Training (optional)	Poll Workers, Election Administrators	1 Day / two 4-hour sessions	25 students with one trainer
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Absentee Voter Counting Board Systems Training

Training Class	Target Audience	Number of Days/ Hours	Max Number of Students
Absentee Voter Counting Board Systems Training	Election Administrators, Clerks	1 Day / 8 hours	8 students with one trainer

Democracy Suite Election Management System

Training Class	Target Audience	Number of Days/ Hours	Max Number of Students
Democracy Suite EMS Training – including Election Event Designer and Results Tally & Reporting	Election Administrators, Clerks	5 Days / 40 hours	8 students with one trainer
Results Tally & Reporting training (optional)	Election Administrators, Clerks	1 Day / 8 hours	8 students with one trainer
Results Transfer Manager training (optional)	Election Administrators, Clerks	1 Day / 8 hours	10 students with one trainer
ImageCast Communications Manager training (optional)	Election Administrators, Clerks	3 Days / 24 hours	8 students with one trainer

- E. Counties shall have final approval of their individual Contractor-conducted training plans, including the number of sessions, locations and participants per session.

Contractor and its subcontractors’ staff will work closely with the counties to determine the best location(s) to accommodate all attendees. Training can be held at a County office location, local school, and/or town hall. The location of training will be determined by a series of factors such as the number of attendees, proper resources available to conduct the training effectively, and the County’s personal preference.

In addition to onsite County training, Contractor and its subcontractors will offer training in its Grand Rapids and planned South-East Michigan office locations. These centers provide a classroom setting where qualified instructors reinforce classroom training with hands-on lab exercises conducted on operating equipment and software.

- F. The Contractor shall assist county and local election officials (if requested) in conducting comprehensive training for election inspectors (Election Day precinct workers) prior to the primary and general elections in the first year of use.

000499

CONTRACT #071B7700117



As each jurisdiction's implementation may comprise the full 2017 or 2018 election cycles, Contractor and its subcontractors' support staff will continue to be dedicated to the counties and jurisdictions in the provision of training and hands-on application for each election through 2017 or 2018 as applicable. Election personnel will be provided repetitive practice and experience in practical application over election cycles, building confidence in the system and their abilities.

## 2.7 RESERVED

## 2.8 Meetings, Project Updates and Reports

The Contractor's State Project Manager and other identified Key Personnel must attend the following meetings:

- Initial contract kick-off meeting within 10 business days of Contract execution.
- Weekly update meetings after the initial kick-off meeting through the completion of the first planned implementation phase. Decisions on whether these updates take place via phone vs. in person meetings shall be at the discretion of the State.
- Monthly update meetings after the completion of the first implementation phase, through the life of the contract. Decisions on whether these updates take place via phone vs. in person meetings shall be at the discretion of the State.
- Written weekly updates, after the initial kick-off meeting through the completion of the first planned implementation phase. Written weekly updates will summarize work completed during the reporting period; planned work for the upcoming reporting period; issues affecting the timely and/or successful completion of planned milestones, along with the effect on planned timelines and resolution plan for each issue.
- Written monthly updates, after the completion of the first implementation phase, through the life of the contract. Written monthly updates will summarize work completed during the reporting period; planned work for the upcoming reporting period; issues affecting the timely and/or successful completion of planned milestones, along with the effect on planned timelines and resolution plan for each issue.
- Written updates after each Election Day, which identify and categorize service calls, equipment failures and resolution for all issues identified 14 calendar days prior to each election (up to and including Election Day), for each election in which the Contractor's voting system is used. These updates must be provided within 14 calendar days after each election.
- Annual reports prior to billing - during the extended service/maintenance period, a listing of all counties and jurisdictions and associated annual charges shall be provided to the State Program Manager at least 30 calendar days prior to the annual billing cycle.

The State may require other meetings and reports as it deems appropriate.

## 3. Staffing

### 3.1 Contractor Representatives

The Contractor shall appoint a **State Project Manager**, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, ongoing service and maintenance, warranties, Election Day support, and other key requirements covered by the Contract (the "Contractor Representative"). The State Project Manager shall maintain a presence in the State of Michigan.

#### State Project Manager

Gio Costantiello

State Project and Contract Manager

Phone: (416) 762-8683 x241, Mobile: (416) 580-0084

Email: gio.costantiello@dominionvoting.com

The Contractor shall also appoint a designated **State Customer Service Manager**, who will maintain a presence in the State of Michigan and shall work with and support counties and local jurisdictions on an ongoing basis through the life of the Contract.

#### State Customer Service Manager

Nicole Nollette

Executive Vice President, Operations

Phone: 866-654-8683 x9223

Mobile: 702-786-7131

Email: nicole.nollette@dominionvoting.com

The Contractor shall provide written notice to the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

### 3.2 Customer Service Toll-Free Number

000500

CONTRACT #071B7700117



In addition to the requirements listed in **Section 1.6 (Service and Maintenance)**, the Contractor shall provide a Customer Service toll-free number for the State, counties and local jurisdictions to make contact with the Customer Service Support personnel. See other support requirements lists in **Section 1.6**.

In addition to the requirements listed in **Section 1.6 (Service and Maintenance)**, the Contractor must specify its Technical Support toll-free number for the State, counties and local jurisdictions to make contact with the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 8 am to 5 pm local time. These availability hours must be expanded during key Election Day support timeframes as identified in **Section 1.6**.

**NOTE:** A single toll-free number will be used for both overall Customer Service, Help Desk Support and Technical Support.

**Customer Service, Help Desk Support and Technical Support**

Toll-Free Number: 1-886-654-8683 (VOTE)

**3.3 Disclosure of Subcontractors**

The Contractor intends to utilize the following subcontractors to fulfill the requirements of this Contract. The Contractor must provide prior written notice of all of the following:

The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; names and titles of all subcontractor staff that will be assigned to the Michigan contract, along with each individual's role and responsibilities; and information concerning subcontractor's ability to provide the Contract Activities.

The relationship of the subcontractor to the Contractor.

Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.

A complete description of the subcontractor's prior experience that illustrates the subcontractor's relevant qualifications for completing the planned work they will be assigned under this Contract.

Any planned change to subcontractor staff must be communicated to the State Contract Administrator and Program manager at least 30 calendar days prior to the planned change. The State has the right of approval for any subcontractors provided.

Of the total Contract value, the price of the subcontractor's work.

**ElectionSource**

Legal Business Name	Miller Consultations & Elections, Inc. DBA -ElectionSource
Address and telephone number	4615 Danvers Dr. SE Grand Rapids, MI 49512 phone: 616.464.2283, 888.742.8037 fax: 616.464.0926 www.electionsource.com
Organization description	ElectionSource is a leader in the election industry, providing turnkey election services, support and products. Our experienced staff has over 100 years of combined experience working on elections with governments, unions, homeowners associations and fraternal organizations all across the nation.
Working experience with Contractor	ElectionSource and Contractor have been providing the best in innovation, integration, and accessibility, while providing simplicity of use and the transparency to meet customer's election needs for over 16 years.
Contract activities' description	Preventative maintenance, EMS support services, poll worker training, staff training, project management reporting, product installation, and acceptance testing. EMS and tabulator support.
A complete description of the subcontractor's prior experience that illustrates the subcontractor's relevant qualifications for completing the planned work they will be assigned under this Contract.	ElectionSource currently employs 15 full time people and another 5 part time people that have a combined total of over 150 years' experience in elections. During peak election times, ElectionSource employs up to 30 people in the State of Michigan. Many of these employees will provide service and support to this Contract. Several people will play a key role in each jurisdiction. Refer below to the ElectionSouce staff members assigned to the Michigan contract, their roles, and responsibilities.

000501

CONTRACT #071B7700117



<p>Names and titles of all subcontractor staff that will be assigned to this Contract, along with each individual contract, along with each individual's role and responsibilities.</p>	<p>Jeff DeLongchamp – President Oversee all staff to ensure deadlines and tasks are met. Provide additional support for software, testing, product implementation, project management, and delivery.</p> <p>Steve DeLongchamp – Vice President Provide additional support to Project Managers. Assist with planning and the resolution of issues that can arise during project implementation. Act as an internal, oversight mechanism monitoring project implementation.</p> <p>Andrea Richardson – Elections Administrator Provide additional support to Project Managers. Assist with planning and the resolution of any issues that may arise during project implementation.</p> <p>John Keefer – Technical Services/Testing Manager Provide scheduling and performing state-wide biannual maintenance. Assist with product installation, acceptance testing, and act as resolution mechanism for issues that arise with hardware.</p> <p>Amy Burns – Executive Assistant &amp; Sales Support Provide assistance to the President of ElectionSource with projects, commissions, reports, clients and scheduling. Provide sales and scheduling support.</p> <p>Gerrid Uzarski – Regional Sales Manager Will help maintain current points of contact and establish new points of contact. Work closely with Commissioners, Election Directors, County Clerks, Local Clerks, and other personnel responsible for carrying out elections. Assist in testing equipment.</p> <p>Additional Testing, Implementation, Training and Programming support: Mike Kelava – IT Manager Assist with training, programming, software installation, server set up, programming, software support and training, and ordering of PC equipment</p> <p>Logan McGregor – Technician Provide testing and implementation support</p> <p>Matt Bosker – Elections Specialist Provide training support, software support, and programming</p>
<p>Relationship of subcontractor to Contractor</p>	<p>Sales representative/distributor for Contractor.</p>
<p>Complete descriptions of the Contract Activities that will be perform or provided by the subcontractor.</p>	<p><b>Project Management and Product Implementation:</b></p> <p>The Lead Project Team Manager is a key part of ElectionSource's organizational structure. The Lead Project Team Manager will work with Dominion to coordinate the shipping of equipment and software for each jurisdiction. The Lead Project Manager will then turn over coordination of setup and training of voting equipment to the County assigned Project Managers who will then oversee this process.</p> <p>Our County Project Managers will work with each county to develop and implement a plan that best suits the needs of all the municipalities within the county. ElectionSource will then provide progress reports to each of the counties on a regular basis. Our County Project Managers will work with all our team leaders and support technicians to provide</p>

000502

CONTRACT #071B7700117



	<p>the necessary training and support needed by each county. Their goal is to provide a level of training that will allow the municipalities to be self-sufficient needing only minimal support from our technicians.</p> <p><b>Other activities provided by subcontractor, but not limited to, are:</b></p> <ul style="list-style-type: none"> <li>• Equipment Training</li> <li>• EMS/Software Training</li> <li>• On-site Election Day Support</li> <li>• Programming/Coding Support</li> <li>• Consultations</li> <li>• Computer Equipment Set-Up/Installation</li> <li>• Maintenance</li> <li>• Acceptance Testing</li> <li>• Election Data Delivery</li> <li>• Equipment Installation</li> </ul>
<b>Governmental Business Systems</b>	
Legal Business name	Governmental Business Systems
Address and telephone number	4995 Varsity Dr., Unit C Lisle, IL 60532 Phone: 888.640.8683 Fax: 630.241.4295 Website: www.gbsvote.com
Organization description	Supplier of election related supplies, voting hardware and software.
Working experience with Dominion	Market and support DVS election related products.
Contract activities' description	Provide local Level 1 hardware support & preventative maintenance, EMS support, poll worker training, Logic & Accuracy support.
A complete description of the subcontractor's prior experience that illustrates the subcontractor's relevant qualifications for completing the planned work they will be assigned under this proposal.	Currently support 35 counties in Michigan using AccuVote optical scan. GBS provides a multitude of election services to the vast majority of these accounts including programming/coding support, ballot printing, precinct kits, election supplies, equipment maintenance, pollworker training and related support services. GBS' account managers possess an aggregate of over 50 years of hands-on election experience working with election officials from every entity who assume a role & responsibility in this process.
Names and titles of all subcontractor staff that will be assigned to the Michigan contract, along with each individual's role and responsibilities	<p>Tim Allshouse - Account Manager Account Manager responsible for customer account management, sales, and support of the Democracy Suite voting system in Southern Michigan</p> <p>Kurt Knowles - Account Manager Account Manager responsible for customer account management, sales, and support of the Democracy Suite voting system in Northern Lower Michigan</p> <p>Dave Carmody - Account Manager Account Manager responsible for customer account management, sales, and support of the Democracy Suite voting system in the Upper Peninsula of Michigan</p> <p>Larry Calvert - Director of Election Services Direct staff and provide customer support, consulting and election programming / coding</p> <p>Tiffany Tuominen - Manager of Customer Service Will assist with election programming, pre-press file preparation, customer/technical support, and ensuring timely delivery of election products/services to meet federal requirements.</p>

000503

CONTRACT #071B7700117



<p>Relationship of subcontractor to Contractor</p> <p>A complete description of the Contract Activities that will be performed or provided by the subcontractor</p>	<p>Dealer for DVS products and services.</p> <p><b>Activities provided by subcontractor, but not limited to, are:</b></p> <ul style="list-style-type: none"> <li>• Equipment Training</li> <li>• EMS/Software Training</li> <li>• On-site Election Day Support</li> <li>• Programming/Coding Support</li> <li>• Consultations</li> <li>• Computer Equipment Set-Up/Installation</li> <li>• Maintenance</li> <li>• Acceptance Testing</li> <li>• Election Data Delivery</li> <li>• Equipment Installation</li> </ul>
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**3.4 Security**

The Contractor will be subject to the following security procedures:

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities, data and systems. The scope of the background check is at the discretion of the State and the results shall be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations shall include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) fingerprints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Fingerprint Check. Any request for background checks shall be initiated by the State and shall be reasonably related to the type of work requested.

All Contractor personnel shall also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. Furthermore, Contractor personnel shall be expected to agree to the State's security and acceptable use policies before the Contractor personnel shall be accepted as a resource to perform the work for the State. It is expected the Contractor shall present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff shall be expected to comply with all physical security procedures in place within the facilities where they are working.

The Contractor's staff may be required to make deliveries to or enter State, county and local jurisdiction facilities. The Contractor must: (a) ensure the security of State, county and local jurisdiction facilities, (b) use uniforms and ID badges, etc., (c) perform background checks as requested by the State and/or Authorized User through services such as Checkmate, [www.intantcheckmate.com](http://www.intantcheckmate.com) , and (d) determine the scope of the background checks, which will include detailed information such as arrest records, phone numbers, contact information, previous arrests, criminal convictions, traffic citations, and sex offender status, in accordance with applicable laws.

The Contractor will provide the following additional security measures to ensure the security of State, county and local jurisdiction facilities.

Prior to making deliveries the local jurisdiction and or county facilities will be contacted by phone. Through consultation, a time and date along with who will be making the deliveries will be established. At that time, what we will be delivering, how we will be making the delivery and how we will be transporting the delivery product will be finalized, setting a clear picture of who and what to expect.

Contractor and its subcontractors will implement all necessary securities to ensure the protection of the complete election system and processes involved. At the beginning of the project planning, along with the State, County and local jurisdictions, the Contractor and its subcontractors will contract, if necessary, with an accredited securities firm to conduct a site survey and assessment of the security and safety of the buildings and all election related facilities to determine the necessary measures to be taken. In addition to physical security and access, personnel background checks will be conducted as needed.

**4. Pricing**

**4.1 Price Term**

Refer to the Pricing Matrix included in **Schedule C for all pricing**. Prices listed in Schedule C are fixed for the contract term, and represent the maximum prices per item. Notwithstanding the foregoing, the Contractor is authorized to negotiate pricing with individual counties that are lower than the prices listed in Schedule C. Any and all lower negotiated prices must be communicated to the Program Manager immediately as they are finalized.

000504

CONTRACT #071B7700117



#### 4.2 Price Changes

Aside from negotiations as outlined in Section 4.1 Price Term, price changes may only be considered after the expiration of the initial service/maintenance period (acquisition year + 4 years); and **only for component replacement/additional parts** (applicable to Cost Table 4 only – see **Schedule C.**) Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 calendar days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

#### 5. Ordering

##### 5.1 Authorizing Document

The appropriate authorizing document for the Contract will be a written Purchase Order, which will be initiated at the State level for each county for each planned purchase period. All orders are subject to the State's standard contract terms.

Initial purchase orders will be placed by State purchasing officials. Counties and local jurisdiction election officials (county, city and township clerks) will be eligible to purchase additional voting systems and voting system components, over and above what is included in the State-issued purchase order at the established Contract prices and terms. Refer to **Contract Terms, Section 14 Extended Purchasing Program**. Also, Refer to Section 7.1 Acceptance, Inspection and Testing "Counties will work with the State to finalize the list of jurisdictions that will accept delivery and implement the new voting system for each planned purchase phase. The State will initiate each county-based Purchase Order (PO) for each purchase phase based on this plan."

The State will generate each Purchase Order only after a finalized funding plan has been established for each county and local jurisdiction in the county; after a Grant Agreement has been executed with the county and each local jurisdiction which specifies ownership and payment obligations for the county and each local jurisdiction; and the State has received payment from the county and each local jurisdiction for their individual portions of the county/local funding plan.

As an alternative to counties and local jurisdictions making direct payments to the State for the local funding component, the Contractor may execute an agreed upon payment plan between the Contractor, county, and local jurisdictions within the county. Any separate agreements of this type must be transmitted to the State Program Manager prior to issuance of the Purchase Order.

Upon issuance of each State-issued PO on behalf of the county, the Contractor will work with each county to finalize each jurisdiction's delivery plan, including timeframes and locations.

##### 5.2 Order Verification

The Contractor must have internal controls to verify abnormal or excessive orders and to ensure that only authorized individuals place orders.

##### 5.3 Minimum Order

There is no minimum order requirement.

#### 6. Delivery

##### 6.1 Delivery Programs

Contractor will provide delivery programs tailored to the needs of the State and Authorized End Users in delivery of the Contract Activities.

Contractor's standard service is "ground", which typically delivers in five (5) days. However, Contractor uses a variety of carriers allowing flexibility in choosing the delivery method required by both the size of the shipment and the State or Authorized End User's specific dock/receiving setup.

A full truckload is approximately 25 full pallets of machines/accessories or 56 ballot boxes. Contractor uses truckload and LTL (less than truckload) carriers, FedEx and US mail to ship products.

Moreover, should more expedited shipping be requested by the State or Authorized End User, this will be available at an additional cost. Contractor will make every effort to ensure that the State or Authorized End User's expedited delivery time-

000505

CONTRACT #071B7700117



frame is met and that additional charges to the State or Authorized End User for the expedited delivery, if any, will be minimized.

With regards to providing expedited shipping, the State or Authorized End Users will have the option to request it at an additional cost. Limitations on expedited service include timing of receipt of requests, the size of the shipment, and location of customer. Any requests received after noon (12:00pm) will not be typically shipped until the following day. However, depending on the location/zip code of the customer's warehouse/office, FedEx may not be able to deliver early the following day/next day.

Shipments requiring pallets generally do not deliver the following day. Contractor uses standard pallets in various sizes to accommodate the size of the merchandise/packages. These are typically made of wood and are stackable and re-useable. The transportation method used will depend on the size of the order/number of pallets.

The Contractor ensures the best transportation rates for every order since they receive bids from multiple carriers at the time. The Contractor can deliver to warehouses with standard loading docks as well as to smaller offices that require inside deliver/white glove service.

**6.2 Packaging and Palletizing**

Packaging must be optimized to permit the lowest freight rate. Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets.

**7. Acceptance**

**7.1 Acceptance, Inspection and Testing**

Counties will work with the State to finalize the list of jurisdictions that will accept delivery and implement the new voting system for each planned purchase phase. The State will initiate each county-based Purchase Order (PO) for each purchase phase based on this plan.

Upon issuance of each State-issued PO on behalf of the county, the Contractor will work with each county to finalize each jurisdiction's delivery plan, including timeframes and locations.

With respect to delivery and installation of EMS, the Contractor shall provide an EMS delivery/installation plan that allows for EMS software installation to be handled by the counties and local jurisdictions. If such an arrangement is proposed and mutually agreed upon, Contractor must provide detailed software installation instructions to counties and local jurisdictions at the time of EMS delivery. In addition, Contractor must provide technical phone support to assist counties and local jurisdictions with software installation.

The Contractor's minimum system requirements, including the required/relevant Operating System, to ensure successful operation of the EMS are listed as follows. Contractor provides these requirements for both the full EMS and the accumulative only EMS options.

The following table includes the minimum requirements for the recommended express hardware configuration:

EMS EXPRESS HARDWARE CONFIGURATION		
Component	Minimum	Recommended
Motherboard	Motherboard with integrated sound controller and SATA controller	Motherboard with integrated sound controller and SATA controller. RAID functionality <b>or</b> separate hardware RAID controller
CPU	Intel i5 series	Intel i7 series
RAM	4GB	8GB
HDD	Single 500GB	Dual 500GB in RAID 1 mode (mirror)
Additional	USB Compact Flash card reader	USB Compact Flash card reader
	USB iButton Security Key reader	USB iButton Security Key reader
	19" or higher monitor for desktop PCs	19" or higher monitor for desktop PCs
	Keyboard and mouse	Keyboard and mouse
	Headset or headphones with microphone	Headset or headphones with microphone
	Internal or external DVD R/W	Internal or external DVD R/W

000506

CONTRACT #071B7700117



The following tables include the minimum requirements for the standard recommended hardware and software configuration:

<b>EMS STANDARD HARDWARE CONFIGURATION: CLIENT</b>		
<b>Component</b>	<b>Minimum</b>	<b>Recommended</b>
Motherboard	Motherboard with integrated sound controller and SATA controller	Motherboard with integrated sound controller and SATA controller
CPU	Intel i5 series	Intel i7 series
RAM	4GB	8GB
HDD	Single 500GB	Single 500GB
Additional	USB Compact Flash card reader	USB Compact Flash card reader
	USB iButton Security Key reader	USB iButton Security Key reader
	19" or higher monitor for desktop PCs	19" or higher monitor for desktop PCs
	Keyboard and mouse	Keyboard and mouse
	Headset or headphones with micro-phone	Headset or headphones with microphone
	Internal or external DVD R/W	Internal or external DVD R/W

<b>EMS STANDARD HARDWARE CONFIGURATION: SERVER</b>		
<b>Component</b>	<b>Minimum</b>	<b>Recommended</b>
Motherboard	Single core CPU with integrated SATA controller	Dual quad core CPU with integrated SATA controller and RAID functionality or separate hardware RAID controller
CPU	Intel Xeon L5500 series	Intel Xeon E5 series
RAM	8GB	16GB
HDD	Dual 500GB	Dual 500GB in RAID 1 mode, and 4x 500GB in RAID 10 mode
Additional		PCI-E card SATA controller with RAID 10 functionality, or compatible
	Internal or external DVD R/W	Internal or external DVD R/W
	Single or dual power supply	Single or dual power supply
	Optional monitor, keyboard, and mouse	Optional monitor, keyboard, and mouse

Note: Express and Standard refer to the hardware architecture for EMS (either Full or Accumulation only). Express is for smaller jurisdictions with less server infrastructure requirements (desktop and tower servers) and Standard is for larger jurisdictions that require higher performance IT infrastructure (rack servers for example). Contractor can install either version of software on either Express or Standard however performance is what determines which IT infrastructure Contractor recommends.

000507

CONTRACT #071B7700117



EMS SOFTWARE CONFIGURATION						
EMS Software Configurations	Express Software Configuration	Standard Server Configuration	Standard Client Configuration	Enterprise Application Server	Enterprise Database Server	Enterprise Client
Adobe Acrobat Reader 10.1.1	X		X			X
Cepstral Voices	X	X	X	X		
Dallas 1-Wire Device Driver 4.0.3	X					X
EMS Client components	X		X			X
EMS Server components	X	X		X		
Java Runtime Environment 6.0.290	X	X	X	X		X
Microsoft .NET Framework 4.0	X	X	X	X	X	X
Microsoft Access Database Engine	X		X			X
Microsoft IIS 7.5	X	X		X	X	
Microsoft SQL Server 2008 R2 Express	X					
Microsoft SQL Server 2008 R2 Reporting Services only and Service Pack 2 (SP2) Installed				X		
Microsoft SQL Server 2008 R2 Standard with Service Pack 1 (SP1) Installed		X			X	
Microsoft SQL Server 2008 R2 with Advanced Series and Service Pack 1 (SP1) Installed	X					
Microsoft Visual C++ x86 Redistributable	X	X	X	X		X
Microsoft Visual J# 2.0	X	X	X	X		X
Optional additional fonts	X	X	X	X		X
Optional Avast! antivirus software	X	X	X	X	X	X
Optional eSATA card		X				
Optional Excel 2010	X		X			X
Optional printer drivers	X		X			X
Optional Uninterruptable Power Supply drivers	X	X		X	X	
Windows 7 Professional x64 with Service Pack 1 (SP1) Installed	X		X			X
Windows Server 2008 R2 with Service Pack 1 (SP1) Installed		X		X	X	

For more information about the EMS configuration options, including operating system and hardware/software requirements, see **Schedule C, Pricing; Cost Table 5**.

Upon receipt of the systems at the county and local jurisdiction level, each jurisdiction will be responsible for testing and accepting their designated systems, based upon a checklist developed by the State. Each county and jurisdiction receiving voting systems, accessible voting system components and related EMS software will be required to complete a *Receipt/Acceptance* form and submit it to the State. Acceptance test criteria will include a logic/accuracy test (for tabulators/accessible devices) and a confirmation of successful installation of the approved version of EMS software (where applicable). If defects are uncovered during testing that result in an unsuccessful test, affected system component(s) will be rejected and Contractor must replace and re-test the component(s) within 10 business days. Once all voting systems and EMS software is tested and accepted a completed *Receipt/Acceptance* form (developed by the State) will be completed and returned by each jurisdiction in in the county for each purchase phase documenting

000508

CONTRACT #071B7700117



successful completion of required testing; at which point, the State will release payment on the State-issued county-based PO.

### 7.2 Final Acceptance

Final acceptance of each local county and jurisdiction order will be accomplished via the receipt/acceptance process described in **Section 7.1** and **Section 8e** in the Standard Contract Terms.

### 8. Invoice and Payment

#### 8.1 Invoice Requirements

All invoices submitted to the State must include: (a) contract number; (b) Purchase Order number; (c) county name; (d) listing of all delivered components, itemized and listed by jurisdiction; (e) unit prices; (f) total price per item, per jurisdiction; (g) ship to address; (h) jurisdiction contact; (i) total price per jurisdiction; and (k) total price per county / Purchase Order (less any agreed upon payment arrangement made between the Contractor and the County).

Invoices must be forwarded to the State only after all equipment and components listed on the Purchase Order have been delivered. The State will release payment to the Contractor for the State portion of the invoice amount, upon the successful completion of acceptance testing and submission of completed Receipt/Acceptance forms from the county and each local jurisdiction listed on the Purchase Order. Note that the State portion of the invoice amount will equal 100% of the total invoice if the State has collected the local funding component up front.

#### 8.2 Payment Methods

The State will make payment for Contract Activities as outlined in **Sections 5.1, 7.1 and in Section 9, Invoicing and Payment, in the Standard Contract Terms**. Payment will be made by Electronic Funds Transfer (EFT).

### 9. Additional Requirements

#### 9.1 Environmental and Energy Efficient Products

The Contractor has identified the following energy efficient, bio-based, or otherwise environmental friendly products used in the products, including relevant third-party certification.

##### Contractor's Products

Some materials used in Contractor's product line are RoHS (Restriction of Hazardous Substances) and Energy Star compliant.

Contractor's plastic ballot boxes and covers are made from polypropylene and ABS which are recyclable. Units have a 10-year+ lifespan, and are either recycled in specialized facilities, or donated to a non-profit organization which uses them in the developing world.

Units are shipped in recyclable corrugated cardboard boxes. Contractor reuses these boxes as many times as possible before recycling.

Fedex Packaging is both recyclable and can be re-used for shipping. Labels are printed on 100% Recycled FSC-Certified Copy Paper. It is recycled without using chlorine or chlorine compounds, acid free, 100% post-consumer recycled content.

#### 9.2 Hazardous Chemical Identification

In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, *et seq.*, as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number.

The Contractor identifies the following hazardous chemicals that will be provided under this Contract.

The ImageCast Precinct tabulator uses leaded solder paste. There are two types of battery backup systems that the Contractor's voting systems use. The first is based off Lithium Ion technology. The second battery is based off of sealed Lead Acid technology. The Contractor will provide more detailed information and the MSDS for both these materials upon request.

#### 9.3 Mercury Content

Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor does not intend to provide products containing mercury under this Contract.

#### 9.4 Brominated Flame Retardants

The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs. The electronics circuit boards contained in the Contractor's product contain flame retardant bromine **Tetrabromobisphenol A (TBBPA)**. This bromine is a part of the polymer of the circuit board and it is not regulated by RoHS or WEEE directives under their listing of restricted chemicals. This bromine

000509

CONTRACT #071B7700117



(TBBPA) is complexed in the resin of almost all PCB's produced today. Please see the Exhibit A – 9.4. TBBPA Factsheet included for more details.

**9.5 License Agreement**

The State and Counties that receive and use EMS software will be required to sign a software license agreement. Refer to Schedule B-Software License Agreement.

**9.6 Key Personnel**

The Contractor must appoint a **State Project Manager** and **State Customer Service Manager**. See other details in **Section 3.1**. These individuals shall be directly responsible for the day to day operations of the Contract (“Key Personnel”). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 24 hours.

**State Project Manager**

Gio Costantiello  
 State Project and Contract Manager  
 Phone: (416) 762-8683 x241, Mobile: (416) 580-0084  
 Email: gio.costantiello@dominionvoting.com

**State Customer Service Manager**

Nicole Nollette  
 Executive Vice President, Operations  
 Phone: (866) 654-8683 x9223, Mobile: (702) 786-7131  
 Email: nicole.nollette@dominionvoting.com

Contractor's Key Personnel must be available for meetings and updates as outlined in **Section 2.8**.

The Contractor may not remove or assign Key Personnel without the prior consent of the State. Prior consent is not required for reassignment for reasons beyond the Contractor's control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. The State may request a résumé and conduct an interview before approving a change. The State may require a 30 calendar day training period for replacement personnel. Also refer to **Section 10** in the Standard Contract Terms.

**9.7 Non-Key Personnel**

The Contractor must notify the Contract Administrator at least 10 calendar days before removing or assigning non-key personnel.

Team Member	Role
Alex Soto Vasquez	Product Support Specialist
Nick Mantzios	Product Support
Xenofon Marangos	Senior Systems Manager
Goran Obradovic	Product Development
Ronald Morales	Product Support
Penelope Starr	Marketing and Voter Outreach Support
Steve Moreland	Manufacturing & Delivery
James Hoover	Printer Liaison, General Project Support
Steve Popoulis	Customer Service Manager

000510

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**9.8 Organizational Chart**

The Contractor has provided the following overall organizational chart that details staff members, by name and title, including subcontractors, as well as each member's area of responsibility.

	DOMINION	ELECTION SOURCE	GBS
<b>ACCOUNT MANAGEMENT</b>	<p><b>Gio Costantiello</b> <i>State Project and Contract Manager</i></p> <p><b>Mike Frontera</b> <i>State Customer Service Manager</i></p>	<p><b>Jeff DeLongchamp</b> <i>President</i></p> <p><b>Steve DeLongchamp</b> <i>Vice-President</i></p> <p><b>Amy Burns</b> <i>Sales Support</i></p> <p><b>Gerrid Uzarski</b> <i>Regional Sales Manager</i></p>	<p><b>Tim Allshouse</b> <i>Account Manager</i></p> <p><b>Kurt Knowles</b> <i>Account Manager</i></p> <p><b>Dave Carmody</b> <i>Account Manager</i></p>
<b>INSTALLATION &amp; TECHNICAL SUPPORT</b>	<p><b>Xen Marangos</b> <i>Solutions Integrator</i></p> <p><b>Ronald Morales</b> <i>Product Support</i></p> <p><b>Nick Mantzios</b> <i>Product Support</i></p>	<p><b>John Keefer</b> <i>Technical Services/ Testing Manager</i></p> <p><b>Mike Kelava</b> <i>IT Manager</i></p> <p><b>Mitch Erwin</b> <i>Technician</i></p> <p><i>Other staff as required</i></p>	<p><b>Larry Calvert</b> <i>Director of Election Services</i></p> <p><i>Other staff as required</i></p>
<b>ELECTION SERVICES SUPPORT</b>	<p><b>Steve Papoulias</b> <i>Customer Service Manager</i></p> <p><b>Alex Soto Vasquez</b> <i>Product Support Specialist</i></p> <p><i>Other staff as required</i></p>	<p><b>Matt Bosker</b> <i>Elections Specialist</i></p> <p><b>Andrea Richardson</b> <i>Elections Administrator</i></p> <p><i>Other staff as required</i></p>	<p><b>Tiffany Tuominen</b> <i>Manager of Customer Service</i></p> <p><i>Other staff as required</i></p>
<b>CORPORATE SUPPORT</b>	<p><b>Waldeep Singh</b> <i>Executive Sponsor</i></p>	<p><b>Goran Obradovic</b> <i>Product Development</i></p>	<p><b>Steve Moreland</b> <i>Manufacturing and Delivery</i></p> <p><b>James Hoover</b> <i>Printer Liaison General Project Support</i></p>

000511

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**9.9 Project Plan**

The Contractor will carry out this project under the direction and control of the State Program Manager. Within 30 calendar days of the Effective Date, the Contractor will submit a project plan to the Program Manager for final approval. The plan must include: (a) the Contractor's organizational chart with names and titles of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

000512

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**Exhibit 1 to Schedule A**

**Federal Voting System Testing / Certification Matrix**

Contractor has provided the following detailed information on currently certified voting systems and the voting system(s) for use in Michigan.

**Definitions:**

- EAC: United States Election Assistance Commission
- VSTL: Voting System Test Laboratory, accredited by the US Election Assistance Commission
- Currently Certified System(s) (Table A): These are your company’s end-to-end voting system(s) for which EAC certification has already been obtained, if any.
- Michigan Proposed Voting System Configuration (Seeking Federal Certification) (Table B): This is the end-to-end base voting system proposed for use in Michigan, if the proposed Michigan system has not yet obtained EAC certification.
- Proposed Modification to Base Michigan Voting System Configuration (Table C): Voting system that allows for secure electronic transmission of unofficial Election Night results from the precincts to the local counties/jurisdictions and the State. If the base voting system proposed for Michigan (Table A or B) allows for electronic transmission, please state this in your response, and leave Table C blank.

**A) Currently Certified System(s)**

Does your company have an existing end-to-end voting system that has completed Federal testing and the U.S. Election Assistance Commission (EAC) certification process? For these purposes, an end-to-end voting system includes use of a paper ballot, tabulator, accessible voting device (for use by individuals with disabilities) and related Election Management System (EMS) software.

Yes

No

If you answered “Yes”, complete the following table to provide information on your company’s currently-certified system(s) that utilize a paper ballot – attach additional tables/pages if necessary. If you answered “No”, proceed to Table B:

	<b>Contractor Response</b>
<b>Product / System Name</b>	Democracy Suite 4.14-D
<b>Model or Version #</b>	4.14-D
<b>Components</b> – list all system components of the currently certified end-to-end voting system(s) as described above, including Software/Firmware version or Hardware version of each component. Add lines if necessary, or provide a separate attachment, clearly labeled ‘CURRENTLY CERTIFIED VOTING SYSTEM COMPONENTS’	Please see pp. 7-9 in the attached EAC Scope of Certification document for Democracy Suite 4.14-D.
<b>Name / Location of VSTL</b>	National Technical Systems, Huntsville, AL
<b>Date VSTL testing completed</b>	October 20, 2014
<b>Date EAC certification issued</b>	November 25, 2014
<b>EAC Certification Number</b>	DVS-DemSuite4.14-D
<b>List the U.S. state(s) in which this system is in use, if any</b>	Iowa, Minnesota, Missouri, Nevada, New York, Ohio, Puerto Rico, Tennessee, Washington, Wisconsin, Utah

000513

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<p><b>Is a currently-certified system proposed for use in Michigan?</b></p>	<p>Yes <input type="checkbox"/>      No <input checked="" type="checkbox"/></p> <p>If 'Yes', list the model or version number proposed for use in Michigan:</p> <p>_____</p> <p>If 'No', complete Table B.</p>
---	--

**B) Michigan Proposed Voting System Configuration (Seeking Federal Certification)**

Provide information on the base voting system proposed for use in Michigan, if Federal certification has not yet been obtained:

	<b>Bidder Response</b>
<b>Product / System Name</b>	Democracy Suite 5.0
<b>Model or Version #</b>	5.0
<b>Components</b> – list all system components of the proposed base Michigan voting system configuration, including Software/Firmware version or Hardware version of each component. Add lines if necessary, or provide a separate attachment, clearly labeled 'PROPOSED BASE MICHIGAN VOTING SYSTEM COMPONENTS'	Please see the attached D-Suite 5.0 System Configuration List document for details on the system components of the proposed base Michigan voting system configuration.
<b>Name / Location of VSTL</b>	Pro V&V, Huntsville, AL
<b>VSTL Testing Status*</b>	<p>Complete 1 OR 2 below:</p> <p><b>1) VSTL testing completed:</b> <u>December 1, 2017</u> Date</p> <p><b>2) VSTL testing not yet complete:</b></p> <p>a) Date submitted or will be submitted to VSTL: _____</p> <p>b) Estimated VSTL testing completion date: _____ This estimated date was determined / provided by (check one): Vendor <input type="checkbox"/>                      VSTL <input type="checkbox"/></p> <p>c) Current status (summarize, in detail, the proposed system's status with respect to VSTL testing): <b>Dates and testing status updates can be provided on a bi-weekly basis after submission of this bid.</b></p>
<b>EAC Certification Status*</b>	a) Date submitted or will be submitted to EAC: <u>April 15, 2016</u>



000515

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<p>and proposed MODIFICATION TO BASE SYSTEM</p>	<p>The ImageCast Listener add-on component incorporates with the Democracy Suite EMS Server and adds a dedicated server, using an encrypted TCP/IP-based protocol, to receive results data. An industry-standard firewall appliance is used to isolate the EMS network from the external network.</p> <p>Both ImageCast Precinct tabulators and the Results Transfer Manager module communicate with the ImageCast Listener server. The Results Transfer Manager can also transmit data to shared folders on a network.</p> <p>The ImageCast Precinct model 321-C contains an internal dial-up modem; wireless 3G modems are available as external devices. The ImageCast Precinct requires a different Device Configuration File to enable the results transmission capabilities. <b>No other functional differences exist between the two versions.</b></p>
---	---

\*NOTE: If VSTL report has been issued, also attach the report.

000516

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**Exhibit 2 to Schedule A**

**Technical Requirements**

**See separate Excel spreadsheet document.**

000517

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**Exhibit 3 to Schedule A**  
**Preventative Maintenance Checklists**

000518

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## ImageCast Precinct Sample Preventative Maintenance Checklist



Image Cast Precinct Optical Scanner  
Maintenance Checklist  
Version 2.1

Serial # \_\_\_\_\_ Printer Serial # \_\_\_\_\_  
Date: 8/13/2015 Tech: John Keefer

Step #	Description	Expected Results	Pass	Fail	Comments
<b>Inspection Stage</b>					
1	Inspect ICP-BMD	No scratches, dents or cracks			
2		ICP has all labels/ No Extra			
3		CF Card, AVS, Ports, and Printer Doors			
4		Headphones, ATI and cables Present			
5		Approved AC/DC Power Adapter Present			
<b>Power Up, and Verification</b>					
6	System Power Up	Insert 2 CF cards with FN Election			
7		Connect ATI, Headphones and Printer			
8		Verify Paper Roll and Print Cart. Loaded			
9		Connect Approved AC/DC Power Adapter			
10		LCD Software Version	NA	NA	Version:
11		Loader Software Version	NA	NA	Version:
12		O/S Software Version	NA	NA	Version:
13		Verify Correct Time and Date			
<b>Diagnostics</b>					
14	Complete Diagnostics	Clean Scan Heads with Cleaner Ballot			
15		Enter Diagnostics Mode			
16		Run Complete Diagnostics			
17		Memory Diagnostics			
18		Compact Flash Diagnostics			
19		EEPROM Diagnostics			
20		Thermal Printer Diagnostics			
21		LCD Diagnostics			
22		ATI Diagnostics			
23		Audio Diagnostics			
24		USB Printer Diagnostics			
25		Internal Clock Diagnostics			
26		Power Diagnostics			
27		Unplug AC Adapter	NA	NA	
28		Insert Blank Ballot/Scanner Diagnostics			
29		Observe Battery Status			
30		Print Diagnostic Report			
31		Exit Diagnostics and Restore AC Power			
<b>Functionality</b>					
32	Election Project Testing	Open Polls and Print Status Report			
33		Verify Ballots cast are Zero			
34		Insert 1 OV Ballot, Override Warning			
35		Insert 1 Blank Ballot, Override Warning			
36		Insert 1 Wrong Pct. Ballot, Try to Override			
37		Insert 1 Marked Ballot from ADA Session			
38		Process Remainder of Test Deck			
39		Close Polls, Verify Results, Re-Zero			
40		Power Down and Store Unit			

Please list any repairs or required follow-up:

---



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---

Tech: John Keefer \_\_\_\_\_ Signature of Clerk/Auditor \_\_\_\_\_

000519

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## ImageCast Central Sample Preventative Maintenance Checklist



ImageCast Central Count  
Maintenance Checklist  
Version 2.1

Serial: \_\_\_\_\_  
Date: 8/13/2015 \_\_\_\_\_ Tech: \_\_\_\_\_

Step #	Description	Expected Results	Pass	Fail	Comments
<b>Inspection Stage</b>					
1	Inspect ICC	No scratches, dents or cracks			
2		ICC has all labels/ no extra			
3		USB Cable Type A to Type B present			
4		Approved AC/DC Power adapter present			
5		Laptop with current ImageCast Central			
6		ibutton Reader/Writer			
<b>Power Up</b>					
7	System Power Up	Connect USB cable to scanner/laptop			
8		Connect ibutton reader to laptop			
9		Connect AC adapter to scanner			
10		Connect AC adapter to laptop			
11		Power Up Scanner before laptop			
12		Power on laptop			
13		Insert FN ibutton			
14		Connect AC adapter to scanner			
15		Connect AC adapter to laptop			
16		Power Up scanner before laptop			
17		Power on laptop			
18		Insert FN ibutton			
19	Open Image Cast Central Software				
<b>Cleaning</b>					
20	ICC Cleaning	Clean scanner exterior			
21		Clean Document Feed Inlet			
22		Clean Transport Path			
23		Clean Sensors Top and Bottom			
24		Open Upper Unit, clean scanning glass			
25		Remove pickup, feed, and retard rollers			
26		Clean pad on retard roller cover			
27		Clean rollers and re-install			
28	Close scanner				
<b>Election Project Testing</b>					
29	Scanning	Load Famous Names Election			
30		Load FN ICC Test Deck			
31		Navigate to <b>CONFIGURATION</b>			
32		Hit <b>Scan options</b>			
33		Deselect all Stop Scan on options			
34		Select <b>Continuous Scan</b>			
35		Select <b>Only one scan per batch</b> , hit <b>OK</b>			
36		Return to <b>SCANNING</b> hit <b>SCAN</b>			
37		After scanning hit <b>ACCEPT BATCH</b>			
38		Navigate to FN Election Folder			
39		Verify images are clear and accurate			
40		Navigate to <b>CONFIGURATION</b>			
41		Hit <b>CLOSE TABULATOR</b> , click <b>OK</b>			
42		Navigate to <b>STATUS</b>			
43		Click <b>SHOW RESULTS</b>			
44		Verify totals			
45		Shutdown software, scanner, then Laptop			

Please list any required follow-up:  
\_\_\_\_\_  
\_\_\_\_\_

Tech: 0 \_\_\_\_\_ Signature of Clerk/Auditor \_\_\_\_\_

000520

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**DOMINION ICX PREVENTATIVE MAINTENANCE CHECKLIST**  
**SID-XXV**  
 Preventative Maintenance Checklist

<b>Items to Test / Inspect</b>	<b>OK</b>	<b>Not OK</b>	<b>Notes</b>
<b>1. Top Door (Larger)</b>			
A. Confirm Hinges Swing Freely	<input type="radio"/>	<input type="radio"/>	
B. Inspect/Test Magnet on Side of Door for Proper Operation	<input type="radio"/>	<input type="radio"/>	
C. Inspect Hasp/Staple for Proper Operation	<input type="radio"/>	<input type="radio"/>	
D. Inspect USB & MicroSD Connectors	<input type="radio"/>	<input type="radio"/>	
<b>2. Battery Inspection</b>			
A. Inspect Battery PCB Connection with Battery	<input type="radio"/>	<input type="radio"/>	
B. Inspect Battery is Secure Under Bracket	<input type="radio"/>	<input type="radio"/>	
C. Inspect Battery PCB Cable Connection to Main Unit	<input type="radio"/>	<input type="radio"/>	
<b>3. Bottom Door (Smaller)</b>			
A. Confirm Hinges Swing Freely	<input type="radio"/>	<input type="radio"/>	
B. Inspect/Test Magnet on Side of Door for Proper Operation	<input type="radio"/>	<input type="radio"/>	
C. Inspect Hasp/Staple for Proper Operation	<input type="radio"/>	<input type="radio"/>	
D. Inspect Cable Routing through Plastic Bushing	<input type="radio"/>	<input type="radio"/>	
E. Confirm DC-IN Power is Properly connected to Main Unit	<input type="radio"/>	<input type="radio"/>	
<b>4. VESA Stand / General</b>			
A. Inspect Cable Routing Inside I/O Cover	<input type="radio"/>	<input type="radio"/>	
B. Inspect Cables for Any Wear or Damage	<input type="radio"/>	<input type="radio"/>	
C. Inspect Card Reader in Base (Front)	<input type="radio"/>	<input type="radio"/>	
D. Confirm System can Tilt on Stand	<input type="radio"/>	<input type="radio"/>	
<b>5. Electrical / Technical</b>			
A. Confirm Main Power Cable Connection Between Base and Outlet	<input type="radio"/>	<input type="radio"/>	
B. Confirm Button under Bottom Door Turns Green when Power is Applied	<input type="radio"/>	<input type="radio"/>	
C. Confirm the LCD Touch is Functional	<input type="radio"/>	<input type="radio"/>	
D. Confirm the Battery is Fully Charged and has at Least 2 Hours of Runtime Available. If not, it is Recommended to Replace the Battery (Refer to Battery Test Procedure)	<input type="radio"/>	<input type="radio"/>	
E. Confirm Input Connectors Functionalities (I.e. USB's, LAN, Audio, etc.)	<input type="radio"/>	<input type="radio"/>	

000521

**Exhibit 4 to Schedule A**  
**Voting System Description**

## Table of Contents

[Paper Ballot – Providing a Permanent Record of Voter Intent](#) .....70

[Highlights](#) .....70

[Ballot artwork](#).....71

[Ballot artwork – Optical Scan Paper Ballots](#) .....71

[Ballot artwork and style – ImageCast X electronic ballot and Verifiable Choice Summary Ballots](#).....71

[Optical Scan Paper Ballot](#).....72

[ImageCast X Verifiable Choice Summary Ballot](#) .....73

[Ballot Printing](#) .....74

[Ballot Printing – Optical Scan Paper Ballots](#).....74

[Ballot Printing – ImageCast X Verifiable Choice Summary Ballots](#) .....74

[Ballot Printer Qualification](#) .....74

[Ballot Paper](#).....74

[ImageCast Security Paper](#).....75

[Sample Ballots](#) .....75

[Democracy Suite Election Management System – The engine that powers your entire election](#) .....76

[Highlights](#) .....77

[Benefits of Democracy Suite](#) .....78

[Election Event Designer](#) .....79

[Results Tally and Reporting](#).....80

[Core Technology - Ensuring Accurate & Transparent Elections](#) .....82

[Highlights](#) .....82

[Dual Threshold Technology \(Marginal Marks\)](#) .....83

[Dominion’s Exclusive Digital Ballot AuditMark](#) .....84

[Hand-marked Ballot Image with Audit Trail:](#) .....84

[Verifiable Choice Summary Ballot Image with Audit Trail:](#).....85

[The AuditMark Advantage](#).....86

000522

CONTRACT #071B7700117



[ImageCast Precinct – The world’s most reliable optical scan tabulator](#) .....87

[Highlights](#) .....87

[Standard features](#) .....88

[Sample ImageCast Precinct Screenshots](#).....90

[ImageCast Precinct Report Tapes](#).....92

[ImageCast Precinct Zero Tape](#) .....92

[ImageCast Precinct Results Tape](#).....94

[ImageCast Precinct Simple and Complete Diagnostics Reports](#) .....96

[ImageCast Precinct Tabulator Information Report](#).....97

[ImageCast Precinct Sample Preventative Maintenance Checklist](#) .....64

[ImageCast Ballot Box](#).....99

[Standard Features](#).....99

[ImageCast X – It’s everything you want it to be](#).....100

[Highlights](#) .....100

[Accessibility](#).....104

[ImageCast Central – Scalable & Efficient High Speed Scanning](#).....106

[Highlights](#) .....106

[ImageCast Central Reports](#).....108

[ImageCast Central Sample Preventative Maintenance Checklist](#) .....65

[Mobile Ballot Printing Module](#).....110

[Highlights](#) .....110

[Results Accumulation](#).....112

[Method 1 – Returning memory cards from each tabulator to the Elections Office](#) .....112

[Method 2 – Dial-up and Cellular Modem transmission](#).....112

[ImageCast Listener](#).....114

[Method 3 – Results Transfer Manager](#).....115

[Election Night Reporting](#) .....116

[Electronic Ballot Delivery – Dominion’s ImageCast Remote \(UOCAVA\)](#) .....118

[System Security Overview](#) .....119

[Maintaining Data Integrity](#) .....119

[EMS Security](#).....119

[Role-based Access Controls](#) .....119

000523

CONTRACT #071B7700117



[Hardware Access Controls](#) .....120

[Communications](#).....120

[Effective Password Management](#) .....120

[EMS Audit Log](#) .....121

[Tabulator Security](#) .....122

[Electronic Safeguards and Security](#) .....122

[Internal Battery](#) .....122

[Results Storage Media](#).....123

[Media Storage Security](#).....123

[Tabulator Audit Trail](#).....124



## Paper Ballot – Providing a Permanent Record of Voter Intent

### Highlights

- Dominion's Democracy Suite Election Management System (EMS) creates **tabulator-ready PDF optical scan ballot artwork files** and **election files for the ImageCast X and ImageCast Precinct**.
- These optical scan paper ballot artwork files are full-sized press-ready ballots generated in industry-standard PDF format and containing **all required ballot elements and the unique ballot ID barcode** that distinguishes each ballot style.
- A range of modern printing technologies can easily print ImageCast optical scan and verifiable choice summary ballots.
- The optical scan paper ballot is 8.5" inch wide and can vary between 11"-22" in length. It can be printed in four colors and has been tested and **certified for use up to its maximum length of 22"**. The ImageCast X prints a verifiable choice summary ballot that is 8.5" wide and 11" in length.
- The optical scan paper ballot can also be **double sided and, if necessary, can be made up of multiple pages** to accommodate a ballot with offices and candidates that might exceed one double-sided page.
- Dominion also offers **optional infrared security paper** for additional peace of mind.



## **Ballot artwork**

### **Ballot artwork – Optical Scan Paper Ballots**

Dominion's Democracy Suite Election Management System (EMS) creates tabulator-ready PDF ballot artwork files for hand-marked ballots. Ballot artwork files are created as complete ballot images, without trim lines or crop marks, and are designed to directly print on digital 4-color sheet-fed xerographic or other electro-photographic printers (most B-sized laser printers). Ballot artwork is generated in industry-standard PDF format and CMYK color space. Ballot artwork files are full-sized press-ready ballots containing all required ballot elements and the unique ballot ID barcode that distinguishes each ballot style. Each file contains one or two ballot images: a front image (if the ballot is single-sided) or paired front and back ballot images. All fonts used in the ballot artwork are embedded in the PDF file. Ballot artwork files are digitally-signed (X.509) and tied to the election project files produced by Democracy Suite EMS to allow for authentication and revision control.

### **Ballot artwork and style – ImageCast X electronic ballot and Verifiable Choice Summary Ballots**

Dominion's Democracy Suite Election Management System (EMS) creates the electronic ballots for the ImageCast X as well as the verifiable choice summary ballots that are printed at the end of the voting session on the ImageCast X. The verifiable choice summary ballot PDF files are generated for each ballot style with ballot headers only, and the voter's choices are printed once they have completed their voting session on the ImageCast X.

000526

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Optical Scan Paper Ballot

**OFFICIAL BALLOT / BOLETA OFICIAL**  
 GENERAL ELECTION / ELECCIONES GENERALES  
 FAMOUS COUNTY, CALIFORNIA / CONDADO DE FAMOSO, CALIFORNIA  
 MARCH 16, 2010 / 16 DE MARZO DE 2010

**IMPORTANT INSTRUCTIONS TO VOTERS** - To vote, COMPLETELY fill in the oval (as shown in the picture) to the right of your choice. Use BLUE or BLACK ink only. DO NOT use RED INK. In order to vote for a qualified write-in candidate, PRINT the name of the candidate in the blank space provided at the bottom of the contest, and COMPLETE THE OVAL FOR THE WRITE-IN AS WELL. Vote only for as many candidates as indicated. If you vote for too many candidates (overvote), or make a mistake on your ballot, return the spoiled ballot to a poll official and you will be issued a new one.

**INSTRUCCIONES IMPORTANTES PARA LOS ELECTORES:** Para votar, complete **TOTALMENTE** el óvalo (según las indicaciones del cuadro) a la derecha de su opción. Utilice la tinta AZUL o NEGRA solamente. No utilice la TINTA ROJA. Para votar por un candidato inscrito calificado, IMPRIMA el nombre del candidato en el espacio en blanco proporcionado en la parte inferior de la competencia, y **RELLENE EL ÓVALO PARA EL VOTO TAMBIÉN**. Vote solamente por tantos candidatos según lo indicado. Si usted vota por demasiados candidatos (sobrevoto), o incurre en una equivocación en su balota, vuelva la balota estropeada a un funcionario de la encuesta y le darán una nueva.

**VOTE BOTH SIDES OF BALLOT / VOTE EN AMBOS LADOS DE LA BOLETA**

FEDERAL	STATE - ESTADO	SCHOOL - ESCUELA
<b>PRESIDENT AND VICE PRESIDENT</b> PRESIDENTE Y VICEPRESIDENTE Vote For 1 Party / Voto por 1 partido JACK BENNY for Vice President / por Vicepresidenta E. ROCHESTER ANDERSON for Vice President / por Vicepresidenta FRED ASTAIRE for President / por Presidente GUNNER ROSENBERG for Vice President / por Vicepresidenta WRITE-IN / INSISTIDO	<b>MEMBER, STATE ASSEMBLY</b> MIEMBRO DE LA ASSEMBLEA ESTATAL DISTRICT 8 / DISTRITO 8 Vote For 1 / Voto por 1 RICARDO MONTALBAN for President / por Presidente DEAN MARTIN for Vice President / por Vicepresidenta WRITE-IN / INSISTIDO	<b>MEMBER, FAMOUS COUNTY BOARD OF EDUCATION</b> MIEMBRO DEL CONEJO DE EDUCACION DE CONDADO FAMOSO Vote For No More Than 4 / Voto por no más de 4 NATALE WOOD for Vice President / por Vicepresidenta EWA GABOR for Vice President / por Vicepresidenta REDD FOX for Vice President / por Vicepresidenta BOB DENVER for Vice President / por Vicepresidenta JOHNNY CARSON for Vice President / por Vicepresidenta YUL BRYNNER for Vice President / por Vicepresidenta MARLON BRANDO for Vice President / por Vicepresidenta INGRID BERGMAN for Vice President / por Vicepresidenta
<b>UNITED STATES REPRESENTATIVE</b> REPRESENTANTE DE LOS ESTADOS UNIDOS DISTRICT 1 / DISTRITO 1 Vote For 1 / Voto por 1 SPENCER TRACY for President / por Presidente TED KNIGHT for Vice President / por Vicepresidenta WRITE-IN / INSISTIDO	<b>JUDICIAL</b> JUDGE OF THE SUPERIOR COURT JEFE DEL TRIBUNAL SUPERIOR SEAT 2 / OFICINA NUMERO 2 Vote For 1 / Voto por 1 ART CARNEY for President / por Presidente HUMPHREY BOSART for Vice President / por Vicepresidenta WRITE-IN / INSISTIDO	<b>CITY - CIUDAD</b> MAYOR OF SILVER CITY JEFE DE SILVER CITY Vote For 1 / Voto por 1 RICHARD MULLIGAN for President / por Presidente BURT LANCASTER for Vice President / por Vicepresidenta WRITE-IN / INSISTIDO

Fold Line

Fold line is centered between ballot markers

Fold Line

Panel length more than 3.5"

Fold Line

Fold line does not "touch" voter response position

Fold Line

Example of Fold Line placement

000527

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### ImageCast X Verifiable Choice Summary Ballot

**Ballot Header:**

Contains relevant election event information as well as the ballot style



**2D Barcode:** The voter's choices are encrypted and digitally signed in the barcode. This barcode can only be scanned and decrypted by an ImageCast Tabulator.



**Verifiable Choice Summary:** The ballot contains a list of all contests and a summary of the voter's selections and non-selections (undervote or blank contest).



Ballot Style: 109	
<b>Official Ballot</b> <b>City and County of Denver</b> Municipal General Election Tuesday, May 3, 2011	Boleta Oficial de Votación Ciudad y Condado De Denver Elección General Municipal 3 de mayo del 2011
	
Office of Mayor Vote for Doug Linkhart Office of Auditor Vote for Dennis Gallagher Office of Clerk and Recorder BLANK CONTEST Office of Councilmembers At-Large BLANK CONTEST Office of Councilmember District 2 BLANK CONTEST	



## **Ballot Printing**

### **Ballot Printing – Optical Scan Paper Ballots**

ImageCast paper ballots can be easily printed by a range of modern printing technologies.

- Small quantities of tabulator-ready ballots can be printed with a conventional B-size laser printer (600 dpi min., pre-calibrated), directly onto pre-cut blank ballot stock. ImageCast ballot artwork files are pre-configured for this use. In-house laser printing of ImageCast proofing and test ballots allows a jurisdiction to quickly and easily test the Democracy Suite EMS election project setup and tabulation options.
- Most jurisdictions choose a Dominion-certified print vendor to produce the ballots that will be used for their election. ImageCast ballots are produced by conventional offset lithographic presses, or high-speed digital xerographic or other electro-photographic presses.
- Ink jet printers, from small desktop units to high-speed web print engines, have produced millions of ImageCast ballots.

Common to all successful ballot printing methods is the strict adherence to Dominion's ImageCast ballot specifications, which have been provided to the State of Michigan as part of this RFP response.

### **Ballot Printing – ImageCast X Verifiable Choice Summary Ballots**

The ImageCast X comes with a commercial off-the-shelf conventional laser printer that prints the verifiable choice summary ballot at the end of the voting session. The Canon LBP151dw laser printer is currently used with the ImageCast X.

### **Ballot Printer Qualification**

Dominion licenses and qualifies ballot printers to produce and sell ballots for Dominion ImageCast tabulators. Dominion will be happy to work closely with a ballot printer of the counties' choice to ensure they receive the qualification and are able to print Dominion's licensed ImageCast optical scan paper ballots.

The printer training and qualification program is designed to ensure the production of high quality ballots, with low defect rates and high-levels of customer satisfaction. Qualification includes on-site ballot production instruction, ballot inspection procedures and tools, ballot QA programs and ballot printing tests. The program offers a fair and open ballot printer training and certification process, geared for range of commercial or governmental print operations. Dominion encourages customers to require the use of certified ballot printers for all print contracts.

### **Ballot Paper**

The text and cover paper stocks that have been tested and approved for manufacturing ImageCast optical scan paper ballots are:

000529

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Approved Papers			
- Cascades Fine Paper - International Paper	- Rolland Opaque 50 - Accent Opaque	80# and 100# Text	Bright White, Smooth Finish
- Cascades Fine Paper - International Paper	- Rolland Opaque 50 - Accent Opaque	65# cover	Bright White, Smooth Finish

We recommend 100# text paper stock for use with the ImageCast X.

**ImageCast Security Paper**

Dominion’s custom ballot authentication system is built around an (optional) secure ballot paper stock and in-tabulator authenticators that include:

- Custom ballot stock that incorporates an invisible infrared-reactive agent, built into the paper as it is manufactured.
- Matching non-contact paper sensor/authenticators are built into the ImageCast tabulators.

This combination of technologies assures that:

- Secure ballots cannot be counterfeited or duplicated, yet can be simply printed by our certified printers and by our customers.
- An ecologically-sound paper product will put us in the vanguard of responsible paper users.

**Additional Security Paper Features:**

- Special coating to improve toner adhesion
- Reduced porosity to limit pen bleed-through
- Binders to limit curl induced by xerographic printers
- Improving fold tear strength
- Improving ballot stacking

**Sample Ballots**

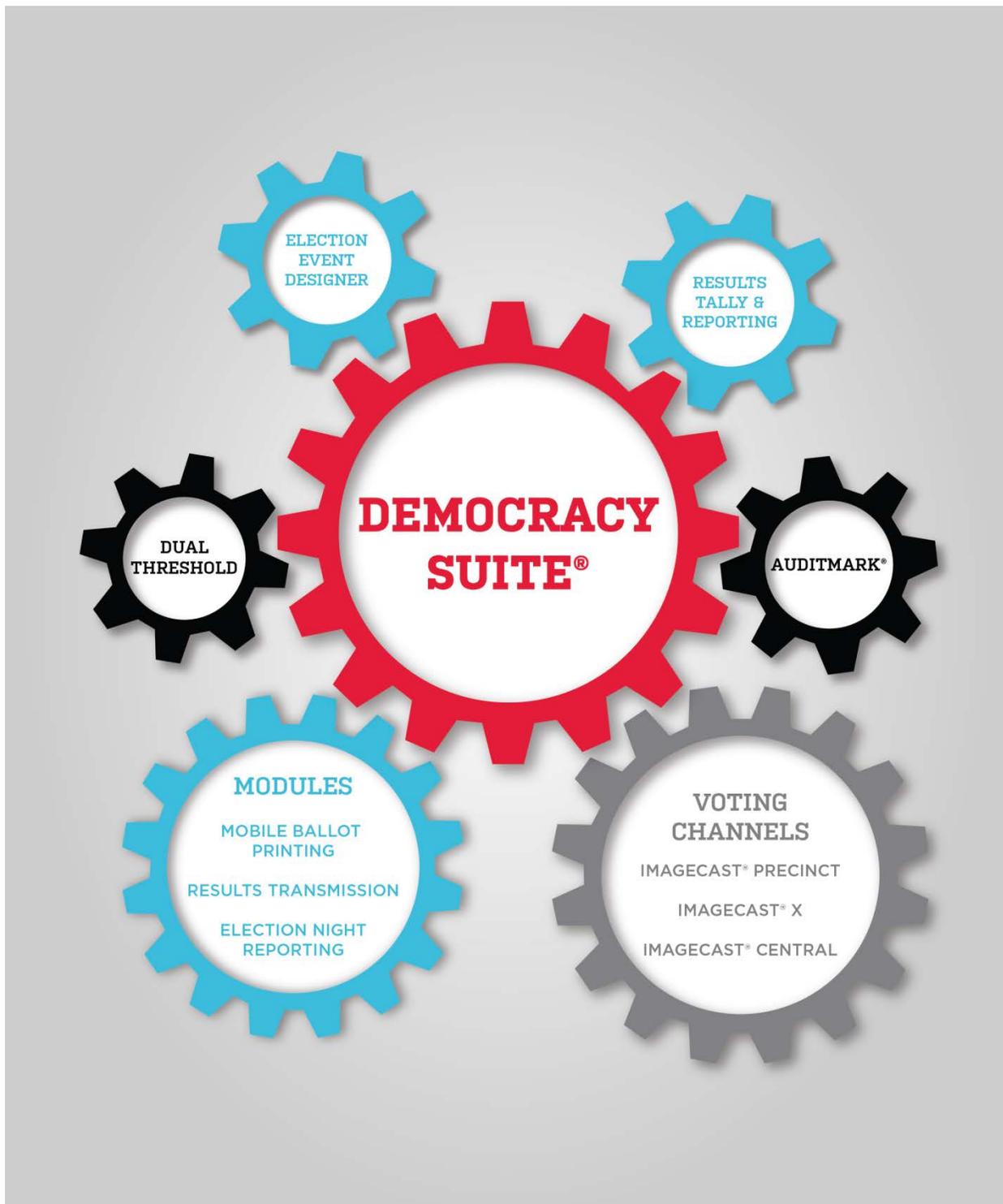
Sample ballots can be found in Appendix 2 – Sample Ballots and Reports

000530

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**Democracy Suite Election Management System – The engine that powers your entire election**





## Highlights

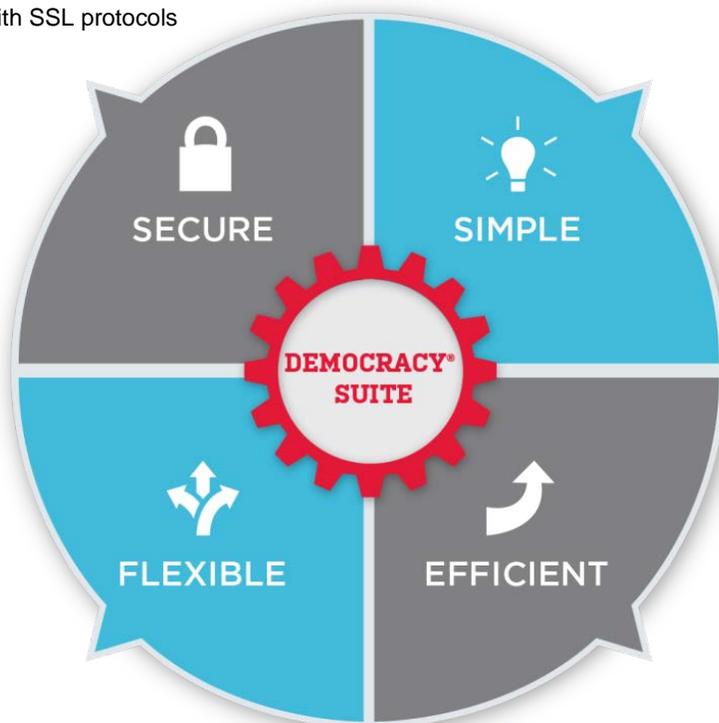
- Democracy Suite powers the entire voting system out of a **single comprehensive database**, with all the tools needed to simplify and streamline the process.
- All voting channels – whether absentee ballots, accessible voting, or precinct-based voting – are supported and powered by Democracy Suite.
- All pre-election and post-election tasks take place out of the same database – from ballot programming to results reporting on Election Night, **Democracy Suite is a complete, end-to-end elections solution.**
- It is designed to **suit the needs and requirements of jurisdictions large and small**, and can be easily scaled to support any size jurisdiction.
- The **counties will be equipped with Dominion’s Democracy Suite Election Management System**, which is comprised of several modules to manage an election project from start to finish. Democracy Suite is composed of two main modules:
  - Through the **Election Event Designer (EED)**, the election definitions of each jurisdiction such as districts, races, and candidates can be input or imported. The Election Data Translator utility allows the import of the election definition from the Michigan QVF file further simplifying the election definition process for the County Administrator.
  - Through the **Results Tally and Reporting (RTR)**, the counties can easily and quickly receive and accumulate election results from their precincts and rapidly report them to the State for accumulation and distribution of State-wide election results. The module exports results in a data format compliant with the Michigan Standard Results File Format.
- The system allows for the **configuration and creation of a wide range of reports** that can be easily accessed or customized.



## Benefits of Democracy Suite

The Democracy Suite technology platform delivers an improved experience for the voter, long-term sustainability, operational efficiencies, transparency and cost-savings.

- Designed to meet the latest EAC VVSG requirements with industry leading FIPS 140-2 compliant security protocols
- Complete end-to-end system auditability
- Symmetric and asymmetric encryption for data confidentiality
- All communications channels are encrypted with SSL protocols
- Reduced complexity for election officials, as programming and results consolidation takes place out of a single unified database
- With easy-to-use, intuitive user interfaces across the entire product line, your staff and poll workers are able to confidently carry out the tasks in their workflow
- Improved and user-friendly experience for voters



- Capable of handling many types of elections, voting rules (i.e. straight party, open or closed primaries, etc.), and a range of jurisdiction sizes
- A diverse range of EMS modules and voting channel singular devices with flexible configurations to meet jurisdictional needs
- Built-in tools to help you simplify and streamline your process, increase productivity, and save you time and money
- Save and re-use ballot templates, election event definitions, and report templates so you can quickly and easily generate future election projects



## Election Event Designer

The Election Event Designer module manages all of the information needed to define an election. Definition of an election is a complex task, and the event definition module allows for the easy entry and tracking of districts, precincts, contests, candidate names, voting locations and ImageCast tabulators. Election Event Designer allows jurisdictions to choose from a variety of language options for an election project.

Election definition data may be entered manually, or imported using the Election Data Translator utility. The Election Data Translator utility allows the import of the election definition from the Michigan QVF file further simplifying the election definition process for the County Administrator. Election definition data from may be exported or copied from prior election databases to speed up the process of coding subsequent elections. Sample Election Data Translator import files can be found in Appendix 2a – Sample Election Data Translator Imports.

Election Event Designer uses the County's geopolitical and election event data to automatically calculate the required ballot styles and generate full-sized press-ready ballots in industry-standard PDF format. EMS lays out contests on the ballot in the most space-efficient manner possible, in order to minimize printing costs. Election Event Designer offers extensive options for ballot styling with full user control - choose fonts, line weights, number of columns, multiple languages, multi-card or double-sided, landscape or portrait-style, variety of voting target options, colored headers, etc. A unique ballot ID barcode distinguishes each ballot style. The ballot is 8.5" wide and can vary between 11"-22" in length.

The ballot can be double sided and, if necessary, can be made up of multiple pages (up to 15) to accommodate a ballot with offices and candidates that might exceed one double-sided page. ImageCast Optical Scan Ballots can be easily printed by a range of modern printing technologies. All fonts used in the ballot artwork are embedded in the PDF file and ballot artwork files are digitally-signed (X.509) and tied to the election project files produced by Democracy Suite EMS to allow for authentication and revision control.

The EMS system uses Cepstral, a third-party text-to-audio synthesizer, to automatically generate audio ballots for the ImageCast X Ballot Marking Device. Users also have the option to import human-recorded audio, with or without the help of the EMS Audio Studio module, or fine tune pronunciation of the synthesized audio using Cepstral's Swifftalker application. The system outputs audio ballots (PNG images, SPX audio files and XML definition files), definition reports (XML, Excel or HTML files), and election definition files required to program the ImageCast Precinct, ImageCast X, and ImageCast Central.

The ImageCast Precinct tabulators are defined and configured in the Election Project and these parameters are passed to the voting machines via the election files on the



Compact Flash memory card. Tabulators are automatically configured to know which ballot styles to accept, how the unit should interact with voters and where results files are uploaded. The poll worker only needs to follow the Election Day procedures established by the County and never needs to make a decision regarding the tabulator's settings at the voting location.

The ImageCast X Ballot Marking Devices are also defined and configured in the Election Project and these parameters are passed to the ImageCast X devices via the election files on a USB. The ImageCast X will store all available ballot styles, and will present the correct ballot style to the voter when the voter inserts their Smart Card and activates the voting session. No results are stored on the ImageCast X. The ImageCast X prints a paper Verifiable Choice Summary Ballot at the end of the voting session, which the voter inserts into the ImageCast Precinct. All results files are stored on the ImageCast Precinct.

Sample Election Event Designer reports can be found in Appendix 2b – Sample Election Event Designer Reports.

## **Results Tally and Reporting**

The EMS Results Tally and Reporting (EMS RTR) module is used on Election Night upon close of polls to accumulate results from tabulators and generate results reports. The application allows for the direct transmission of results to the ImageCast Listener server from the precinct or the AVCB through secure wireless or dial-up modem transmission, or from a designated hub using the Results Transfer Manager. For more information on transmission options, please see the Results Accumulation section below.

For the EMS RTR module, inputs represent encrypted and signed election result files (proprietary format), log files (plain text) and scanned ballot images with AuditMark, produced by the Precinct and Central tabulators (PNG and TIFF images). Outputs represent a variety of election result reports, as well as auditing information (XML, HTML, CSV, MS Excel and PDF formats).

The program automatically uploads the result files into the results tally module, and consolidated results are verified, tabulated, and published. Once the vote data is uploaded into the result tally module, the flow of results to the public and media can be controlled.

RTR allows election officials to review the results before releasing them, and the system provides a number of reporting methods, including but not limited to Summary and Precinct-level (Statement of Votes Cast) result reports. In addition to the static, pre-defined reports found in most reporting systems, RTR's Summary and Precinct-level reports use the Microsoft SQL Server Reporting Services engine to offer maximum flexibility to user. These reports feature a variety of configurable options and filters,

000535

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including detailed breakdowns of provisional ballots cast, ballots cast during early voting, on Election Day, and by mail. Election administrators may use the default settings, or configure the data fields included in the reports depending on the target audience. Reports may be filtered by precinct, district, contest, tabulator, or voting location, to narrow in on specific results data of interest contained within the election database.

RTR features a one-click results export in CSV format that is fully compliant with the Michigan Standard Results File Format. In addition, the module features numerous export types for compatibility with third-party web-based Election Night Reporting software. As is currently the case in states such as Florida and New Mexico – which also have state-standardized export formats - Dominion will stay current and compliant with the Michigan Bureau of Elections' evolving standard, and releases updates to the export file as the standard changes. After approval from the Bureau of Elections, an independent update file is easily imported into the EMS Server, eliminating the need for recertification or reinstallation of the entire application.

Sample Results Tally and Reporting reports can be found in Appendix 2c – Sample Results Tally & Reporting reports.



## Core Technology - Ensuring Accurate & Transparent Elections

### Highlights

- The Democracy Suite Election Management System handles all activities related to your election. It produces ballots and tabulator information, and is enhanced by Dominion's Core **Dual Threshold and AuditMark technologies**.
- Dual Threshold technology has a user-defined low and high marginal mark threshold to ensure that each and every voter's ballot will be read the same every time. If a voter does not properly fill in the oval while marking their ballot and their oval mark falls in the marginal mark zone, the system will inform the voter of the Marginal Mark and the **onus of clearly defining their intent is on the voter**, not the Election Official.
- The AuditMark auditing system is, however, what makes the Dominion difference and sets us apart from other vendors in this industry. **It is the only system that digitally stores an image of every ballot cast along with a record of how the ImageCast tabulator interpreted each vote**, ensuring a completely transparent and auditable election.
- Administrators find it a great comfort when reviewing ballot images during recounts and every image is accompanied by this **clear, digital, human-readable AuditMark record**.
- We take particular pride in this unique feature, because it demonstrates how seriously Dominion takes **our policy of being 100% accountable** for each and every vote cast.

Dominion Voting Systems has invested in the development of proprietary technology that truly sets its products apart from the competition. Dominion's core technologies focus on ensuring two key aspects of the electoral process – **accuracy and transparency**.

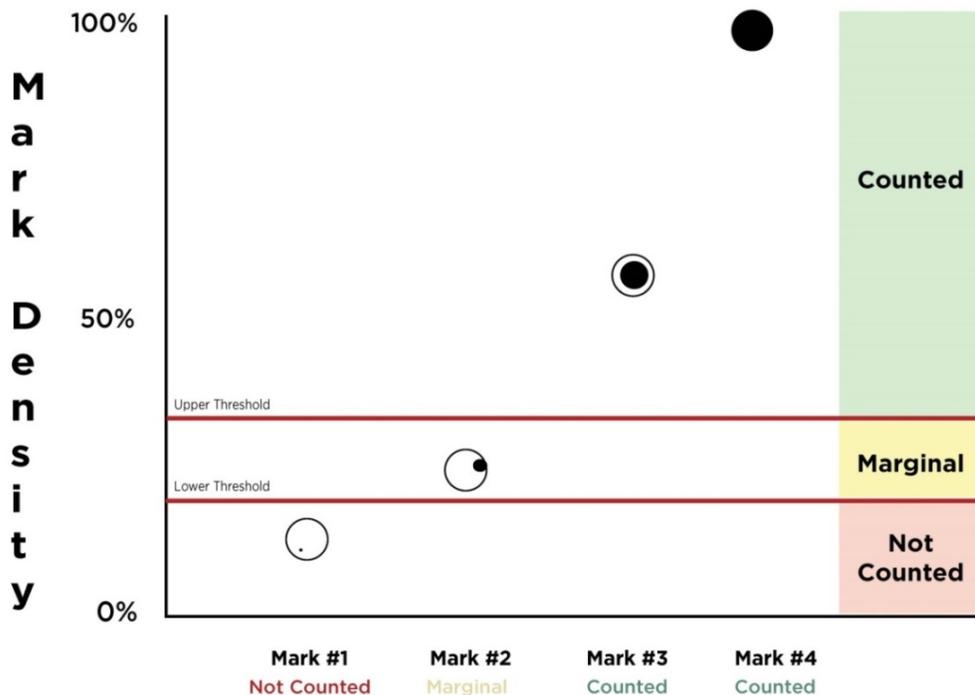


Dual Threshold Technology (Marginal Marks)

From its early beginnings, Dominion Voting has emphasized the use of digital scanning, and continues to set the standard in digital image acquisition and analysis in the tabulation of digitally scanned ballots. When a hand-marked ballot is scanned by an ImageCast tabulator – at the precinct level or centrally - a complete duplex image is created and then analyzed for tabulation by evaluating the pixel count of a voter mark. The pixel count of each mark is compared with two thresholds (which are defined through the Election Management System by the Election Official) to determine what constitutes a vote.

If a mark falls above the upper threshold, it is determined to be a valid vote. If a mark falls below the lower threshold, it will not be counted as a vote. However, if a mark falls between the two thresholds (known as the “ambiguous zone”), it will be deemed as a marginal mark and the ballot will be returned to the voter for corrective action (please see diagram below).

With this feature, the voter is given the ability to determine his or her intent at the time they cast their ballot, not an inspection or recount board after the fact, when it is too late. The chart below illustrates the Marginal Mark threshold interpretation.



Dual Threshold Mark Detection - Marginal Marks





## Dominion's Exclusive Digital Ballot AuditMark

Dominion's AuditMark technology will allow the State of Michigan to provide greater transparency in the electoral process. Every single ballot in the election is imaged and appended with Dominion's patented AuditMark, a record of how the system interpreted the voter's intent. The **AuditMark is the only technology that provides a clear and fully auditable single vote cast record for every ballot cast.**

This ballot-level audit trail allows election officials and other stakeholders to review not only the ballot images, but also the tabulator's interpretation of each ballot.

### Hand-marked Ballot Image with Audit Trail:

This is a sample ballot image for a centrally-processed ballot. All ballots are imaged and stored for auditing purposes. The image contains:

1. Image of front side of ballot (if the reverse side of the ballot is used, the image is also captured)
2. Clear image of all text, ballot identifiers, candidates and voter markings.
3. **AuditMark:** Ballot-level audit trail feature showing the results interpreted by the system for this ballot.

**FAMOUS NAMES**  
Demonstration Ballot

DOMINION VOTING

To VOTE: Completely fill in the oval , next to your choice like this  Mark with a blue or black ink pen, or with a pencil.

FEDERAL OFFICES	STATE OFFICES	PROPOSITIONS
<b>UNITED STATES SENATOR</b> (Vote for ONE)	<b>STATE SENATOR 37th DISTRICT</b> (Vote for ONE)	
EVERETT DIRKSEN VIRGINIA PARTY	FLORENCE NIGHTINGALE VIRGINIA PARTY	
CHARLES CURTIS OHIO PARTY	ANDREW CARNEGIE OHIO PARTY	
JOHN HANCOCK CALIFORNIA PARTY	FRANCIS SCOTT KEY CALIFORNIA PARTY	
Write-in	Write-in	
<b>UNITED STATES REPRESENTATIVE</b> (Vote for ONE)	<b>NONPARTISAN OFFICES</b>	
WILLIAM B. WILSON VIRGINIA PARTY	<b>BOARD OF EDUCATION</b> (Vote for ONE)	
ROBERT LA FOLLETTE OHIO PARTY	BOOKER T. WASHINGTON	
W.C. REDFIELD CALIFORNIA PARTY	ALBERT EINSTEIN	
Write-in	THOMAS ALVA EDISON	
	HELEN KELLER	
	Write-in	

00002\_00001\_000001.tif scanned at 2:31 PM on 12/12/2013.

UNITED STATES SENATOR  
Vote for EVERETT DIRKSEN  
UNITED STATES REPRESENTATIVE  
Vote for ROBERT LA FOLLETTE  
STATE SENATOR, 37TH DISTRICT  
Vote for ANDREW CARNEGIE  
BOARD OF EDUCATION  
Vote for THOMAS ALVA EDISON

00002\_00001\_000001.tif scanned at 2:31 PM on 12/12/2013.

UNITED STATES SENATOR  
Vote for EVERETT DIRKSEN  
UNITED STATES REPRESENTATIVE  
Vote for ROBERT LA FOLLETTE  
STATE SENATOR, 37TH DISTRICT  
Vote for ANDREW CARNEGIE  
BOARD OF EDUCATION  
Vote for THOMAS ALVA EDISON



**Verifiable Choice Summary Ballot Image with Audit Trail:**

This is a sample ballot image for a centrally-processed verifiable choice summary ballot. All ballots are imaged and stored for auditing purposes. The image contains:

1. Image of the Verifiable Choice Summary Ballot.
2. Voter's choices are encrypted and digitally signed in the secure barcode image that can only be scanned and decrypted by Dominion's ImageCast tabulators.
3. Clear image of all text, ballot contest headings, and voter choices.
4. **AuditMark:** Ballot-level audit trail feature showing how the tabulator decrypted the barcode image and counted the voter's choices. Comparing the AuditMark to the written summary verifies that the system accurately recorded the voter's selections.

Ballot Style: 101

**Official Ballot**  
**City and County of Denver**  
**Municipal General Election**  
**Tuesday, May 3, 2011**



Office of Mayor  
Vote for Doug Linkhart  
Office of Auditor  
Vote for (WRITE-IN) DANIEL OMALLEY  
Office of Clerk and Recorder  
Vote for Debra Johnson  
Office of Councilmembers At-Large  
UNDER\_VOTE\_BY 1  
Vote for Rich Gonzales  
Office of Councilmember District 2  
Vote for Edward S. Valdez  
Office of Referred Question  
Vote for YES/FOR

Boleta Oficial de Votación  
Ciudad y Condado De Denver  
Elección General Municipal  
3 de mayo del 2011

---

00004\_00007\_000001.tif scanned at 16:31:37 on 04/05/15.  
Ballot ID: 1      Poll ID: 101

}

Mayor  
Doug Linkhart  
Auditor  
Write-in 'DANIEL OMALLEY'  
Clerk & Recorder  
Debra Johnson  
Council at Large  
UNDER-VOTE BY: 1  
Rich Gonzales  
Councilmember 2  
Edward S. Valdez  
Referred Question  
YES/SI

00004\_00007\_000001.tif scanned at 16:31:37 on 04/05/15.  
Ballot ID: 1      Poll ID: 101

Mayor  
Doug Linkhart  
Auditor  
Write-in 'DANIEL OMALLEY'  
Clerk & Recorder  
Debra Johnson  
Council at Large  
UNDER-VOTE BY: 1  
Rich Gonzales  
Councilmember 2  
Edward S. Valdez  
Referred Question  
YES/SI



## The AuditMark Advantage

**Transparency:** Our system is the only one that stores a complete image of every ballot cast, along with the audit trail for that ballot visually affixed to the image.

**Accuracy:** The audit trail shows how the tabulator interpreted the voted ballot markings or the secure barcode, at the time the ballot was cast. By viewing this image, an election official can easily verify that the tabulator has correctly interpreted the voter's selections on the ballot.

**Trust:** Furthermore, by randomly opening a small number of image files and verifying that the audit trail displays the correct results, the election official can quickly develop a high level of confidence that all of the ballots have been interpreted correctly.

In practice, the AuditMark feature can be used as:

- a method to test machine integrity before an election
- a method of obtaining confidence that the equipment is functioning properly
- a method to completely audit the entire election
- a method to enhance re-counts



## ImageCast Precinct – The world’s most reliable optical scan tabulator

### Highlights

- The ImageCast Precinct is one of the most widely used tabulators with over **100,000 units deployed worldwide**
- It is one of **the most reliable optical scan tabulators**, that safely stores and tabulates each vote from every ballot – including hand-marked ballots and verifiable choice summary ballots
- It is designed to be easy-to-use for both voters and poll workers
- Lightweight (14lbs), easy to store, carry and set-up
- Designed by engineers to withstand the most challenging environments



The ImageCast Precinct tabulator is a lightweight, robust and easy-to-use optical scan tabulator. With major deployments including 82,000 units in Philippines, 11,000 units in New York, and 2,500 units in Mongolia, the ImageCast Precinct is the most reliable optical scanner ever developed.

The system scans marked paper ballots, interprets voter marks on the paper ballot and safely stores and tabulates each vote from each paper ballot. The ImageCast Precinct is also designed to read and tabulate verifiable choice summary ballots produced on the ImageCast X, which include a 2D barcode read by the scanner, as well as a human-readable text summary of the voter’s selections.

The ImageCast Precinct reads single and double-sided ballots in four orientations, and accepts striping and colored headers to distinguish ballots.

The ImageCast Precinct is designed to be “plug and play,” making it very straightforward and quick to set up for poll workers. The ImageCast Precinct will power on upon plugging in the AC power cord. The poll worker will apply their iButton and enter their credentials to open the polls and print the zero tape, and the ImageCast Precinct tabulators are ready to commence standard voting and accept ballots.



At the polling place, the voter makes their selections by filling in the voting targets next to their choices, or makes their selections on the ImageCast X ballot marking device which then prints a paper ballot. The voter then inserts their ballot directly into the ImageCast Precinct, which performs the following functions:

- Scans the ballot and interprets the digital image to tabulate the voter's choices
- Appends to the bottom of the ballot image a record of how that ballot was counted on Election Day (known as the AuditMark)
- Redundantly stores and tallies the results
- Prints cumulative totals of all votes cast after the polls have been closed

### Standard features

- 200 dpi scanner
- Security detector (optional)
- Internal diverter
- VVSG 2005 security
- 2 memory cards
- AuditMark capability
- Ultra-sonic multi-feed detector that prevents the device from accepting more than one ballot a time.



*ImageCast Precinct on the Dominion Ballot Box*

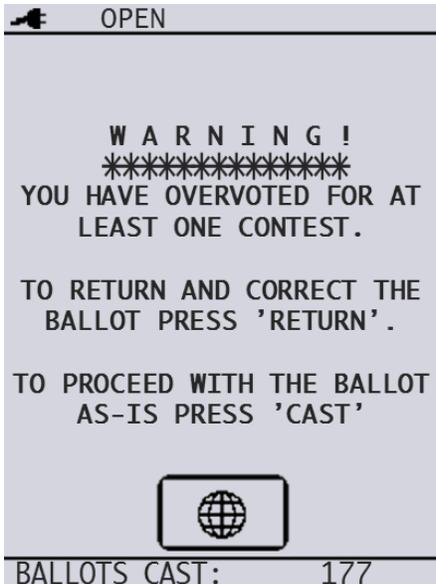


*The ImageCast Precinct – a lightweight but robust and versatile tabulator*

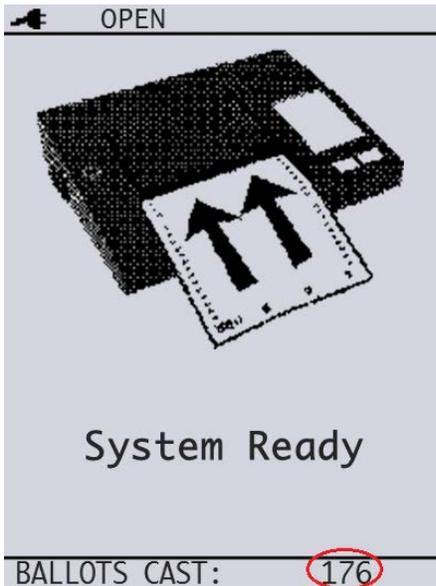


Sample ImageCast Precinct Screenshots

The ImageCast Precinct tabulator provides feedback, messages, and instructions to voters and poll workers.



As discussed in response to requirement 1.1.A.8 in Exhibit A – Attachment 1.1, the ImageCast Precinct display alerts voters to any and all voter/ballot errors with clear language describing the error, before accepting the ballot for tabulation. The example at left shows the tabulator’s message after detecting an overvoted contest, giving the option for the voter to either cast their ballot as-is, or return it for correction.



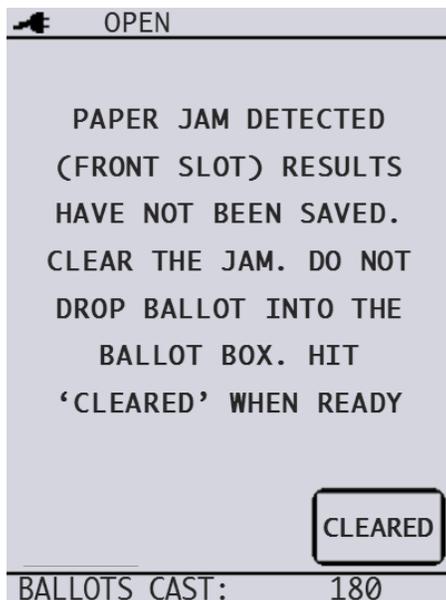
As discussed in response to requirement 1.1.A.13 in Exhibit A - Attachment 1.1, the ImageCast Precinct display shows the total number of ballot cards cast.



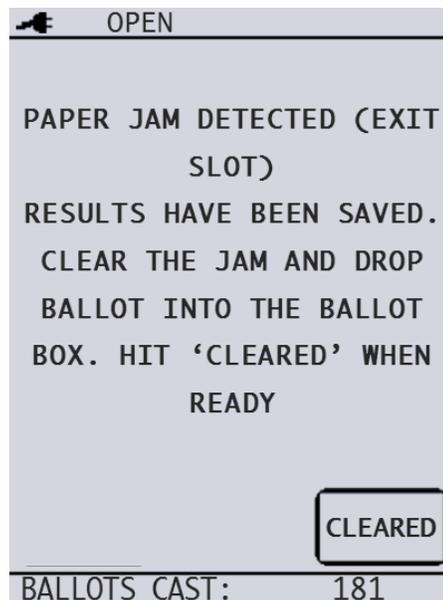
As discussed in response to requirement **1.1.A.27 in Exhibit A - Attachment 1.1**, the ImageCast Precinct has a fitted, lockable, and sealable hard plastic lide (the ballot box cover) that completely covers the unit, protecting it from direct water contact.

As discussed in response to requirement **1.1.F.3 in Exhibit A – Attachment 1.1**, the ImageCast Precinct tabulator presents clear messages to the user if a paper jam is detected. Paper jams in the ImageCast Precinct tabulator are rare, but can occur due to such reasons as wrinkled or bent edges on the ballot.

When a paper jam occurs, the screen displays the message “PAPER JAM DETECTED...” with a button labeled “CLEARED” at the bottom-right corner. Paper jams can occur at the ballot entry slot as soon as the ballot is fed into the tabulator or at the exit slot when the ballot is being dropped into the ballot box. In each scenario, the screen will display the relevant message as shown below:



Paper jam message (entry slot)



Paper jam message (exit slot)

000546

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ImageCast Precinct Report Tapes

ImageCast Precinct Zero Tape

\*\*\*\*\*

Lenawee County

MI Lenawee 2012  
 Primary 20150825  
 Tuesday, August 07, 2012

Tabulator Name  
 City of Adrian, PI IOP

Tabulator ID  
 601

Voting Location  
 City of Adrian, Precinct 1

-----  
 Unit Model: PCOS320A (Rev 107)  
 Unit Serial: WLDARFBH0010  
 Protective Counter: 5643  
 Software Version: 4.14.17-US  
 -----

Total Scanned: 0  
 Total Voters: 0

REP US Senator (1)	
Clark Durant (Republican):	0
Gary Glenn (Republican):	0
Randy Hekman (Republican):	0
Pete Hoekstra (Republican):	0
Write-in:	0
Total Votes:	0

REP D7 Rep in Congress (1)	
Dan Davis (Republican):	0
Tim Walberg (Republican):	0
Write-in:	0
Total Votes:	0

REP D57 Representative (1)	
Nancy Jenkins (Republican):	0
Write-in:	0
Total Votes:	0

REP Prosecuting Attorney (1)	
Burke Castleberry (Republican):	0
Write-in:	0
Total Votes:	0

REP County Sheriff (1)	
Jack Welsh (Republican):	0
Write-in:	0
Total Votes:	0

REP County Clerk (1)	
Roxann Holloway (Republican):	0
Write-in:	0
Total Votes:	0

REP County Treasurer (1)	
Marilyn J. Woods (Republican):	0
Write-in:	0
Total Votes:	0

REP Register of Deeds (1)	
Carolyn S. Bater (Republican):	0
Write-in:	0
Total Votes:	0

REP Road Commissioner (1)	
Write-in:	0
Total Votes:	0

REP Drain Commissioner (1)	
Stephen R. May (Republican):	0
Write-in:	0
Total Votes:	0

REP County Surveyor (1)	
Kevin L. Pickford (Republican):	0
Write-in:	0
Total Votes:	0

REP D5 Commissioner (1)	
William Hoffman (Republican):	0
Write-in:	0
Total Votes:	0

REP C Adrian 1 Delegate (3)	
Jeffrey R. Drake (Republican):	0
Miguel Irizarry (Republican):	0
Write-in:	0
Total Votes:	0

DEM US Senator (1)	
Debbie Stabenow (Democratic):	0
Write-in:	0
Total Votes:	0

DEM D7 Rep in Congress (1)	
Kurt Richard Haskell (Democratic):	0
Ruben Marquez (Democratic):	0
Write-in:	0
Total Votes:	0

DEM D57 Representative (1)	
Jim Berryman (Democratic):	0
Harvey E. Schmidt (Democratic):	0
Write-in:	0
Total Votes:	0

000547

CONTRACT #071B7700117



DEM Prosecuting Attorney (1)	
Write-in:	0
Total Votes:	0

DEM County Sheriff (1)	
Write-in:	0
Total Votes:	0

DEM County Clerk (1)	
Write-in:	0
Total Votes:	0

DEM County Treasurer (1)	
Write-in:	0
Total Votes:	0

DEM Register of Deeds (1)	
Sharon L. Wimple (Democratic):	0
Write-in:	0
Total Votes:	0

DEM Road Commissioner (1)	
Stan Wilson (Democratic):	0
Write-in:	0
Total Votes:	0

DEM Drain Commissioner (1)	
Write-in:	0
Total Votes:	0

DEM County Surveyor (1)	
Write-in:	0
Total Votes:	0

DEM D5 Commissioner (1)	
Karol J. Bolton (Democratic):	0
James Daly (Democratic):	0
Write-in:	0
Total Votes:	0

DEM C Adrian 1 Delegate (2)	
Write-in:	0
Total Votes:	0

County Medical Care (1)	
YES:	0
NO:	0
Total Votes:	0

County Senior Millage (1)	
YES:	0
NO:	0
Total Votes:	0

Certification

WE, THE UNDERSIGNED, WERE PRESENT DURING THE OPENING OF THE POLLS AND PRINTING OF THIS RECORD AND CAN VERIFY THAT ALL CANDIDATE VOTE TOTALS ARE ZERO AT THIS TIME.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Results are zero. Unit ready.  
Wed Aug 26 18:07:15 2015

000548

CONTRACT #071B7700117



ImageCast Precinct Results Tape

\*\*\*\*\*

Lenawee County

MI Lenawee 2012  
 Primary 20150825  
 Tuesday, August 07, 2012

Tabulator Name  
 City of Adrian, P1 ICP

Tabulator ID  
 601

Voting Location  
 City of Adrian, Precinct 1

Unit Model: PCOS320A (Rev 107)  
 Unit Serial: WLDAFB0010  
 Protective Counter: 5653  
 Software Version: 4.14.17-US

Total Scanned: 10  
 Total Voters: 10

REP US Senator (1)	
Clark Durant (Republican):	1
Gary Glenn (Republican):	1
Randy Hekman (Republican):	1
Pete Hoekstra (Republican):	1
Write-in:	1
Total Votes:	5

REP D7 Rep in Congress (1)	
Dan Davis (Republican):	1
Tim Walberg (Republican):	1
Write-in:	1
Total Votes:	3

REP D57 Representative (1)	
Nancy Jenkins (Republican):	1
Write-in:	1
Total Votes:	2

REP Prosecuting Attorney (1)	
Burke Castleberry (Republican):	1
Write-in:	1
Total Votes:	2

REP County Sheriff (1)	
Jack Welsh (Republican):	1
Write-in:	1
Total Votes:	2

REP County Clerk (1)	
Roxann Holloway (Republican):	1
Write-in:	1
Total Votes:	2

REP County Treasurer (1)	
Marilyn J. Woods (Republican):	1
Write-in:	1
Total Votes:	2

REP Register of Deeds (1)	
Carolyn S. Bater (Republican):	1
Write-in:	1
Total Votes:	2

REP Road Commissioner (1)	
Write-in:	1
Total Votes:	1

REP Drain Commissioner (1)	
Stephen R. May (Republican):	1
Write-in:	1
Total Votes:	2

REP County Surveyor (1)	
Kevin L. Pickford (Republican):	1
Write-in:	1
Total Votes:	2

REP D5 Commissioner (1)	
William Hoffman (Republican):	1
Write-in:	1
Total Votes:	2

REP C Adrian 1 Delegate (3)	
Jeffrey R. Drake (Republican):	1
Miguel Irizarry (Republican):	1
Write-in:	3
Total Votes:	5

DEM US Senator (1)	
Debbie Stabenow (Democratic):	1
Write-in:	1
Total Votes:	2

DEM D7 Rep in Congress (1)	
Kurt Richard Haskell (Democratic):	1
Ruben Marquez (Democratic):	1
Write-in:	1
Total Votes:	3

DEM D57 Representative (1)	
Jim Berryman (Democratic):	1
Harvey E. Schmidt (Democratic):	1
Write-in:	1
Total Votes:	3

000549

CONTRACT #071B7700117



DEM Prosecuting Attorney (1)	
Write-in:	1
Total Votes:	1

DEM County Sheriff (1)	
Write-in:	1
Total Votes:	1

DEM County Clerk (1)	
Write-in:	1
Total Votes:	1

DEM County Treasurer (1)	
Write-in:	1
Total Votes:	1

DEM Register of Deeds (1)	
Sharon L. Wimple (Democratic):	1
Write-in:	1
Total Votes:	2

DEM Road Commissioner (1)	
Stan Wilson (Democratic):	1
Write-in:	1
Total Votes:	2

DEM Drain Commissioner (1)	
Write-in:	1
Total Votes:	1

DEM County Surveyor (1)	
Write-in:	1
Total Votes:	1

DEM D5 Commissioner (1)	
Karol J. Bolton (Democratic):	1
James Daly (Democratic):	1
Write-in:	1
Total Votes:	3

DEM C Adrian 1 Delegate (2)	
Write-in:	2
Total Votes:	2

County Medical Care (1)	
YES:	1
NO:	1
Total Votes:	2

County Senior Millage (1)	
YES:	1
NO:	1
Total Votes:	2

Certification

WE, THE UNDERSIGNED ELECTION OFFICIALS, HEREBY CERTIFY THAT THE ABOVE ELECTION WAS HELD IN ACCORDANCE WITH THE LOCAL AUTHORITY ELECTION ACT AND REGULATIONS OF THIS JURISDICTION.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Poll closed.  
Wed Aug 26 18:35:07 2015

000550

CONTRACT #071B7700117



### ImageCast Precinct Simple and Complete Diagnostics Reports

\*\*\* DIAGNOSTICS PRINTER TEST,  
PLEASE DISCARD! \*\*\*

Aug 26/2015 18:03:13  
SIMPLE DIAGNOSTICS  
MEMORY PASSED  
COMPACT FLASH PASSED  
EEPROM PASSED  
THERMAL PRINTER PASSED  
LCD PASSED  
INTERNAL CLOCK PASSED  
POWER PASSED  
SCANNER PASSED  
DIAGNOSTICS DONE  
MACHINE IS READY FOR USE.



-----  
Unit Model: PCOS320A (Rev 107)  
Unit Serial: WLDAFBH0010  
Protective Counter: 5643  
Software Version: 4.14.17-US

\*\*\* DIAGNOSTICS PRINTER TEST,  
PLEASE DISCARD! \*\*\*

Aug 26/2015 18:05:42  
COMPLETE DIAGNOSTICS  
MEMORY PASSED  
COMPACT FLASH PASSED  
EEPROM PASSED  
THERMAL PRINTER PASSED  
LCD PASSED  
INTERNAL CLOCK PASSED  
POWER PASSED  
SCANNER PASSED  
DIAGNOSTICS DONE  
MACHINE IS READY FOR USE.



-----  
Unit Model: PCOS320A (Rev 107)  
Unit Serial: WLDAFBH0010  
Protective Counter: 5643  
Software Version: 4.14.17-US

000551

CONTRACT #071B7700117



### ImageCast Precinct Tabulator Information Report

TABULATOR INFO

PROTECTIVE COUNTER: 5643

TOTAL DIVERTED: 568

TOTAL PAPER JAMS: 206

IMAGE MEMORY USAGE: 0.01%

SERIAL NUMBER: WLDAFBH0010

Top CIS Calibration: 0x0

Bottom CIS Calibration: 0x0

Printer Intensity: 0xc0

OS: 4.14.17-US

Cfload: 4.14.17-US

Application: 4.14.17-US

Digital Signature:

74 dc 1a 1f 69 3e 2c cc

db 64 ea 6a fa 8e 65 b1

bb a9 11 48 72 a2 e6 da

9c b6 cf 00 f3 e1 9b cd



00601

000552

CONTRACT #071B7700117



ImageCast Precinct Sample Preventative Maintenance Checklist



Image Cast Precinct Optical Scanner  
Maintenance Checklist  
Version 2.1

Serial # \_\_\_\_\_ Printer Serial # \_\_\_\_\_  
Date: 8/13/2015 Tech: John Keefer

Step #	Description	Expected Results	Pass	Fail	Comments
<b>Inspection Stage</b>					
1	Inspect ICP-BMD	No scratches, dents or cracks			
2		ICP has all labels/ No Extra			
3		CF Card, AVS, Ports, and Printer Doors			
4		Headphones, ATI and cables Present			
5		Approved AC/DC Power Adapter Present			
<b>Power Up, and Verification</b>					
6	System Power Up	Insert 2 CF cards with FN Election			
7		Connect ATI, Headphones and Printer			
8		Verify Paper Roll and Print Cart. Loaded			
9		Connect Approved AC/DC Power Adapter			
10		LCD Software Version	NA	NA	Version:
11		Loader Software Version	NA	NA	Version:
12		O/S Software Version	NA	NA	Version:
13	Verify Correct Time and Date				
<b>Diagnostics</b>					
14	Complete Diagnostics	Clean Scan Heads with Cleaner Ballot			
15		Enter Diagnostics Mode			
16		Run Complete Diagnostics			
17		Memory Diagnostics			
18		Compact Flash Diagnostics			
19		EEPROM Diagnostics			
20		Thermal Printer Diagnostics			
21		LCD Diagnostics			
22		ATI Diagnostics			
23		Audio Diagnostics			
24		USB Printer Diagnostics			
25		Internal Clock Diagnostics			
26		Power Diagnostics			
27		Unplug AC Adapter	NA	NA	
28		Insert Blank Ballot/Scanner Diagnostics			
29		Observe Battery Status			
30		Print Diagnostic Report			
31		Exit Diagnostics and Restore AC Power			
<b>Functionality</b>					
32	Election Project Testing	Open Polls and Print Status Report			
33		Verify Ballots cast are Zero			
34		Insert 1 OV Ballot, Override Warning			
35		Insert 1 Blank Ballot, Override Warning			
36		Insert 1 Wrong Pct. Ballot, Try to Override			
37		Insert 1 Marked Ballot from ADA Session			
38		Process Remainder of Test Deck			
39		Close Polls, Verify Results, Re-Zero			
40		Power Down and Store Unit			

Please list any repairs or required follow-up:

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Tech: John Keefer Signature of Clerk/Auditor \_\_\_\_\_



## ImageCast Ballot Box

Dominion has designed an innovative, complementary ballot box, pictured below, for our precinct tabulators. It is built of sturdy plastic, and features four large lockable swivel wheels and handles on all sides for ease of movement, allowing the units to be securely transported to and from the polling place. Since it has no internal moving parts, the ballot box can also accommodate Election Day supplies when it is not storing ballots. For security purposes, the ballot box features five locks and multiple security seal points to limit access and prevent tampering.

When the poll worker arrives to set up, they will unlock the cover, plug the ballot box into the wall plug, and the system will turn on and be ready to print the zero tape. All other components are already attached, keeping polling location issues to a minimum.

### Standard Features

- The ImageCast Ballot Box is made from solid extruded plastic and built to the requirements of the EAC.
- The ballot box capacity meets US polling place requirements, with three bins (main bin, write-in bin, and auxiliary/emergency bin).
- The ImageCast Precinct tabulator locks and seals onto the ballot box, which features a cover that provides additional security and ease of transportation.
- Features a sealed plastic base and is water resistant.
- Offers multiple deployment and warehousing options.



*Plastic Ballot Box – with the lockable cover (left), and showing the three interior compartments (right)*



## ImageCast X – It's everything you want it to be

### Highlights

- Today, voters and election officials are increasingly looking to leverage everyday technologies to improve the voting process and experience. Dominion is listening to our customers, and has designed a **touchscreen precinct-voting terminal** that combines the flexibility, efficiency, and simplicity of modern technology, with an underlying platform of security and performance - Democracy Suite.
- Fully integrated into the Democracy Suite platform, the ImageCast X takes full advantage of commercially available hardware, **making it a cost-effective and flexible solution.**
- **The ImageCast X also offers options for voters with accessibility needs** – ranging from contrast and text size, to being able to toggle between languages during the voting session or listen to an audio ballot, as well as allowing for the use of personal assistive devices, such as a sip and puff.
- The **touchscreen interface** is user-friendly and intuitive for poll workers and voters, **improving the voting process and experience.**
- The ImageCast X prints a **verifiable choice summary ballot** that is scanned on the ImageCast Precinct or ImageCast Central.
- As with all other ImageCast products, the ImageCast X has been designed with a **high level of security that meets the latest EAC VVSG requirements** while maintaining ease of use.
- Similarly, as with all other ImageCast tabulators, **the ImageCast X benefits from Dominion's patented exclusive ballot-level audit trail, the AuditMark**, which not only creates a digital image of every ballot cast, but also appends to that image a record of how the voter's selections were interpreted by the voting system.



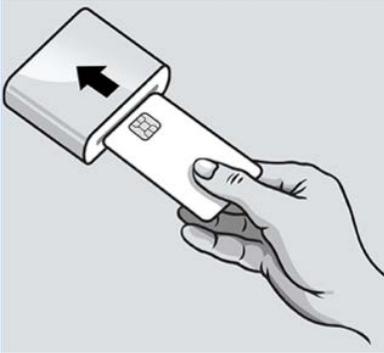
Fully integrated into the Democracy Suite platform, the ImageCast X takes advantage of commercially available technologies and is driven by a robust, secure and flexible application developed by Dominion. The use of compact, commercially available hardware makes the ImageCast X a cost-effective and versatile in-person voting solution. It requires less space to warehouse and is more affordable than larger proprietary solutions, while at the same time offering full ADA compliance.

The ImageCast X has an intuitive touchscreen interface with various features for accessibility, and connects to a printer that prints the voter's ballot directly in the voting booth. Once the ballot is printed, the voter scans their ballot on the ImageCast Precinct, the same as all other voters.

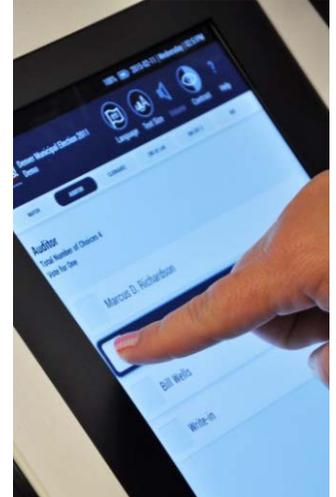
Training for election poll workers is minimal and straightforward. When a voter checks in to vote, the poll worker will verify the voter's credentials and program a Smart Card using the Smart Card writer/reader. The Smart Card is used to activate a voting session on the ImageCast X and to present the voter with their correct ballot style. No information that can identify the voter is programmed on the Smart Card. Once the voter has printed their ballot, the Smart Card is inactivated and can be returned to be re-programmed for the next voter.



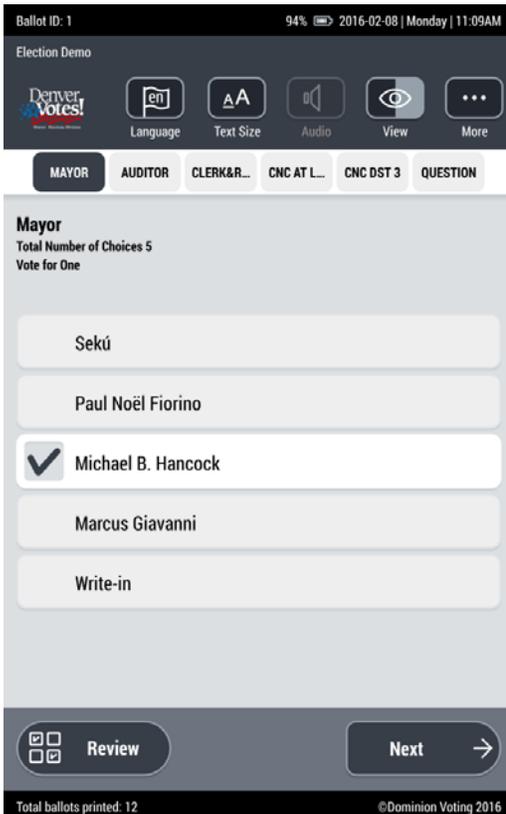
*The ImageCast X is a universal voting device that is software-driven and leverages the flexibility of COTs technology*



The voter will insert their Smart Card to activate the voting session on the ImageCast X. If available, the voter will be prompted to choose their preferred language for their voting session. The voter will automatically be presented with the first contest on the ballot. The voter will navigate the ballot contest-by-contest by touching the screen to select options, candidates, and text for write-in candidates. The voter can change or cancel their selection by deselecting their previous choice.



*The ImageCast X features an intuitive touchscreen*

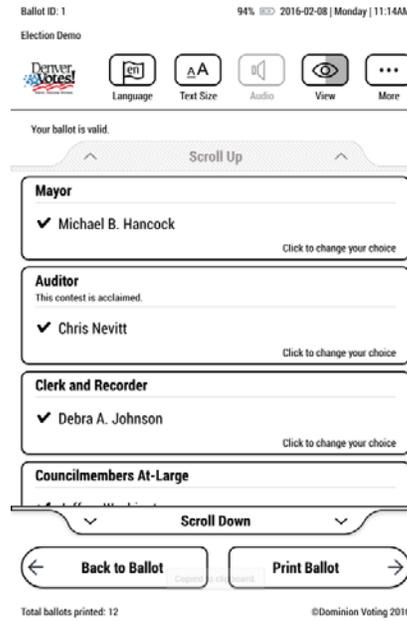
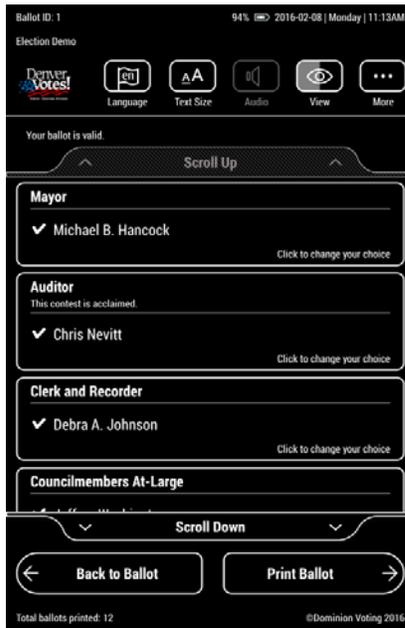


The voter can also change the text size or contrast of the display. The View button allows the voter to change the display to high contrast white on black, or black on white. The text size button allows the voter to change the text size.

At any time, the voter can select the Review button to view their selections on their ballot. The ballot review will show all of the contests on the ballot, and give warning messages if there are any issues with the ballot, such as an undervote or blank contest. If the voter wishes to modify a contest, they simply touch that contest from the review screen and they will be taken directly to that contest page so that they can update their selection(s).

Once the voter has reviewed their ballot and has confirmed they are ready to print, the ImageCast X can print a verifiable choice summary ballot which contains a written summary of the voter's choices, as well as a 2D barcode which is read by the ImageCast Precinct. No voter selections are stored on the ImageCast X.

*The ImageCast X features an intuitive touchscreen interface that the voter navigates contest by contest*



*At any time the voter can change the text size or contrast of the display, as well as see a review of their ballot.*



## Accessibility

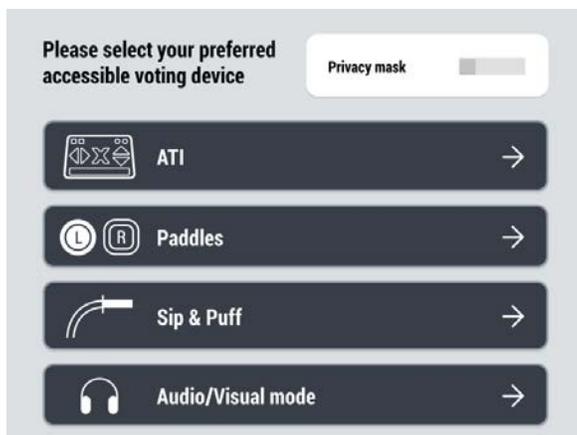
Designed as a voting solution for all, the ImageCast X also offers several options for voters with accessibility needs to vote in a private and independent manner.

The ImageCast X offers the following user interfaces:

- Visual mode: Voter navigates their ballot using one of the available accessibility tools and the visual display
- Audio mode: Visual display can be disabled and the voter uses headphones to navigate an audio ballot using one of the available accessibility tools
- Visual & audio mode: Voter navigates their ballot using one of the available accessibility tools, the visual display, and the audio ballot



*The ImageCast X pictured here with joystick and paddle button accessible voting devices.*



*The ImageCast X is compatible with a range of accessibility tools and can present the ballot in audio only, visual only or both audio/visual mode.*

In addition to the touchscreen functionality, the ImageCast X is compatible with a range of accessibility tools that voters can use to navigate through the ballot and make their selections. The system is compatible with commercially available accessibility devices, such as a four-way joystick, as well as a hand-held controller called the Audio Tactile Interface (ATI), sip and puff device, or paddle device.



The Audio Tactile Interface (ATI) is the handheld device that is used by a voter during an Accessible Voting Session to navigate through and make selections to their ballot. The ATI:

- Has raised keys that are identifiable tactilely without activation (i.e. raised buttons of



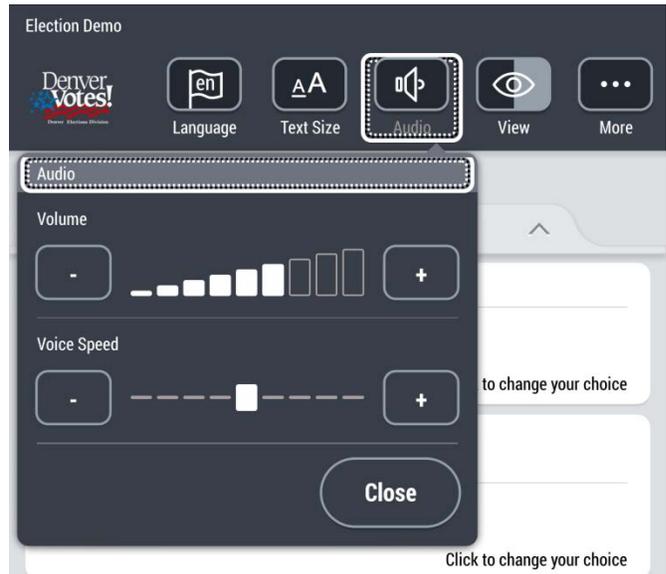
different shapes and colors, large or Braille numbers and letters)

- Can be operated with one hand
- Includes a 3.5 mm headphone jack
- Includes a T-Coil coupling
- Has a T4 rating for interference
- Uses light pressure switches
- Can be equipped with a pneumatic switch, also known as a sip and puff device, or a set of paddles.

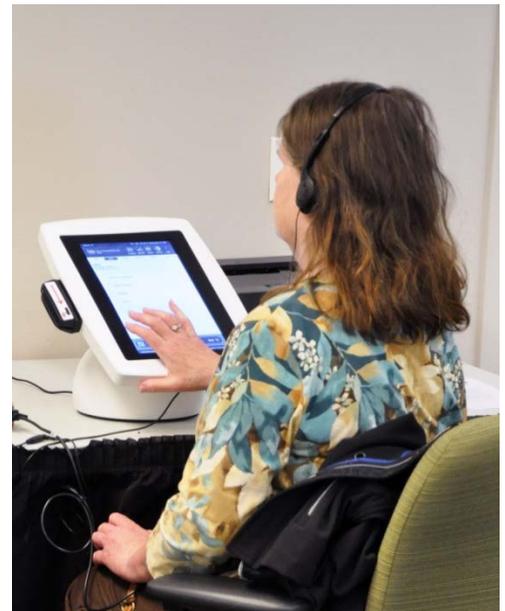
The ImageCast X can present the ballot in audio only, visual only, or both audio and visual modes, depending on personal preference. Voters can adjust the rate and volume of their audio ballot, as well as the text size and contrast of the display, or disable the display entirely for added privacy. Every voter configurable option is automatically reset to its default value with the initiation of each new voting session.

Voters are able to review, verify and correct their selections prior to printing their ballot, by audio and/or visual means. Voters are warned if they have missed, or undervoted a contest, and have the opportunity to go back and correct their selections. Once the ballot is printed, the voter scans their ballot on the ImageCast Precinct, the same as all other voters.

The ImageCast X was recently deployed in the State of Colorado as part of their Uniform Voting System initiative, where it received the highest usability ranking by in-person voters with disabilities. The ImageCast X features the latest technological advances in accessible voting technology, providing more options for voters with accessibility needs to vote privately and independently.



*Voters can adjust the rate and volume of their audio ballot.*



*The ImageCast X features many options for voters with disabilities.*



## ImageCast Central – Scalable & Efficient High Speed Scanning

- Dominion's ImageCast Central tabulation system was **designed with efficiency in mind**. Most central count solutions that exist in the market today are large, expensive, proprietary solutions that are not scalable, efficient or easy to use or maintain.
- The ImageCast Central makes use of industry-leading **commercial-off-the-shelf (COTS) hardware** to decrease capital costs and minimize risk of hardware failure. So no matter the size of the county, adding multiple COTS scanners increases efficiency without breaking the bank.
- The ImageCast Central is **engineered for operational simplicity**. Step 1- The user loads a batch of ballots and presses 'scan' – Simple! Step 2 – When the batch scan is complete, the user presses 'accept' – Easy! The ImageCast Central continues scanning ballots until there are none left.





Dominion's ImageCast Central, like all of our ImageCast products, stores the ballot image with the secure AuditMark. **The system's flexibility allows the jurisdiction to customize out-stacking conditions, such as overvotes, undervotes, marginal marks, and certified write-in contests. The ImageCast Central has all the tools election officials are looking for to make their central count process easy and more efficient.**

With the ImageCast Central count solution, Dominion focused its efforts on how to create efficiency using lower cost, off-the-shelf scanners which meet the VVSG 2005 standards, and software that streamlines the process. Dominion has included two scanner options in this proposal, the Canon DR-G1130 and the smaller scale Canon DR-M160II.

The software is intuitive and requires minimal training for users. It is **simple** - the operator loads the batch into the scanner; presses scan. When complete, the operator presses the accept button and moves on to the next batch. The operator does nothing but process the ballots. The system's intelligence does the rest. Along with the requisite COTS hardware, the ImageCast Central provides ample flexibility to meet the needs of small, medium and large jurisdictions. ImageCast Central allows jurisdictions to consolidate results in an efficient environment, in real time.



*Jurisdictions can add ImageCast Central units to maintain efficiency while remaining cost-effective.*

This use of less expensive and compact third-party devices enables the ImageCast Central count solution to offer higher sustained throughputs in the face of hardware failures, flexible site layouts when space is at a premium, and access to a vast pool of readily available replacement parts and certified technicians. All of these factors translate to improved maintainability, and lower cost of ownership.

Central scanning is typically used to process absentee or mail-in ballots. The election definition is taken from EMS, using the same database that is utilized to program any precinct scanners for a given election. Multiple ImageCast Central scanners can be programmed for use in an election. The ImageCast Central application is installed and later initialized on a computer attached to the central count scanner. Ballots are processed through the central scanner(s) in batches based on jurisdictional preferences and requirements.

The ImageCast Central stores ballot images by scanned batches. The scanned ballot images are migrated to the Election Management System through computer networking or removable media. As with results data from



any precinct scanners in use for an election, Results Tally and Reporting is the portion of EMS that processes the images to provide tabulation and operational reports to the jurisdiction.

Batches can be appended, deleted, and processed in a number of ways to suit typical election workflows, intake of ballots before, during, and after Election Day, jurisdictional requirements surrounding absentee ballot tabulation, and canvassing needs. The ImageCast Central also features all of the technological advances present in the precinct-level tabulators – the AuditMark and the Dual Threshold technology.

### ImageCast Central Reports

Sample ImageCast Central reports can be found in Appendix 2d – Sample ImageCast Central Reports.

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CONTRACT #071B7700117



## ImageCast Central Sample Preventative Maintenance Checklist



ImageCast Central Count  
Maintenance Checklist  
Version 2.1

Serial: \_\_\_\_\_  
Date: 8/13/2015

Tech: \_\_\_\_\_

Step #	Description	Expected Results	Pass	Fail	Comments
<b>Inspection Stage</b>					
1	Inspect ICC	No scratches, dents or cracks			
2		ICC has all labels/ no extra			
3		USB Cable Type A to Type B present			
4		Approved AC/DC Power adapter present			
5		Laptop with current ImageCast Central			
6		ibutton Reader/Writer			
<b>Power Up</b>					
7	System Power Up	Connect USB cable to scanner/laptop			
8		Connect ibutton reader to laptop			
9		Connect AC adapter to scanner			
10		Connect AC adapter to laptop			
11		Power Up Scanner before laptop			
12		Power on laptop			
13		Insert FN ibutton			
14		Connect AC adapter to scanner			
15		Connect AC adapter to laptop			
16		Power Up scanner before laptop			
17		Power on laptop			
18		Insert FN ibutton			
19		Open Image Cast Central Software			
<b>Cleaning</b>					
20	ICC Cleaning	Clean scanner exterior			
21		Clean Document Feed Inlet			
22		Clean Transport Path			
23		Clean Sensors Top and Bottom			
24		Open Upper Unit, clean scanning glass			
25		Remove pickup, feed, and retard rollers			
26		Clean pad on retard roller cover			
27		Clean rollers and re-install			
28		Close scanner			
<b>Election Project Testing</b>					
29	Scanning	Load Famous Names Election			
30		Load FN ICC Test Deck			
31		Navigate to <b>CONFIGURATION</b>			
32		Hit <b>Scan options</b>			
33		Deselect all Stop Scan on options			
34		Select <b>Continuous Scan</b>			
35		Select <b>Only one scan per batch</b> , hit OK			
36		Return to <b>SCANNING</b> hit <b>SCAN</b>			
37		After scanning hit <b>ACCEPT BATCH</b>			
38		Navigate to FN Election Folder			
39		Verify images are clear and accurate			
40		Navigate to <b>CONFIGURATION</b>			
41		Hit <b>CLOSE TABULATOR</b> , click OK			
42		Navigate to <b>STATUS</b>			
43		Click <b>SHOW RESULTS</b>			
44		Verify totals			
45		Shutdown software, scanner, then Laptop			

Please list any required follow-up:

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---

Tech: 0 Signature of Clerk/Auditor \_\_\_\_\_



## Mobile Ballot Printing Module

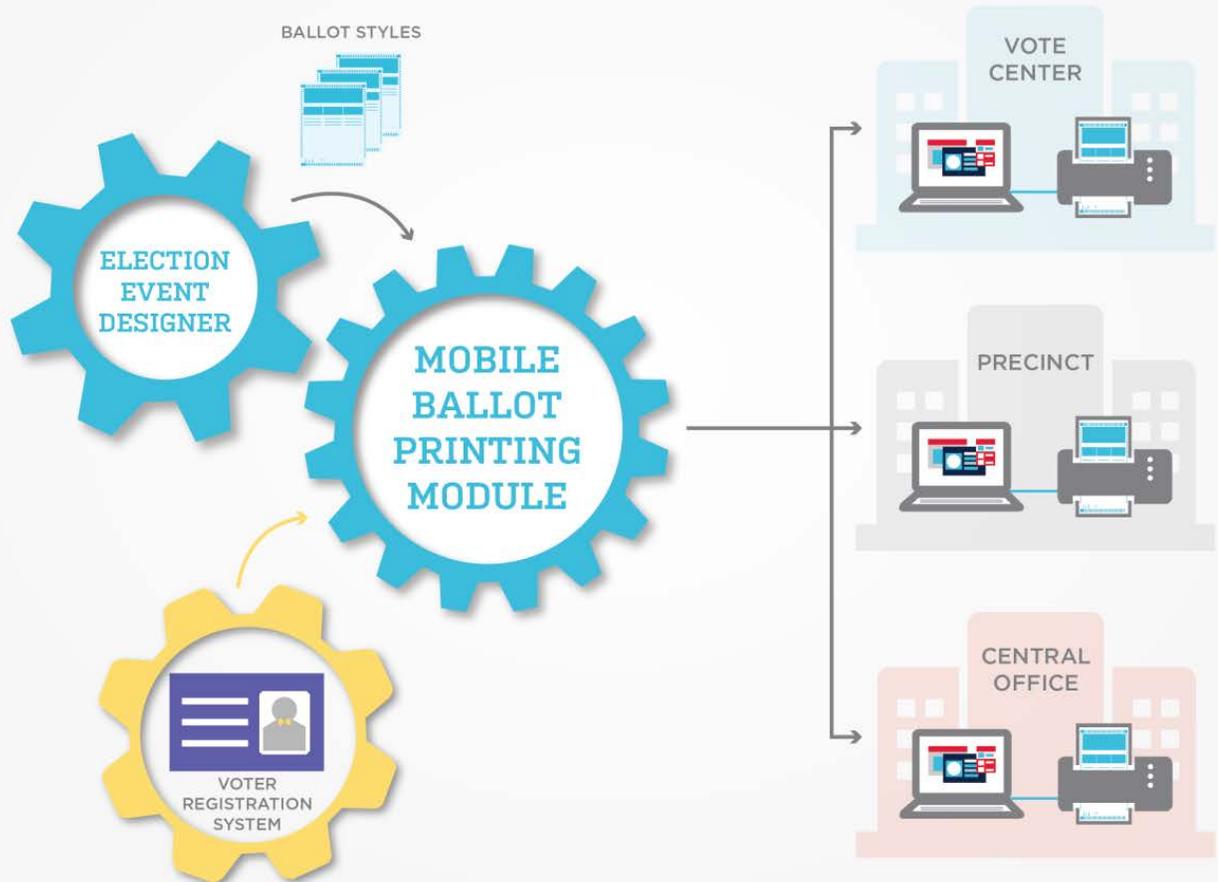
### Highlights

- **Simple:** No unnecessary complexity – simple interface and voter registration integration makes it easy for election staff to quickly print the correct ballot style for each voter.
- **Secure:** Strong auditability features ensure security and transparency.
- **Flexible:** The Mobile Ballot Printing module is hardware “agnostic,” giving you the flexibility to use your existing print hardware or leverage other commercially available off-the-shelf (COTS) printers.
- **Efficient:** Save on additional printing and storage costs associated with having to provide multiple ballot styles to every “Vote Anywhere” location.
- The Mobile Ballot Printing Module allows you to easily print ballots for any election whenever and wherever needed – at the central office, at the precinct, or other remote locations. The system is fully integrated with Democracy Suite.
- The system is portable and simple to set up in any location. Since the system is hardware “agnostic,” the jurisdiction has the flexibility to use their existing print hardware, or leverage other commercially available off-the-shelf printers that print high-quality paper ballots. Not all systems can offer this flexibility in printer choice.
- The user-friendly interface, along with integration with a variety of voter registration systems, makes it easy for election staff to quickly print the correct ballot style for each voter. The Mobile Ballot Printing module simplifies ballot management and logistics – you no longer need to worry about stacks of different ballot styles in the precinct and about estimating the correct number of ballots to print.



# MOBILE BALLOT PRINTING

BALLOTS WHEN & WHERE YOU WANT THEM!





## Results Accumulation

There are several methods to upload or transmit encrypted vote totals from the precinct tabulators and/or AVCBs to the Elections Office.

### Method 1 – Returning memory cards from each tabulator to the Elections Office

Using this method, after the poll worker closes the polls, the memory cards with the encrypted vote totals are removed from their slots in the ImageCast Precinct units, and are returned to the Elections Office for manual upload to the Results Tally and Reporting module.



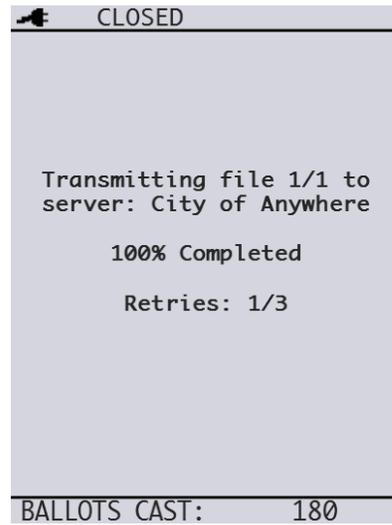
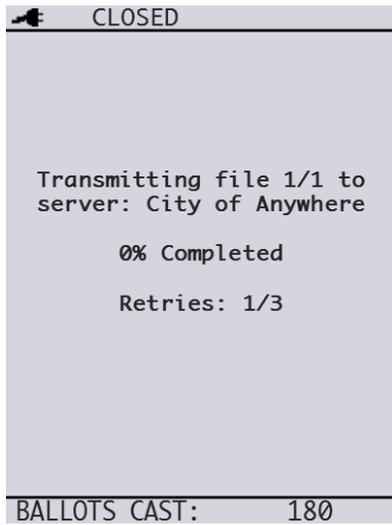
### Method 2 – Dial-up and Cellular Modem transmission

The ImageCast Precinct tabulators can be deployed with remote transmission options to transfer encrypted results files from the precinct (if used as Election Day tabulators) or hub (if used as AVCBs) to the Elections Office. This can be done by landline modem, or by wireless cellular modem.

ImageCast Precinct: The ImageCast Precinct tabulators are equipped with internal dial-up modems, and can also transmit results via an external cellular modem.

Transmission of results via modem is a very intuitive process, involving minimal input from a poll worker. After the polls have been closed, the poll worker has the option to select “Results Transfer” from the Main menu. The results transfer settings, which contain precinct-specific network data pre-configured from the EMS System, will appear. To upload the results to the ImageCast Listener server, the poll worker presses “Start” within the Results Transfer option.

The modem must be plugged into the unit in order to begin results transmission. The intuitive user interface on the tabulator informs the poll worker of the status of the upload and when it is completed, as seen on the screenshots below.

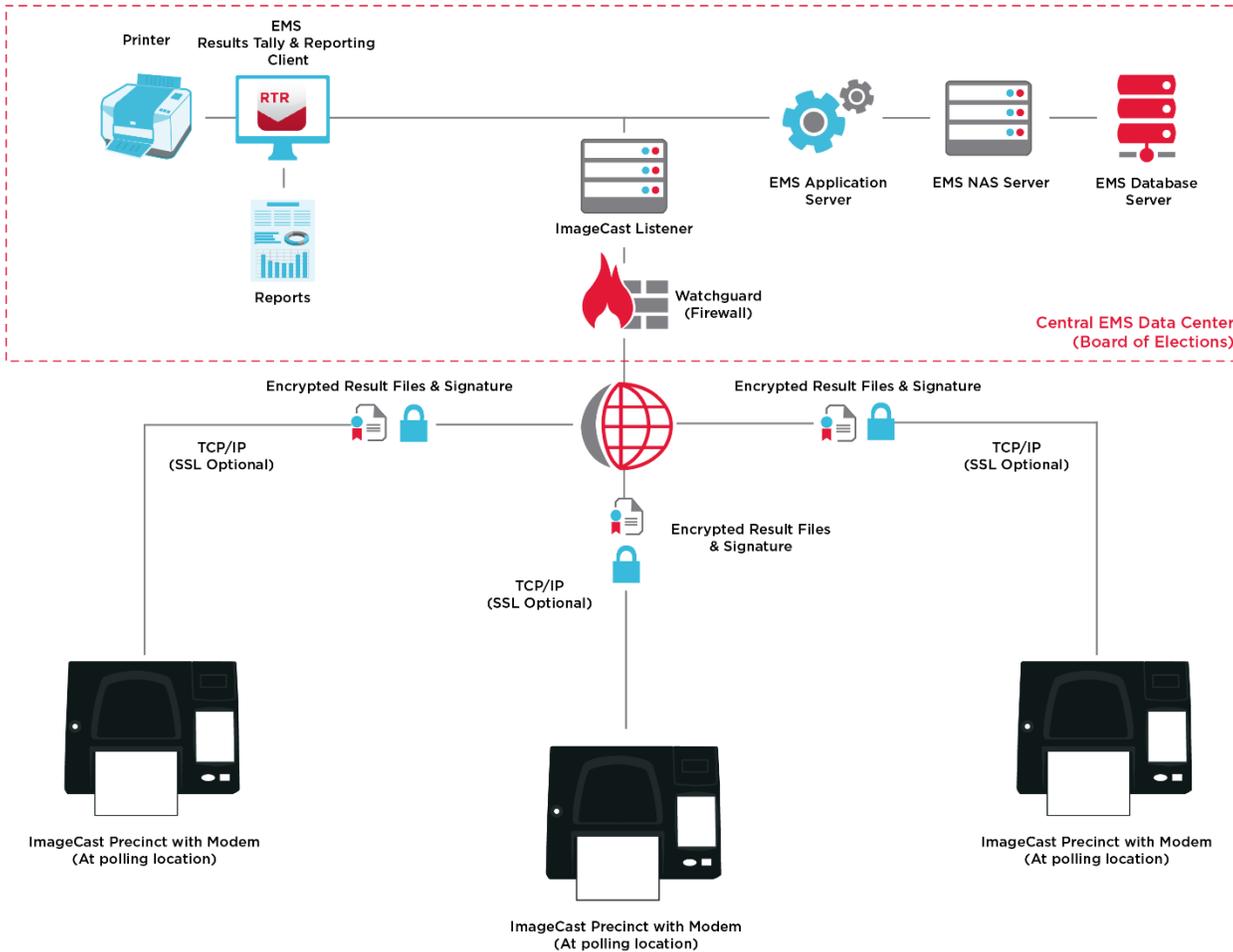


*ImageCast Precinct – Modem transfer interface examples*



## ImageCast Listener

### System Communication Diagram Cellular Modem Transmission



The ImageCast Listener module is responsible for receiving and tracking encrypted results file transmissions from any ImageCast Election Day tabulator.

Unlike traditional results transmission using FTP/SFTP, the ImageCast Listener uses a secure and proprietary protocol for establishing an authenticated connection with the ImageCast tabulators. The ImageCast Listener verifies the signature of the results file upon receipt and immediately informs election officials whether the file is valid or if any suspicious activity is detected. Results files are encrypted using AES-128 or AES-256. They are signed with SHA-256.



If the ImageCast Listener recognizes the transmitted files as valid, they are automatically made available for loading into the Results Tally & Reporting module in the main Election Management System server.

As mentioned above, ImageCast tabulators at the voting location will receive confirmation from the server that the results transmission was successful, or in rare cases, prompt the poll worker to retry the transmission. At the Elections office, election officials can view the upload status of all ImageCast tabulators deployed in the field from a single intuitive dashboard.

The ImageCast Listener service resides on an independent server from the main EMS server, and is protected by a dedicated firewall appliance. The firewall's client software includes a suite of monitoring tools for traceability of all external network traffic, including source and destination IP addresses. The ImageCast Listener's audit log also records all transmission activity, allowing for full auditability for a given election.



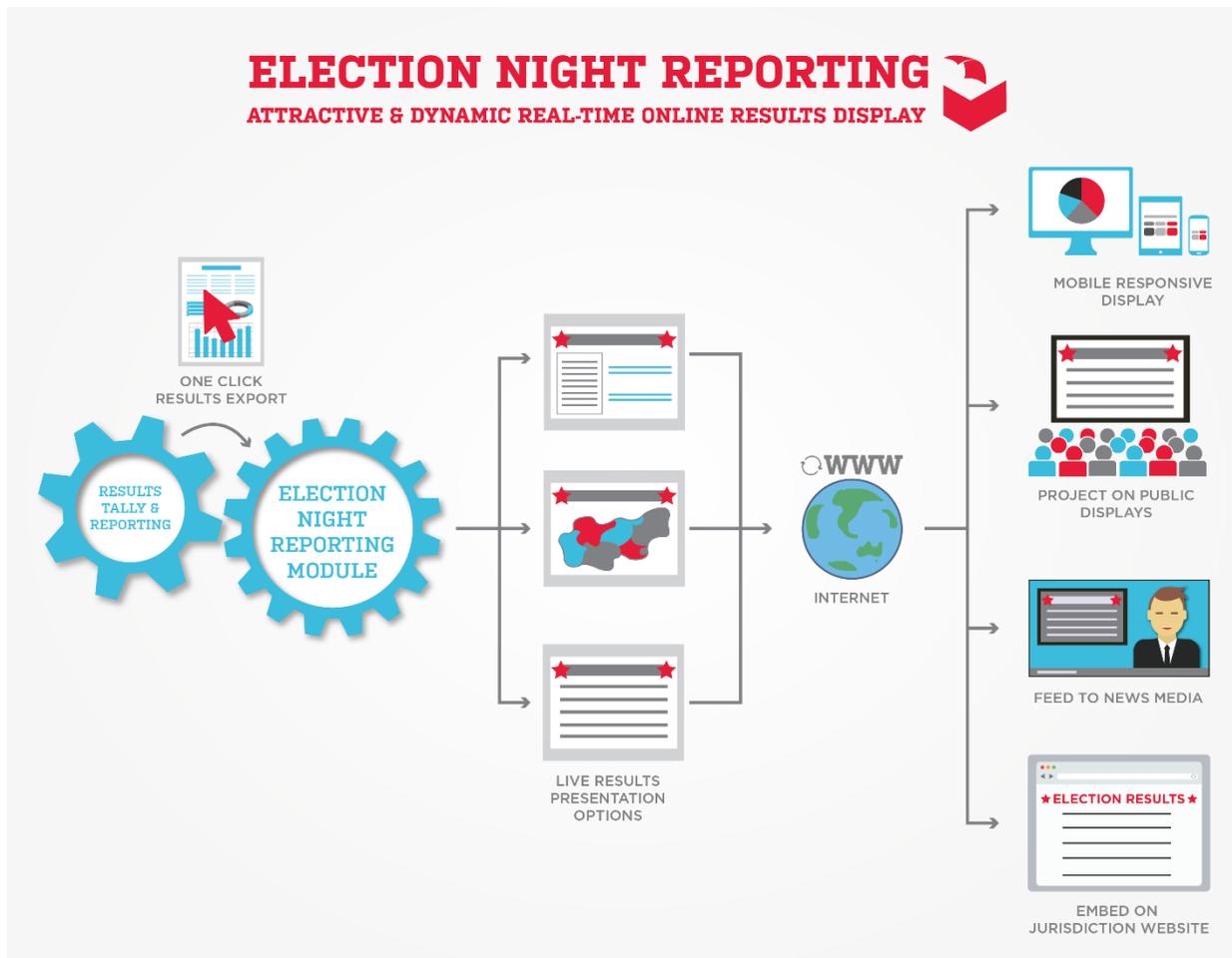
### Method 3 – Results Transfer Manager

Similarly to Method 1, memory cards with the encrypted vote totals are removed from their slots in the units and brought to a local hub. At the hub, the memory cards are inserted into a card reader connected to an Results Transfer Manager client laptop with a secure Internet connection. The Results Transfer Manager will automatically upload the encrypted results files, and transmit them to the ImageCast Listener server, in a manner similar to results sent via modem. Once the files are received, they are available for loading into the Results Tally & Reporting module of the EMS system.



## Election Night Reporting

As an optional additional feature, Dominion offers enhanced Election Night Reporting tools to create an Internet-based graphical display of results, which provides an attractive and dynamic focus on election night. Our cross-platform (mobile-friendly) results display based in HTML5 is our standard and most popular configuration. The report display runs in real-time on the Internet, updating as results are released from the results tally module by officials. It can be projected on public display screens, such as County Offices, fed to local television stations, and displayed on the county or state’s website. Dominion has different report layouts available, and can configure the display with the jurisdiction’s logos and colors.



**The Internet-based graphical display is completely automated and runs behind the scenes.** Once election officials have released a set of results, XML files are created and transferred to a local FTP directory (or via an external memory device), and the graphical display is automatically updated. This XML file is in an internationally defined election format called EML (Election Markup Language). As such, the election results are transferred in a format that can be easily read by news media, if they wish to import the XML files into their own display program (or they can simply use your Dominion graphical report for broadcast).

000571

CONTRACT #071B7700117





County of Anywhere  
**Election**  
**2014**

1408 State Primary County General

**Unofficial Results**

County of Anywhere  
Eligible voters: 202044  
Ballots cast: 53685  
Reported voting locations: 130/130

Loop

Governor - REP
Governor - DEM
U.S. Senate - REP
U.S. Senate - DEM
U.S. House of Representatives, District 3 - REP
U.S. House of Representatives, District 3 - DEM
State District 11 - REP
State District 11 - DEM
House of Representatives District 26 - REP
House of Representatives District 26 - DEM
House of Representatives District 27 - REP
House of Representatives District 27 - DEM
House of Representatives District 28 - REP
House of Representatives District 28 - DEM

Governor - REP	
Vote for 1	Votes
Everett Dirksen	35236
Andrew Carnegie	1285
Thomas Alva Edison	1025
Jane Austen	595
Write-in	188

*Example of the Election Night Reporting module web display*



### Electronic Ballot Delivery – Dominion’s ImageCast Remote (UOCAVA)

Dominion’s ImageCast Remote UOCAVA system offers a secure and efficient means for overseas and military voters to receive, mark, print and return their ballot to their local elections office. The ImageCast Remote UOCAVA system ensures the security and transparency of the balloting process while preserving the privacy of UOCAVA voters.

Fully integrated and supported by Democracy Suite, the ImageCast Remote UOCAVA system allows election officials to conduct a seamless election, without the need for a separate database or election project. Ballots returned by UOCAVA voters can be processed on ImageCast Central, **eliminating the need to duplicate ballots or process UOCAVA ballots on a separate system.**



## System Security Overview

Dominion implements security protocols that meet or exceed EAC VVSG 2005 requirements. All of Dominion's security protocols are designed and implemented to stay current with the rapidly evolving EAC security requirements set forth by various iterations of the VVSG.

Dominion's security technology is unprecedented insofar as it takes into account every aspect and every component of the Democracy Suite platform. This includes – but is not limited to – the full encryption of election projects, iButton security keys, Compact flash cards, election data, software applications, elections results files, and data transmission. In addition, Dominion developed a custom ballot authentication system built around an (optional) secure ballot paper stock and in-tabulator authenticators.

### Maintaining Data Integrity

Data generated by the Democracy Suite platform is protected by the deployment of FIPS-approved symmetric AES and asymmetric RSA encryption. The Democracy Suite Election Management System uses these techniques to encrypt election files prior to their use on ImageCast tabulators. Once the polls have been closed, the ImageCast tabulators encrypt all of the results files prior to transmitting them back to EMS.

SHA-256 hashes are used for all data integrity and verification. Should an intrusive process or altering of any file occur, hash values will be, in turn, altered as well. With that said, any presence of an intrusive process will be detected, as the hashes of any altered data will not match the value initially determined.

### EMS Security

To protect any modification of software by malicious users, the Democracy Suite Election Management System integrates the Microsoft .NET Framework code signing process, within which, Dominion Voting digitally signs every executable and library (DLL) during the software build procedure. After the installation of Election Management software, only successfully verified EMS software components will be available for use. Digital signature verification is performed by the .NET Framework runtime binaries. If a malicious user tries to replace or modify any EMS executables or library files, the digital signature verification will fail and the user will not be able to start the EMS application.

### Role-based Access Controls

Democracy Suite integrates a role-based access control system for all software and hardware components. Each user accessing the system is the member of one of the predefined or custom-made roles. Each role has its own set of permissions, or actions that users of that role are allowed to perform. This access control approach provides authentication and authorization services and can be granular according to the jurisdiction's needs and organization. Complete user and role membership management is integrated within the Democracy Suite EMS Election Event Designer client module.

The Democracy Suite EMS platform implements role-based user management for provisioning access control mechanisms on each election project. Managing access control policies is integrated within the User Management activity of the EMS EED module. This activity is permitted only for users with administrative privileges.



### Hardware Access Controls

Democracy Suite utilizes hardware-based security tokens (iButton security keys) in the process of access control for ImageCast Precinct tabulators. These password paired hardware tokens contain data encryption information used in the voting process (encryption and signing keys). Without a valid security token, and paired access password, the administrative functions of election tabulators are effectively locked.



*The poll worker applies his/her iButton security key to the tabulator*

### Communications

For communication channels (as well as data storage) a combination of security techniques for data integrity, authenticity and confidentiality is implemented. Democracy Suite integrates AES or RSA encryption algorithms for data confidentiality, along with SHA-256 and HMAC digital signatures for data signing (data authenticity and integrity). The system does not require external Internet connections.

### Effective Password Management

Proper password management requires multiple activities and controls, namely:

- Input data validation
- Data quality
- Utilization of one-way (hash) cryptography
- Computer generated passwords for greater entropy and protection from dictionary attacks
- Different password strength profiles for different user levels
- Utilization of hardware tokens for storing user credentials (two-level authentication security: something you know and something you have)
- User state machine (initial, active, inactive)



All of these activities and controls are integrated within the Democracy Suite platform.

Dominion utilizes authentication and authorization protocols that meet EAC VVSG 2005 standards. In addition, Dominion's solution relies on industry-standard security features to ensure that the correct users based on a user role or group are granted the correct privileges. Finally, each jurisdiction is responsible for ensuring that only authorized personnel have access to both the system and tools used for installation and configuration purposes. All back end system, and tabulator operations are continuously and completely logged at all times to maintain a complete record of all election-related processes.

		Mode 1- Symmetric Crypto	
File Type	Storage Place	Confidentiality	Integrity
Election files (ICP) and election database (ICE), DCF (ICP) and MBS (ICE), result files (ICP/ICE)	NAS and Compact Flash	AES-128/256	HMAC (SHA-256)
Reports and Logs	NAS and Compact Flash	AES-128/256	HMAC (SHA-256)
Ballot Images	NAS and Compact Flash	-	HMAC (SHA-256)
Ballot Layout Definition (XML)	NAS and Compact Flash	-	HMAC (SHA-256)
Official Ballots	NAS	X.509 Digital Certificate	
User Credentials	iButton	HMAC (SHA-256)	HMAC (SHA-256)

*File Type to Security Algorithmic Mappings*

### EMS Audit Log

From the initial state of the election project, until the deactivation state, the EMS system maintains an activity log within the EMS Database. This activity log contains every action that any of the users have performed within the system and represents a detailed audit log that can be analyzed and printed in the form of an audit report. The audit record information cannot be modified or permanently deleted using the EMS client applications. It can, however, be exported for archiving purposes as part of the record retention policy. Keeping in mind that audit log information can contain a significant amount of information, it is the responsibility of the administrative user to perform regular archiving of the log.

During the voting phase of the election event, ImageCast devices also keep an activity audit log which tracks events happening on the device itself.



## Tabulator Security

### Electronic Safeguards and Security

To access any of the administration functions of the ImageCast tabulators, an electronic iButton security key has to make contact with the iButton security key receptacle on the cover of the unit.

Access to the unit can be granted to two different levels of people:

- The poll worker iButton security key is used by the poll worker to access all poll worker functions.
- The Technician iButton security key is used by a Technician with authorized access to update and verify firmware.

In the power on sequence, the unit will not function until the poll official accesses the administrator access screen. The ImageCast tabulators are unlocked by an iButton security key, which is used to:

- Authenticate the software version (ensuring it is a certified version that has not been tampered with)
- Decrypt election files while processing ballots during the election
- Encrypt results files during the election
- Provide access control to the unit

It is anticipated that the iButton security keys may get lost; therefore, any substitute key created for the same tabulator will allow the unit to work fully.

A valid poll worker iButton security key will grant access to the admin screen from which the following operational functions can be accessed:

- Diagnostics Test
- Provisional Voting/Ballot Test
- Opening Poll
- Accessible Voting
- Closing Poll
- Reports
- Election Statistics
- Re-Open Poll
- Re-Zero Poll
- Power Down
- Ballot Review

### Internal Battery

In the event of a power failure, ImageCast tabulator units have an internal Lithium Ion rechargeable battery with a two-hour life.



In the case of a power failure, including full power drain, restarting places the unit in “Interrupt” mode, in which the previously stored election data is reloaded when the unit resumes operation. If there is catastrophic electrical or mechanical damage, the memory cards are inserted into a spare unit. When powered on, the unit resumes operation using the previously stored election data.

### Results Storage Media

The ImageCast tabulators have sockets for two removable, non-volatile Compact Flash cards (Primary and Administration), both of which are accessible from the unit and stored behind sealable doors. The content of each card is encrypted and signed.

The system saves election and voting data simultaneously to both locations, keeping the content of both memory cards in sync. The administrative memory card holds a copy of the election results and audit log from the primary card. The memory cards will retain data for over twenty-two months, as per EAC VVSG 2005 Volume I requirements.

		Memory Card Size		
Ballot Size (Single-sided)	Approx. Ballot Image Size (KB)	4GB	8GB	16GB
8.5" x 11"	250	14000	30000	62000
8.5" x 14"	277	12600	27000	55800
8.5" x 17"	312	11200	24000	49600
8.5" x 20"	334	10500	22400	46400
8.5" x 22"	357	9800	21000	43400
Ballot Size (Double-sided)				
8.5" x 11"	357	9800	21000	43400
8.5" x 14"	454	7700	16500	34100
8.5" x 17"	499	7000	15000	31100
8.5" x 20"	555	6300	13500	27900
8.5" x 22"	624	5600	12000	24800

*ImageCast tabulators memory media capacity*

### Media Storage Security

The entire set of data files supporting the election are contained on the Primary Compact Flash device. The files stored on these cards allow for recovery from external conditions that cause equipment to become inoperable. The election results, device logs and scanned ballot images are recoverable from the secondary memory card. Further, the AuditMark functionality can be used to independently verify the total votes for any particular candidate or ballot issue.



### Tabulator Audit Trail

The tabulator Audit trail file is stored on the Compact Flash memory card, and contains a chronological list of all messages generated by tabulator software. All audit record entries include a time-and-date stamp. This file is encrypted and digitally signed to protect its integrity.

During the final results tally audit activity, the automated audit log of each optical scanner is input into the EMS Results Tally and Reporting system for a consolidated record.

This tabulator Audit trail file will include:

- System startup messages (recorded by Application Loader).
- System self-diagnostic messages (module initializations, security verifications).
- All administrator operations (messages include “security key” id names).
- All ballots cast, rejected and diverted.
- All voter notifications (undervotes, overvotes).
- All system errors (paper jams, power failures, hardware failures, data errors, etc.).
- Source and disposition of system interrupts resulting in entry into exception handling routines.
- All messages generated by exception handlers.
- Notification of system login or access errors, file access errors, and physical violations of security as they occur, and a summary record of these events after processing.
- Non-critical status messages that are generated by the machine's data quality monitor or by software and hardware condition monitors.

All audit logs are digitally signed. If there is tampering of the audit data or logs, this is detected by the operating unit. The unit reports ‘Election file mismatch’ and will not operate since modifying the audit files can only indicate malicious usage.

Every action, event, and operation that occurs on ImageCast tabulators is permanently logged to an audit log file that exists on both memory cards. Every event and operation that occurs on the election management system is kept on the election project audit within the EMS Database. This file is signed and encrypted.

Audit logs are available to operators at all times. On the optical scanners, these can be accessed from the Administration menu, and printed. In EMS, a directory of audit files is accessed in the graphical user interface, and can be printed. Operators with Administration privileges can access these files at any time.

Audit log records cannot be deleted nor modified. Users with proper authorization levels can generate and view the audit report. Audit reports cannot be deleted.



**Exhibit 5 to Schedule A**  
**Sample Ballots and Reports**  
**See separate document (26 pgs.)**



**Exhibit 6 to Schedule A  
Michigan QVF Export File Format**

**See separate document (83 pgs.)**



## Exhibit 7 to Schedule A Results Transmission Overview

Refer to **Exhibit 2 to Schedule A, 1.1-1.4, Technical Requirements: 1.2A.25, 1.2D.1 and 1.3.B.1**. The following provides a detailed description of the recommended infrastructure necessary for a county to design and implement a LAN, modem based, or cellular transmission network for uploading unofficial results on election night.

### Precinct and RTM Transmission with ImageCast Listener

The ImageCast Listener is an add-on component to the base EMS system—it is designed as a turnkey solution for jurisdictions to implement results transmission from their precinct tabulators and/or RTM client laptops. The system supports wireless cellular/internet-based transmission, analog dial-up modem transmission, or both, providing flexible options to meet a jurisdiction's particular requirements and preferences. The jurisdiction is responsible for providing external access to the back-end receiving infrastructure.

The base ImageCast Listener system consists of two pieces of hardware: the ImageCast Listener (ICL) server and a firewall appliance (WatchGuard Technologies Firebox M200 or XTM 25). When dial-up transmission is used, an additional Remote Access Server (RAS) is required. The RAS server uses analog USB modems, connected to the server via a powered USB 3.0 hub.

In addition to the base EMS system, the required components for the **ImageCast Listener** system, using wireless/internet transmission are:

- ImageCast Listener Server (Dell PowerEdge R330 recommended)
- WatchGuard Technologies *Firebox M200* or *XTM 25* firewall appliance
- 2 x CAT5e or CAT6 Ethernet cables
- 1 x external wireless modem (eDevices CellGo) per precinct (multiple tabulators in a precinct can share the same modem if transmission is performed serially, rather than simultaneously).

When dial-up transmission is used, the **RAS server** component is required in addition to the components listed above:

- Remote Access Server (Dell PowerEdge R330 recommended)
- Powered 10-port USB 3.0 hub
- USB analog dial-up modems (up to 10)
- 1 x CAT5e or CAT6 Ethernet cable

Note: analog modems on the transmitting end are built into the ImageCast Precinct tabulator.



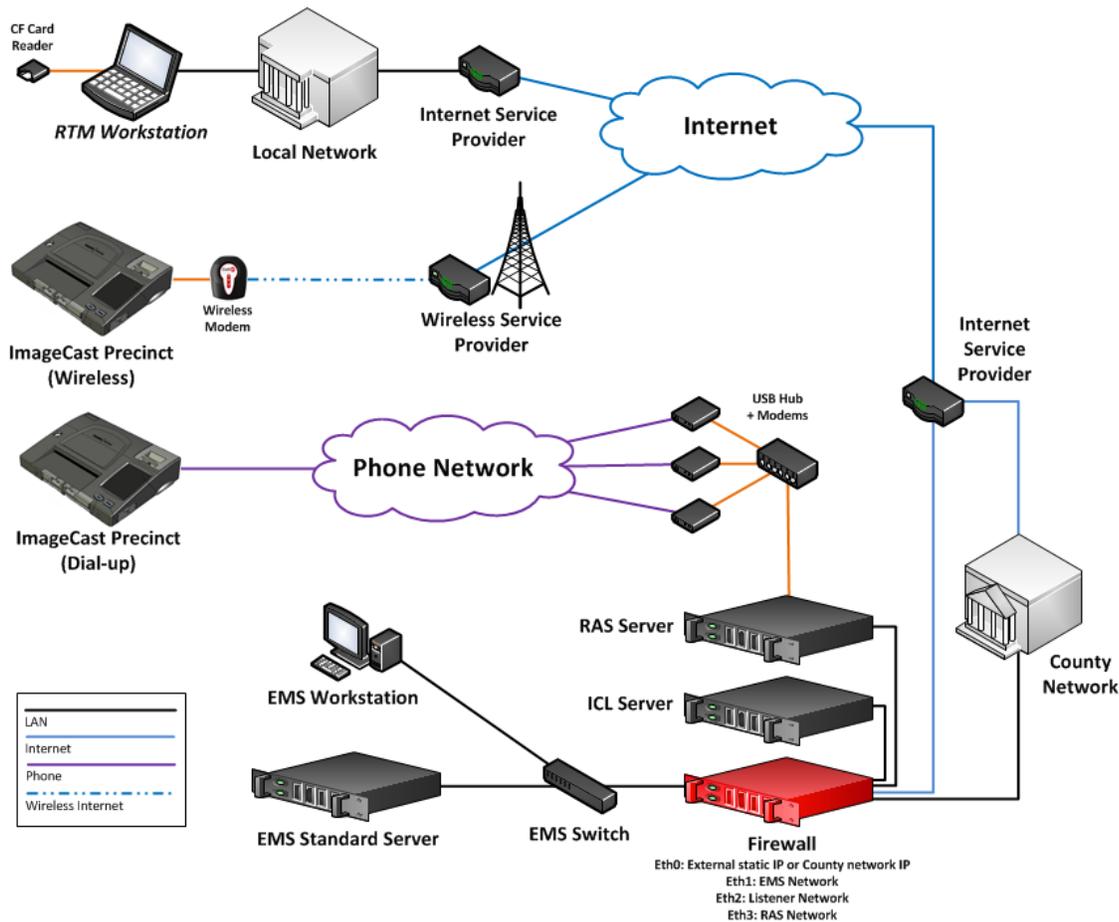
The **EMS Results Transfer Manager (RTM)** application requires the following components:

- Laptop (with internet access)
- Compact Flash (CF) card reader/writer

Complete instructions for installing and configuring the ImageCast Listener and RAS servers can be found in the system installation documents (*2.08 ImageCast Listener System Operation Procedures, RAS Installation and Configuration Procedure and EMS RTM User's Guide*).

Note: these documents currently describe the configuration steps using screenshots from Microsoft Windows Server 2008 R2 Standard, however the 5.0-S system uses Microsoft Windows Server 2012 R2 Standard. The configuration steps are the same on both platforms.

### ImageCast Listener (Standard)





For wireless/internet-based results transmission, a static external IP address at the jurisdiction's central office is required. Dominion recommends that jurisdictions use a dedicated external internet connection for this purpose, however jurisdictions may choose to route the TCP/IP traffic from their existing firewall, through their internal network to the ImageCast Listener firewall. Note that the diagram above illustrates both modes of external internet access, although only one is required.

Note also that the diagram depicts the EMS Standard configuration. The EMS Express configuration substitutes the EMS Standard Server and EMS Workstation with a single EMS Express Server machine (running both server and client applications), and the WatchGuard Firebox M200 with the WatchGuard XTM 25. All other aspects of the system are identical to the EMS Standard configuration.

On the transmitting/sending end, precinct tabulators require an external wireless modem and an active GSM SIM card with cellular data services enabled (CDMA-based cellular networks are not supported at this time). RTM clients run on a laptop that requires an internet connection.

For dial-up results transmission, the jurisdiction is required to provide a bank of analog telephone lines that connect to the Remote Access Server's (RAS) analog modems. The analog dial-up transmission system does not support digital telephone lines. These lines should be configured in a "hunt group" allowing a single telephone number to be dialed from the precinct, with the call rolling over to the next available modem if the primary line is busy. This configuration minimizes the chance of the tabulator receiving a busy signal and needing to re-dial.

On the transmitting/sending end, precinct tabulators require an analog telephone line at the voting location, which is connected to the tabulator's internal dial-up modem.

Dominion recommends that jurisdictions perform a wireless test at each potential voting location to ensure that adequate wireless signal is available. Analog phone lines at both the transmitting and receiving end should also be tested prior to each election to ensure they are functioning correctly.

### EMS Results Transfer Manager (RTM)

The EMS Results Transfer Manager application resides on a standalone, internet- or LAN-connected laptop. The following steps are performed to transmit results securely to the central location:

1. Jurisdictions remove the primary or backup Compact Flash memory card from the ImageCast Precinct tabulators and transport them to a regional office.
2. The RTM application allows jurisdictions to rapidly load the ICP results files from the Compact Flash cards to the laptop using a CF card reader.
3. All loaded results files are securely transmitted to the ImageCast Listener or to a local or shared network folder (see the following section for more details).

Note that the application also supports non-secure FTP transmission. Because the transmission channel is not encrypted, this functionality is not suitable for use in jurisdictions in the United States. Only secure TCP/IP transmission to the ImageCast Listener service, or shared folder transmission over secure VPN is permitted.

When RTM is used to transmit results to the ImageCast Listener, the ImageCast Listener Dashboard tracks the progress of received results files, in the same way as when results are transmitted directly from the ImageCast Precinct at the polling place.

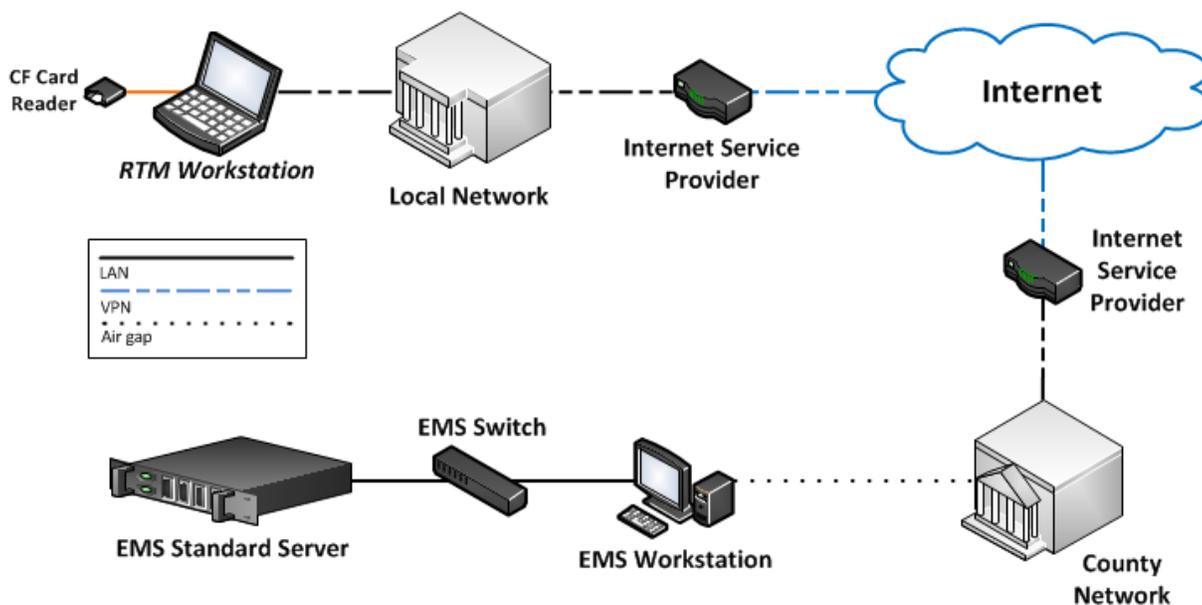
Please see the *EMS Results Transfer Manager User's Guide* for detailed installation and use procedures.



## EMS Results Transfer Manager With VPN Network

A purely LAN-based solution can be implemented using the RTM application, which allows jurisdictions to load results from ImageCast Precinct memory cards at a regional office and send those results to a local folder or a shared network folder within a secure Virtual Private Network (VPN). This solution does not require the ImageCast Listener on the receiving end. Received results files are manually copied from the shared folder on the jurisdiction's secure network to the EMS Workstation machine using a removable medium, and loaded into the EMS Results Tally and Reporting application.

## EMS Results Transfer Manager (VPN Network)



It is entirely the jurisdiction's responsibility to set up the required infrastructure for linking remote locations in a wide-area network (for example, creating secure VPN tunnels between offices). Dominion can work with IT departments to plan these solutions, but due to the variability of the networking and firewall equipment used by different jurisdictions, cannot take responsibility for directly configuring or maintaining the jurisdiction's VPN infrastructure.

When RTM is used to transmit results to a shared network folder, without the ImageCast Listener, the Dashboard is not available. Progress of results files can be tracked in EMS Results Tally and Reporting as they are loaded into the system.



**Exhibit 8 to Schedule A  
 Dominion Voting System ImageCast Printing Brief  
 Version: 4.19::27  
 April 23, 2015**

# Contents

<b>1</b>	<b>Introduction</b>	<b>i</b>
		<b>1</b>
1.1	Purpose and Scope . . . . .	1
1.2	Patent Status . . . . .	1
<b>2</b>	<b>ImageCast Ballot Printing and Finishing Specification</b>	<b>2</b>
2.1	The Need for Printer Training and Certification . . . . .	2
2.2	Dominion’s Printer Certification Program . . . . .	2
2.3	ImageCast Ballot Artwork Source Files . . . . .	3
2.4	Approved Ballot Paper Stocks . . . . .	3
2.5	ImageCast Ballot Printing Methods . . . . .	4
2.6	ImageCast Ballot Printing Specifications . . . . .	4
2.6.1	Common Specifications for all ImageCast ballot Production . . . . .	4
2.6.2	Image Reproduction . . . . .	6
2.6.3	Ballot Card . . . . .	6
2.6.4	Other Defects . . . . .	6
2.7	Scoring and Folding Ballots . . . . .	7
2.8	Ballot Stubs - Perforations, Numbering and Padding . . . . .	7
2.9	Ballot Handling and Print Shop Cleanliness . . . . .	7



# Chapter 1

## Introduction

### 1.1 Purpose and Scope

This document provides an overview of ballot printing and finishing for ImageCast ballots used with the ImageCast family - the ImageCast<sup>®</sup> Precinct (ICP), the ImageCast<sup>®</sup> Evolution (ICE), and ImageCast<sup>®</sup> Central (ICC) ballot tabulators. The intended audience is election administrators and their technical support staff, and the content highlights the basic ballot production process and the key factors for quality control and inspection without going into the level of detailed needed for ballot production.

This document is not the full technical specification for the Dominion ballot printer qualification program, nor does it serve to outline every print operation or cover all quality control aspects. The appropriate document for that purpose is the *Dominion Voting Systems ImageCast Printing Specification*. Printers undergoing the qualification will be provided with that document during the qualification process itself.

### 1.2 Patent Status

Certain system concepts, as well as many implementation and construction details, are protected by a series of U.S. and foreign patents.



## Chapter 2

# ImageCast Ballot Printing and Finishing Specification

### 2.1 The Need for Printer Training and Certification

Printing ballots is different than most commercial printing. The deadlines are fixed (Election Day) and the production timeline is short. Optically scanned ballots must be printed and manufactured with high precision and the tolerance for mistakes or other errors is very small. “Bad printing” has been the source of several disrupted or contested elections and seemingly small mistakes can have profound consequences. Printing errors can:

- Embarrass the jurisdiction.
- Erode voter confidence in the election process.
- Require a new election to be held.
- Cost millions of dollars in lawsuits and legal action.

Dominion trains, tests, and qualifies printers to print and manufacture ImageCast ballots. These training procedures educate printers in order to prevent a jurisdiction from becoming part of the “learning curve”. There is “zero-tolerance” for ballot printing or manufacturing errors.

*The ballot printer IS RESPONSIBLE for the correct printing, finishing, and timely delivery of every ballot produced.*

### 2.2 Dominion’s Printer Certification Program

When searching for a print vendor to supply ImageCast ballots, the printer should be a Dominion-qualified ballot printer in good standing. Qualified ballot printers are high quality commercial printers who have demonstrated the experience, equipment, and facilities required to successfully produce ImageCast ballots. A Dominion account representative can provide a list of accessible qualified printers for your type of ballot printing.

The qualification process includes:

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Rev: 4.19::27

2



- 
- Creation of a test plan based on the print technology, experience, and ballot features of specific customers
  - On-site instruction in ballot printing and finishing.
  - Ballot inspection.
  - Ballot QC programs.
  - Ballot handling.

The printer is required to print and finish a production run of ImageCast ballots. These are graded and reviewed as part of the process.

If the printer successfully completes testing and inspection, Dominion will qualify the press and facility.

## 2.3 ImageCast Ballot Artwork Source Files

Dominion's Democracy Suite Election Management System (EMS) creates tabulator-ready PDF ballot artwork files. Ballot artwork files are created as complete ballot images, without trim lines or crop marks, and are designed to directly print on digital 4-colour sheet-fed xerographic or other electrophotographic printers (most B-sized laser printers). Ballot artwork is generated in industry-standard PDF format, PDF/X-1a:2001 (PDF Version 1.3) and CMYK colour space.

Ballot artwork files are full-sized press-ready ballots containing all required ballot elements and the unique ballot ID barcode that distinguishes each ballot style. Each file contains one or two ballot images: a front image (if the ballot is single-sided) or paired front and back ballot images. All fonts used in the ballot artwork are embedded in the PDF file. Ballot artwork files are digitally-signed (X.509) and tied to the election project files produced by Democracy Suite EMS to allow for authentication and revision control.

Pre-press imposition of ImageCast ballot artwork to add crop or alignment marks, jurisdictionally-mandated background screens, stub artwork, or other printing, may be required. No modifications, post-processing, or image conversion of the original ballot artwork files is allowed.

## 2.4 Approved Ballot Paper Stocks

The optimal paper stock for all scanning using except the DRS PhotoScribe Scanner is listed as the first line: Rolland Opaque 100# Text.

Alternative text and cover paper stocks that have been tested. The full list of those approved for manufacturing ImageCast ballots are listed in Table 2.1.

No other papers have completed the qualification testing, and may not be used. In cases where alternatives are requested, Dominion may perform an additional qualification test.

All approved ballot stock is white, bright white, or natural colored paper and has a smooth finish. Color-coding ballots is normally achieved in the ballot artwork by printing screened area(s) of color as a background — *not* by ordering colored ballot stock.



Recycled pulp				
Manufacturer	Type	Weight	Color/Finish	Comments
Cascades Fine Paper	Rolland Opaque 50	100# Text	Bright White, Smooth Finish	50% Post consumer fiber, EcoLogo, FCS Mixed Sources
Cascades Fine Paper	Rolland Opaque 50	80# Text	Bright White, Smooth Finish	50% Post consumer fiber, EcoLogo, FCS Mixed Sources
Cascades Fine Paper	Rolland Opaque 50	65#	Cover Bright White, Smooth Finish	50% Post consumer fiber, EcoLogo, FCS Mixed Sources
International Paper	Accent Opaque	80# and 100# Text	Smooth	FCS Forest Management
International Paper	Accent Opaque	65# Cover	Smooth	FCS Forest Management

Table 2.1: Text and Paper Stocks Approved for ImageCast Ballots.

## 2.5 ImageCast Ballot Printing Methods

ImageCast ballots can be printed using a range of modern printing technologies.

- Small quantities of tabulator-ready ballots can be printed with a conventional B-size laser printer (600 dpi min., pre-calibrated), directly onto pre-cut blank ballot stock. ImageCast ballot artwork files are pre-configured for this use.
- Conventional web or sheet-fed offset lithographic presses.
- High-speed digital xerographic or other electrophotographic presses (both web and sheet-fed).
- Ink jet printers, from desktop units to high-speed web print engines.

Print technologies do not produce ballots of equivalent quality. Each print technique has aspects of high quality and vulnerability. For this reason, the print qualification granted to a printer is limited to the product unit and operators. The qualification test is adapted to each technology, as well as the scope of ballot variances that are to be printed.

*Common to all successful ballot printing methods is the strict adherence to Dominion's ImageCast ballot specifications.*

## 2.6 ImageCast Ballot Printing Specifications

### 2.6.1 Common Specifications for all ImageCast ballot Production

Common to all ImageCast ballot production methods is the requirement for the precise reproduction of the ballot image onto the finished ballot.



- Ballot images must be accurately reproduced, properly scaled, correctly registered to the finished card, and printed with the correct inks or toner.
- Ballots must be manufactured on properly-conditioned and approved paper stocks that are accurately trimmed to size.
- Any additional ballot finishing to meet customer and jurisdictional requirements should be of the highest quality.
- Ballots must always be handled correctly and packaged properly to ensure that they are clean and undamaged when the customer receives them.
- In-house ballot inspection, testing and a well-executed quality assurance program, are an essential part of any ballot manufacturing facility.

Finished ballot dimensions broken per ImageCast tabulator type are presented in Figure 2.1.

## ImageCast Finished Ballot Dimensions

Tabulator	Width (nominal)	Width Tolerance	Length	Length Tolerance
<b>CF-200</b> All Tabulators	8.500"	+0.020" -0.042"	11" and 14"	+/- 0.032"
<b>ICP</b> ImageCast Tabulators	8.500"	+0.020" -0.042"	11" - 22"	+/- 0.032"
<b>ICP</b> BMD Tabulators	8.500"	+0.020" -0.042"	14", 17", 19", and 22"	+/- 0.032"
<b>ICE</b> All Tabulators	8.500"	+0.020" -0.042"	11" - 22"	+/- 0.032"
<b>ICC</b> Canon Scanners	8.500"	+/- 0.032"	11" - 22"	+/- 0.032"
<b>ICC</b> DRS PhotoScribe Scanner	8.500"	+/- 0.032"	11" - 18"	+/- 0.032"

Figure 2.1: ImageCast Ballot - Finished Dimensions.

*THE BALLOT PRINTER IS RESPONSIBLE for all aspects of ballot printing and manufacturing and MUST ENSURE that the ballots that they produce meet all Dominion and customer specifications at the time of tabulation.*



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## 2.6.2 Image Reproduction

- **Print quality:** Clean and well-printed images, with sharply defined edges, accurately reproducing the ballot artwork. Ink density must be uniform across the ballot and should be free from smudges, mist, spray, spots, hickeys, voids or other stray marks. No visible setoff, ghosting or bleed-through.
- **Black ink:** Black ink (or toner) must be dense, opaque, light-fast and permanent, with a measured minimum 1.2 reflection density (log) above the paper base.
- **“Drop out” color:** Must be tested to confirm that the reproduced color is not imaged by the tabulator if used for a voting position target.
- **Image to card registration:** +/- 0.016” maximum, worst case in any direction. Registration is most important across ballot width.
- **Maximum image skew:** +/- 0.032” maximum
- **Maximum image scaling error:** 1% maximum
- **Front to back image registration:** 0.032” maximum, worst case in any direction
- **Minimum print imaging resolution:** 600 dpi commercial (200 dpi in-house production of test ballots)
- **Restricted areas:** No printing in the designated restricted areas.

## 2.6.3 Ballot Card

- **Square and accurately trimmed to size:** Ballot edges must be cleanly cut and free from burrs, rolled edges, irregular or bias-cuts, and with the corners undamaged.
- **Ballot width and tolerance:** 8.500” (nominal), 8.458” min. to 8.520” max., measured at both the top and bottom of the card. (The trim tolerances for the ICC scanners are slightly looser, see the table below).
- **Ballot length and tolerance:** 11” to 22”, +/- 0.032” of required length.
- **Ballot Squareness:** 0.0075” maximum deviation
- **Squareness of scores, folds, or ballot perforations:** 90 degrees +/- 30 seconds maximum.
- **Ballot curl:** 0.150” max. height from ballot edge to the flat measuring surface (trimmed ballot). This is usually an indication of a damaged ballot or poor stock conditioning.

## 2.6.4 Other Defects

No anti-setoff powder, wax or spray should be used. No self-adhesive labels or stickers should be used on ballots. Ballots should be free from dust, dirt and other particulate matter.

Additional defects are included in the complete specification provided during qualification testing.

*By adding additional printing to the active ballot area, the ballot printer is COMPLETELY RESPONSIBLE for any tabulation problems that may result! Dominion recommends that the jurisdiction is asked to include the required elements in the ballot artwork with Democracy Suite EMS, or to block out a reserved area in the ballot artwork for this printing to be added. If in doubt about the placement of any additional printing not found in the ballot artwork, PLEASE ASK before printing the ballots.*



## 2.7 Scoring and Folding Ballots

Absentee and mail ballots are typically folded and inserted into envelopes for distribution to voters. Ballots should always be folded across the ballot width (perpendicular to the transport direction) and parallel to the grain of the ballot stock (short-grain). Ballots should be folded into panels of approximately equal length, with a minimum panel length of at least 3.5 inches. Fold lines are centred between ballot markers and cannot “touch” a voting position on either side of the ballot. Try and maintain a “guard band” of at least 0.050” from the position of the fold line to the edge of the nearest voting position target. The fold line should be a clean, sharp line of minimum width. All recommended ballot stocks can be folded either by hand or machine, but pre-scoring the ballot on the fold lines is recommended for heavier ballot stocks.

Table 2.2 indicates the guidelines for folding of the ballots.

Ballot Length	Maximum Allowable Folds	Max Number of Panels
11”	2	3
14”	3	4
17”	3	4
18”	3	4
19”	4	5
20”	4	5
22”	5	6

Table 2.2: Ballot Folding Guidelines

For ballots with more than two panels, folding a “Z” shape will allow for easier unfolding and ballot scanning. Panel lengths of a multi-panel ballot can be varied to “unstack” the folds (so that each fold is not exactly above another fold), which aids in envelope stuffing and removal. Ballot envelopes should be generously oversized to allow room for ballot segregation and to ease ballot stuffing and opening. Typically add a 0.5” allowance to the folded panel width to get the minimum envelope size required. Consider adding a small punched hole into the design of the return envelope - this hole will allow verification of a ballot inside - without compromising voter secrecy.

## 2.8 Ballot Stubs - Perforations, Numbering and Padding

Binding ballots into stacks of 50 or 100 — a process known as “padding” — improves the way in which ballots are handled and counted. Padded ballots are serialized on the ballot stub (or stubs), which allows for a quick reckoning of the total issued ballots. The stub used to bind the ballots together onto a pad, is referred to as the “binding stub”.

Stubs can be placed at the top or bottom of the ballot artwork. If stub placement is not mandated by jurisdictional or election code requirements, it is recommended that the stub is placed at the bottom of the ballot artwork. This placement makes allowances for imperfections on ballot perforation.

*THE BALLOT PRINTER IS RESPONSIBLE for all aspects of ballot printing and manufacturing and MUST ENSURE that the ballots produced meet all Dominion and customer specifications at the time of tabulation.*

## 2.9 Ballot Handling and Print Shop Cleanliness

- All ballot printing facilities should be regularly cleaned, including the floors and all surfaces.



- 
- Special attention should be paid to processes that generate dust, particulate matter, or aerosols.
  - Effort should be made to isolate or vent "dirty" air in order to prevent the contamination of paper and working surfaces from occurring.
  - Waste should be regularly removed and all inks, solvents, or lubricants should be properly cleaned-up and stored.
  - Implementing a regular cleaning program throughout the print shop will help to ensure that the ballots stay clean.
  - Just as important is the cleanliness of the press operators, bindery workers, and other staff who will be handling ballot stock or ballots. Hands should be washed regularly.
  - Work surfaces should be regularly cleaned and food should not be allowed in the shop area.
  - Remember that all paper and printing defects - dirt, dust, smudges, and spots - will be scanned by the tabulators!
  - Always work to protect the edges and corners of finished ballots from damage or wear.
  - Finishing or secondary operations that require the jogging of ballots can damage their edges and cause problems in tabulation.
  - Ballots with bent or damaged corners, or worn, flattened or rolled edges should be destroyed.



## SCHEDULE B LICENSE AGREEMENT

Dominion Voting Systems, Inc.

### EMS AND SYSTEM SOFTWARE LICENSE AGREEMENT

#### 1. Definitions.

- 1.1. "Hardware" means the ImageCast® system defined in the State Contract.
- 1.2. "Licensee" shall mean the State and Authorized Users.
- 1.3. "Licensor" shall mean Dominion Voting Systems, Inc.
- 1.4. "Party" or "Parties" Licensor and Licensee may hereinafter be referred to individually as a Party and collectively as the Parties.
- 1.5. "Software" means the Democracy Suite® and/or ImageCast® software licensed by Licensor hereunder, in object code form, including all documentation therefore.
- 1.6. "Specifications" means descriptions and data regarding the features, functions and performance of the Software and Hardware, as set forth in user manuals or other applicable documentation provided by Licensor.
- 1.7. "State Contract" means the contract entered into by the State of Michigan and Dominion Voting Systems, Inc. All capitalized term defined in the State Contract shall have the same meaning and effect in this EMS and Software License Agreement.

#### 2. License.

- 2.1. License to Software. Subject to the terms herein, Licensor grants Licensee a non-exclusive, non-transferrable license to use the Software solely for the Licensee's own business purposes for the Term of 10 years from the date of purchase, and any extension thereof by the State or Authorized User.
- 2.2. Print Copyright License. Subject to the Licensor's Print Copyright License terms and conditions attached hereto as Exhibit B-1. Licensor grants to Licensee a non-exclusive, non-transferable print copyright license.
- 2.3. No Other Licenses. Other than as expressly set forth herein, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor is not licensing or assigning any intellectual property rights of Licensor to Licensee or any third party. Licensee agrees not to use the Software for elections outside the State of Michigan and agrees not to reverse engineer or otherwise attempt to derive the source code of the Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted is strictly prohibited.

**3. Upgrades and Certification.** During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

- 3.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the State of Michigan, Licensor shall make the certified Software upgrade available to the Licensee at no additional cost.

3.2. Certification Requirement. Notwithstanding any other terms herein, Licensor shall not provide, and shall not be obligated to provide under any upgrade or other software update that has not been certified under the applicable provisions of the election laws and regulations of the State of Michigan.

**4. Prohibited Acts.** The Licensee shall not, without the prior written permission of Licensor:

- 4.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;
- 4.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;
- 4.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;
- 4.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

**5. Return of Software.** Upon termination or expiration of this license, Licensee shall (i) forthwith return to Licensor all Software in its possession or control, or destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

**6. Warranties.** All Software warranty terms specified in Section 31 of the State Contract and Section 1.6 of the State Contract SOW shall apply to this EMS and System Software License Agreement.



**EXHIBIT B-1**

**PRINT COPYRIGHT LICENSE TERMS AND CONDITIONS**

**1. Definitions.**

- 1.1. "Derivative Works" shall mean any work that is based upon or derived from the Licensor's voting systems' ballots, including without limitation, sample ballots and voting booklets.
- 1.2. "Voting Systems' Ballots" shall mean any ballot created for use with any voting system owned or licensed by the Licensor.

**2. Print Copyright License and Use.**

- 2.1. Copyright License Grant. Licensor grants to the Licensee a non-exclusive, non-transferable copyright license to print, reproduce, distribute or otherwise copy the Licensor's Voting Systems' Ballots or any Derivative Works (collectively the "Materials") pursuant to the terms and conditions of this Schedule A.
- 2.2. Copyright License Use. Other than as expressly set forth herein, (a) Licensor grants no other licenses, expressly or by implication, (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party, and (c) the copyright license granted herein cannot be transferred or sublicensed and the Voting Systems' Ballots or Derivative Works cannot be reproduced by any third party without the prior written consent of the Licensor, including without limitation:
  - (i) any commercial or non-commercial printer
  - (ii) any third party vendor using ballot on demand system.
- 2.3. Rights and Interests. All right, title and interest in the Material, including without limitation, any copyright, shall remain with the Licensor.

**3. No Copyright Warranties.** LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.



# STATE OF MICHIGAN

Contract No. 071B7700117  
Voting System Hardware, Firmware, Software and Service

## SCHEDULE C PRICING

1. The pricing schedule for the Contract Activities is in the cost tables on the following pages.
2. Pricing encompasses 5 separate tables (attached):
  - Cost Table 1. Precinct Tabulators and Accessible Voting Systems
  - Cost Table 2. Election Management System (EMS) Software –License Fee and Extended Service / Maintenance (NOTE: this cost table has 2 parts: Tables 2a and 2b)
  - Cost Table 3. OPTIONAL ITEM – High Speed AVCB Tabulator
  - Cost Table 4. Component Replacement / Additional Parts
  - Cost Table 5: Additional Options/Costs – EMS Network Configuration options - The Contractor has standard third party network configurations and related pricing for use by counties and select local jurisdictions in implementing Election Management Systems (EMS) for the following environments: Accumulation Only; Full EMS; Accumulation Only with modeming; and Full EMS with modeming. Orders for these configuration components will be handled and negotiated separately between the Contractor and their individual customers.
3. **Prices include all costs**, including but not limited to any one-time or set-up charges, fees, and potential costs that Contractor may charge the State/Authorized User (e.g., shipping and handling, per-piece pricing, and palletizing). **Any element of the Contractor's system with an associated cost (including optional system features) must be listed and included in one of the Cost Tables available.**
4. Prices listed are fixed for the contract term, and represent the maximum prices per item. Notwithstanding the foregoing, the Contractor is authorized to negotiate pricing with individual counties that are lower than the prices listed here. Any and all lower negotiated prices must be communicated to the Program Manager immediately as they are finalized. Additionally, price changes may be proposed at the end of the initial service and maintenance period, (acquisition year + 4 years) **for component replacement/additional parts only (Cost Table 4).**

**Cost Table 1. Precinct Tabulators and Accessible Voting Systems**

	PURCHASE AND INITIAL SERVICE / MAINTENANCE PERIOD (ACQUISITION YEAR + 4 YEARS)			EXTENDED SERVICE / MAINTENANCE PERIOD (ANNUAL PAYMENT – UP TO 5 ADDITIONAL YEARS)
	Per-Unit Purchase Price	Incentive Program (existing equipment per-unit trade-in discount) See Schedule A Section 1.9	Per-Unit Purchase Price with Discount	Per-Unit Annual Extended Service/Maintenance Price
Precinct Tabulators – <ul style="list-style-type: none"> <li>• 1 at State level (no charge)</li> <li>• 1 per county</li> <li>• 1 per precinct</li> <li>• AVCB Tabulators</li> </ul>	\$5,390.00	(\$95.00)	\$5,295.00	\$375.00
Accessible Voting System (1 per polling place)**	\$3,555.00	(\$40.00)	\$3,515.00	\$240.00

\*\*Polling places with more than 2 precincts may receive an additional accessible voting system.

**Cost Table 2. Election Management System (EMS) Software –SOFTWARE LICENSE FEE; INITIAL AND EXTENDED SERVICE / MAINTENANCE**

Two cost tables are included in this section (2a and 2b). Several clarifying notes are provided with respect to EMS Pricing.

EMS costs will be applicable to counties, as well as select local jurisdictions. Each county will select either:

- 1) **Full EMS (“Program Your Own”)**, for counties that fully program their elections internally (without reliance on the voting system Contractor/subcontractor); or
  - 2) **Accumulation-Only EMS**, for counties that rely on the voting system Contractor/subcontractor for programming; the accumulation-only functionality for these counties shall include the capability to burn media, read media, transmit results and produce accumulation reports.
- The Accumulation-Only version of EMS will also be available to local jurisdictions statewide. While each county will acquire either Full EMS or Accumulation-Only EMS, local cities and townships (local jurisdictions) will have the option to acquire a copy of Accumulation Only EMS. A statewide EMS purchase for local jurisdictions is **not** planned.
  - The EMS License fee is included in the initial payment in year 1, and covers the entire contract term. The initial payment also covers the initial service and maintenance period (acquisition year, plus 4 additional years). The extended service/maintenance period covers an additional 5 years, after the expiration of the initial service and maintenance period. During the extended service/maintenance period (years 6-10), counties have the option of selecting either an annual fee or an hourly technical support rate. See **Table 2b** for additional information on extended service/maintenance costs and options.
  - NOTE: Additional EMS component costs are listed in **Cost Table 4**. Also, **Cost Table 5** includes costs for required/recommended EMS Network components, for several possible network configurations. These additional EMS component and network costs are the sole responsibility of the county/local jurisdiction.



**Cost Table 2a – Base EMS Price (Software License Fee + Initial Service/Maintenance)**

	<b>EMS SOFTWARE LICENSE FEE (INCLUDES INITIALSERVICE / MAINTENANCE FOR ACQUISITION YEAR + 4 ADDITIONAL YEARS)</b>	
<b>Category</b>	<b>EMS Software License Fee (price per copy)</b>	
County Option 1: Full EMS*	Based on total registered voters (county):	
	0 to 15,000	\$50,310.00
	15,001 to 30,000	\$64,800.00
	30,001 to 60,000	\$115,000.00
	60,001 to 125,000	\$157,250.00
	125,001 to 250,000	\$220,363.00
	more than 250,000	\$295,000.00
County Option 2: Accumulation Only*	Based on total registered voters (county):	
	0 to 15,000	\$12,623.00
	15,001 to 30,000	\$18,563.00
	30,001 to 60,000	\$27,000.00
	60,001 to 125,000	\$41,650.00
	125,001 to 250,000	\$58,905.00
	more than 250,000	\$84,150.00
Local Jurisdiction EMS: Accumulation-Only		\$2,500.00

\*Please see the list below for the specific EMS software components that are included in both the full and Accumulation Only versions of Democracy Suite® EMS:



Both full and Accumulation only versions of Democracy Suite® EMS include:

Dominion Software Modules:

- Democracy Suite® EED
- Democracy Suite® RTR
- Democracy Suite® AS
- Data Center Manager – DCM
- Application Server – APPS
- Democracy Suite® EMS Service
- ImageCast® Voter Activation – ICVA
- Results Transfer Manager – RTM
- Election Data Translator – EDT
- File System Service – FSS
- Smart Card Service

Third Party Software Components:

- Adobe Reader
- Microsoft SQL
- Microsoft Visual Studio C++ 2013 Redistributable Libraries
- Microsoft Visual J# Redistributable Libraries
- Java Runtime Environment
- Microsoft Access Database Engine
- Open XML SDK 2.0 for MS Office
- Dallas Semiconductor 1-Wire Driver(s) for iButton
- System Fonts (Arial)
- Cepstral
- Google Text-to-Speech

The Accumulation only version allows for restoring project databases, programming machine memory cards, editing audio for accessible voting, uploading results, and generating results reports.

**Cost Table 2b – EMS Extended Service / Maintenance Fees**

NOTE: For EMS extended service / maintenance, counties have the option to choose either a flat annual rate or an hourly technical support rate. These rates shall be the same for all counties for each option (one set price for Full EMS, one set price for Accumulation-Only EMS).

	<b>EMS EXTENDED SERVICE / MAINTENANCE PERIOD (UP TO 5 ADDITIONAL YEARS)</b>		
	<b>OPTION 1: ANNUAL COUNTY EMS SUPPORT PAYMENT</b>		<b>OPTION 2: HOURLY TECHNICAL SUPPORT RATE</b>
	<b>EMS Extended Service / Maintenance Annual Payment Option (annual price per county)</b>		<b>EMS Extended Service / Maintenance Hourly Technical Support Rate Option for Counties</b>
<b>County Option 1: Full EMS*</b>	Based on total registered voters (county): 0 to 15,000 15,001 to 30,000 30,001 to 60,000 60,001 to 125,000 125,001 to 250,000 more than 250,000	\$8,000.00 \$10,000.00 \$20,000.00 \$25,000.00 \$34,000.00 \$50,000.00	\$300.00
<b>County Option 2: Accumulation-Only*</b>	Based on total registered voters (county): 0 to 15,000 15,001 to 30,000 30,001 to 60,000 60,001 to 125,000 125,001 to 250,000 more than 250,000	\$1,700.00 \$2,500.00 \$3,000.00 \$5,400.00 \$8,400.00 \$12,000.00	\$300.00
<b>Local Jurisdiction EMS: Accumulation Only</b>		\$750.00	\$300.00



Cost Table 3. OPTIONAL ITEM – High Speed AVCB Tabulator

	Hardware COTS? (Y/N)	Additional Hardware / Software Required? (Y/N)**	Processing Speed (Ballots per Minute)	Per-Unit Purchase Price (includes Service / Maintenance for acquisition year + 4 years)	Annual Per-Unit Extended Service / Maintenance Price (5 additional years)
High Speed AVCB Tabulator*					
<b>ICC G1130 System</b>					
Canon DR-G1130	Yes	Yes – ICC Software	11" - 80/min, 4,800/hr	\$14,050.00	\$2,500.00
Workstation	Yes	Yes – ICC Software	14" - 64/min, 3,840/hr	\$2,200.00	\$115.00
ICC Software	NA	Yes – Workstation and Scanner	17" - 53/min, 3,180/hr	\$19,100.00	\$2,900.00
			20" - 45/min, 2,700/hr	<b><u>\$35,350.00</u></b>	<b><u>\$5,515.00</u></b>
<b>ICC M160II System</b>					
Canon DR-M160II	Yes	Yes – ICC Software	11" - 60/min, 3,600/hr	\$3,480.00	\$725.00
Workstation	Yes	Yes – ICC Software	14" - 47/min, 2,820/hr	\$2,200.00	\$115.00
ICC Software	NA	Yes – Workstation and Scanner	17" - 38/min, 2,280/hr	\$7,300.00	\$900.00
			20" - 33/min, 1,980/hr	<b><u>\$12,980.00</u></b>	<b><u>\$1,740.00</u></b>

**\*NOTE:**

- The AVCB tabulators are utilized at the local jurisdiction (city/township) level, not at the county level.

**Cost Table 4. Component Replacement / Additional Parts**

All applicable and available component parts for the Contractor's system are listed below. For each component part, the Contractor has identified the source for obtaining the part and whether the part is available commercially off the shelf (COTS).

NOTE: If alternative purchase sources are available, the State, counties and local jurisdictions reserve the right to purchase from those sources.

Contractor must also list all other system features available in their proposed system, if the cost for such features have not been included elsewhere in this Cost Proposal.

Product	Estimated Life (Years)	Purchase Source (Indicate if COTS)	Per-Unit Price
Ballot and Report Printer - C931	5 years	COTS	\$6,200.00
Compact Flash Memory Card 8GB	5 years	COTS	\$75.00
Compact Flash Reader/Writer	5 years	COTS	\$60.00
EMS Express Managed Switch	5 years	COTS	\$200.00
EMS Express Server - Desktop	5 years	COTS	\$1,750.00
EMS Standard Server - Rackmount	5 years	COTS	\$7,800.00
EMS Standard Server KVM Switch - Rackmount	5 years	COTS	\$80.00
EMS Standard Server Network Switch - Rackmount	5 years	COTS	\$400.00
EMS Standard Server Power Strip - Rackmount	5 years	COTS	\$200.00
EMS Standard Server Rack	5 years	COTS	\$900.00
EMS Standard Smart UPS	5 years	COTS	\$800.00
EMS Workstation PC	5 years	COTS	\$1,200.00
ImageCast Listener Express Firewall	5 years	COTS	\$480.00
ImageCast Listener Express RAS Server	5 years	COTS	\$2,000.00
ImageCast Listener Express Server - Desktop	5 years	COTS	\$2,200.00
ImageCast Listener Standard Firewall - Rackmount	5 years	COTS	\$2,300.00
ImageCast Listener Standard RAS Server - Rackmount	5 years	COTS	\$2,000.00
ImageCast Listener Standard Server - Rackmount	5 years	COTS	\$2,000.00
ImageCast Listener USB Hub	5 years	COTS	\$165.00
ImageCast Listener USB Modems	5 years	COTS	\$225.00
Headphones	5 years	COTS	\$15.00
I-Button Programmer with USB Adapter	8 years	COTS	\$50.00
ICC I-Button Security Key	8 years	COTS	\$25.00
ICP Backup Battery	5 Years when recharged every 6 months	Dominion	\$165.00
ICP Ballot Box - Plastic	7 years	Dominion	\$1,000.00
ICP Ballot Box - Collapsible Plastic	5 years	Dominion	\$1,000.00
ICP Cleaning Sheet	1 year	Dominion	\$20.00
ICP External Wireless Modem	10 years	COTS	\$295.00
ICP I-Button Security Key	8 years	COTS	\$25.00
ICP Paper Roll (60')	1 year	Dominion	\$2.50
ICP Power Supply and Cord	7 years	Dominion	\$30.00
ICP Tech Key - Blue	8 years	Dominion/COTS	\$25.00
ICP-300A Coin Battery	7 years	COTS	\$5.00
ICX Accessible Voting Kit	7 years	COTS	\$400.00
ICX Transport Case	7 years	Dominion	\$175.00
ICX Printer Transport Case	7 years	Dominion	\$100.00
ICX Laser Printer	5 years	COTS	\$220.00
ICX UPS 1500	5 Years when recharged every 6 months	COTS	\$600.00
ICX Smart Card	5 years	COTS	\$10.00
ICX Smart Card Programmer	5 years	COTS	\$200.00
ICX Voting Booth	8 years	ElectionSource	\$375.00
Mobile Ballot Printing System Hardware - LV	5 years	Dominion/COTS	\$9,500.00



**Cost Table 5 – EMS Network Configuration Options  
Dominion Voting Systems**

**Democracy Suite Sample Configuration for Michigan**

The following Democracy Suite® Configurations are samples based on estimated needs of the counties and local jurisdictions. These configurations can be further adjusted according to the specific components required for each county. They have been simplified to illustrate the major components required in each location.

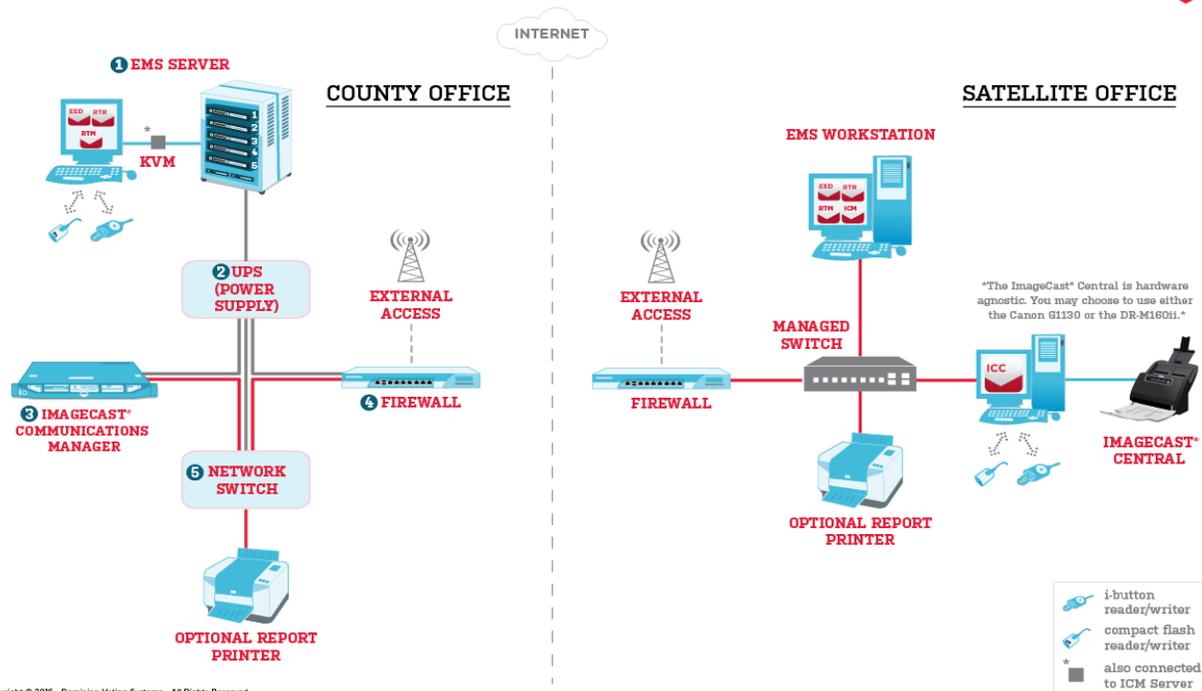
**Configuration 1**

Democracy Suite® Components located at the County/central office and/or local satellite office (city or township) for larger jurisdictions:

- EMS Standard (with client station)
- EMS Express (no client station)
- Listener (wireless modems only)
- ICC (M160-II) for AVCB

Please see below for the Configuration diagram.

State of Michigan - Democracy Suite® System Configuration 1



Dominion Vc



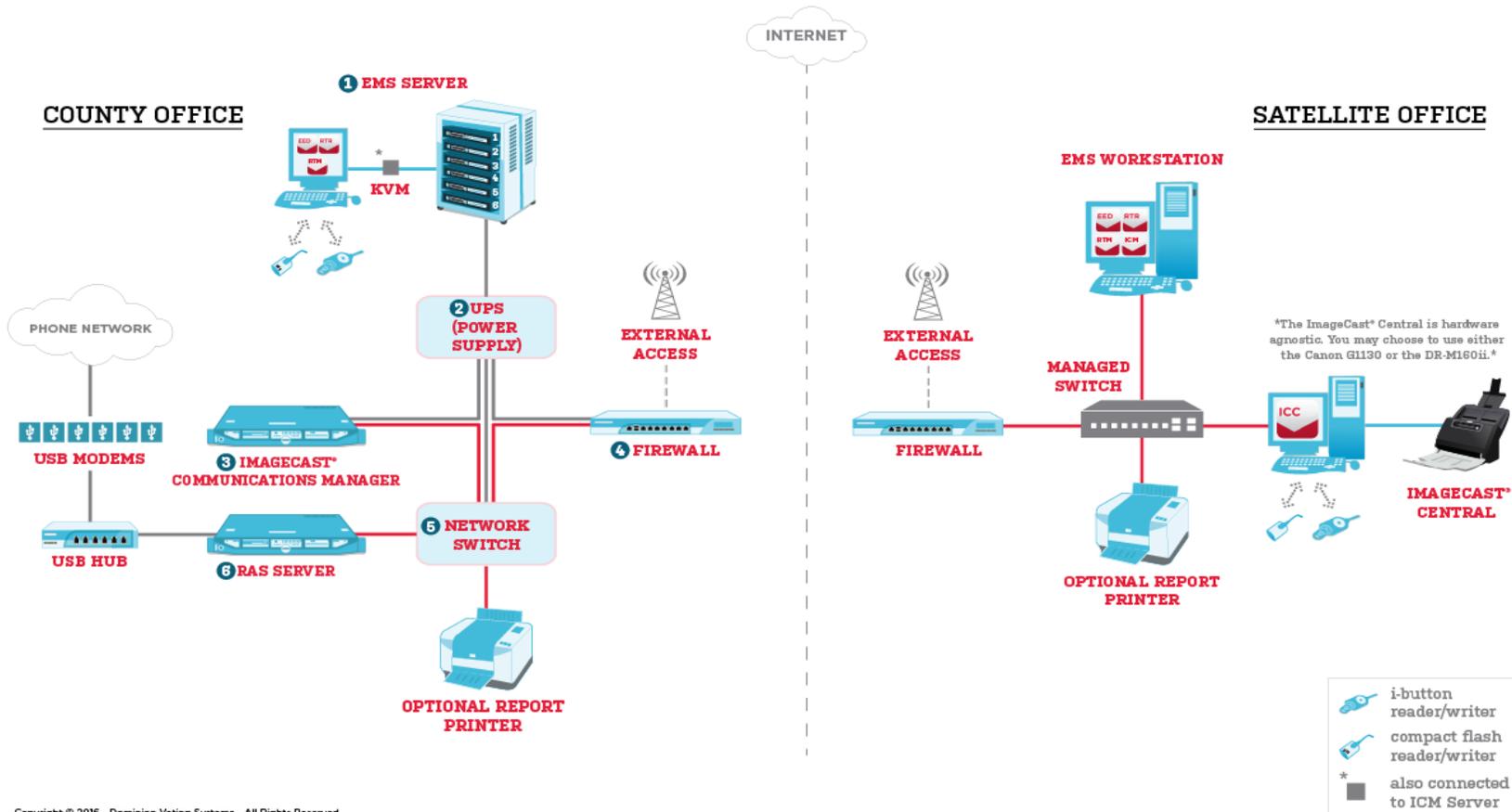
Configuration 2

Democracy Suite® Components located at the County/central office and/or local satellite office (city or township) for larger jurisdictions:

- EMS Standard (with client station)
- EMS Express (no client station)
- Listener (wireless and analog modems)
- ICC (M160-II) for AVCB

See below for the Configuration Diagram.

State of Michigan - Democracy Suite® System Configuration 2



000606

CONTRACT #071B7700117



### Configuration 3

Democracy Suite® Components located at the County/central office and local satellite office (city or township) for small to medium

- EMS Express (no client station)
- Listener (wireless modems only)
- ICC (M160-II) for AVCB

### **Dominion Voting Systems**

#### Configuration 3

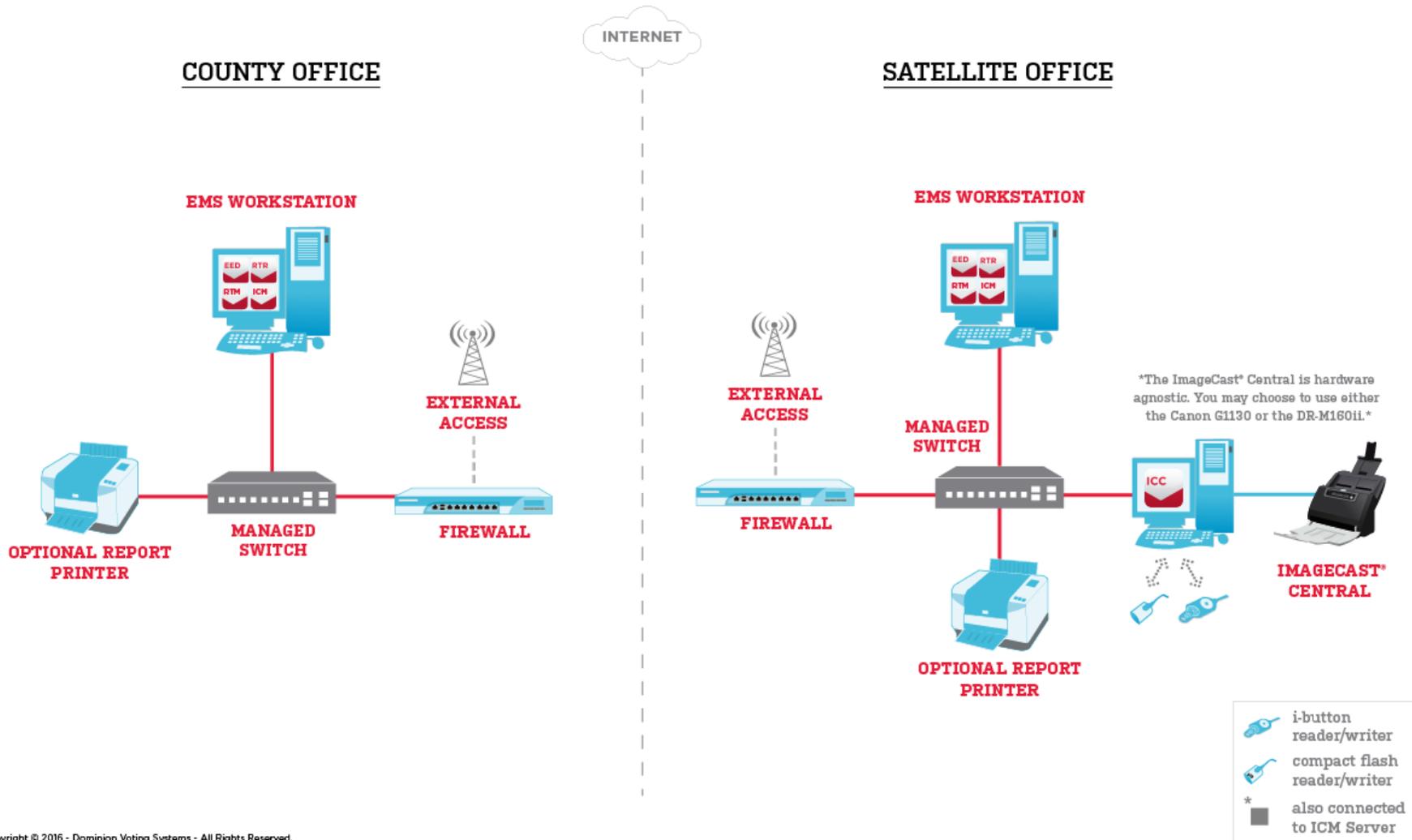
Democracy Suite® Components located at the County/central office and local satellite office (city or township) for small to medium sized counties:

- EMS Express (no client station)
- Listener (wireless modems only)
- ICC (M160-II) for AVCB

Please see the next page for the Configuration diagram.



State of Michigan - Democracy Suite® System Configuration 3

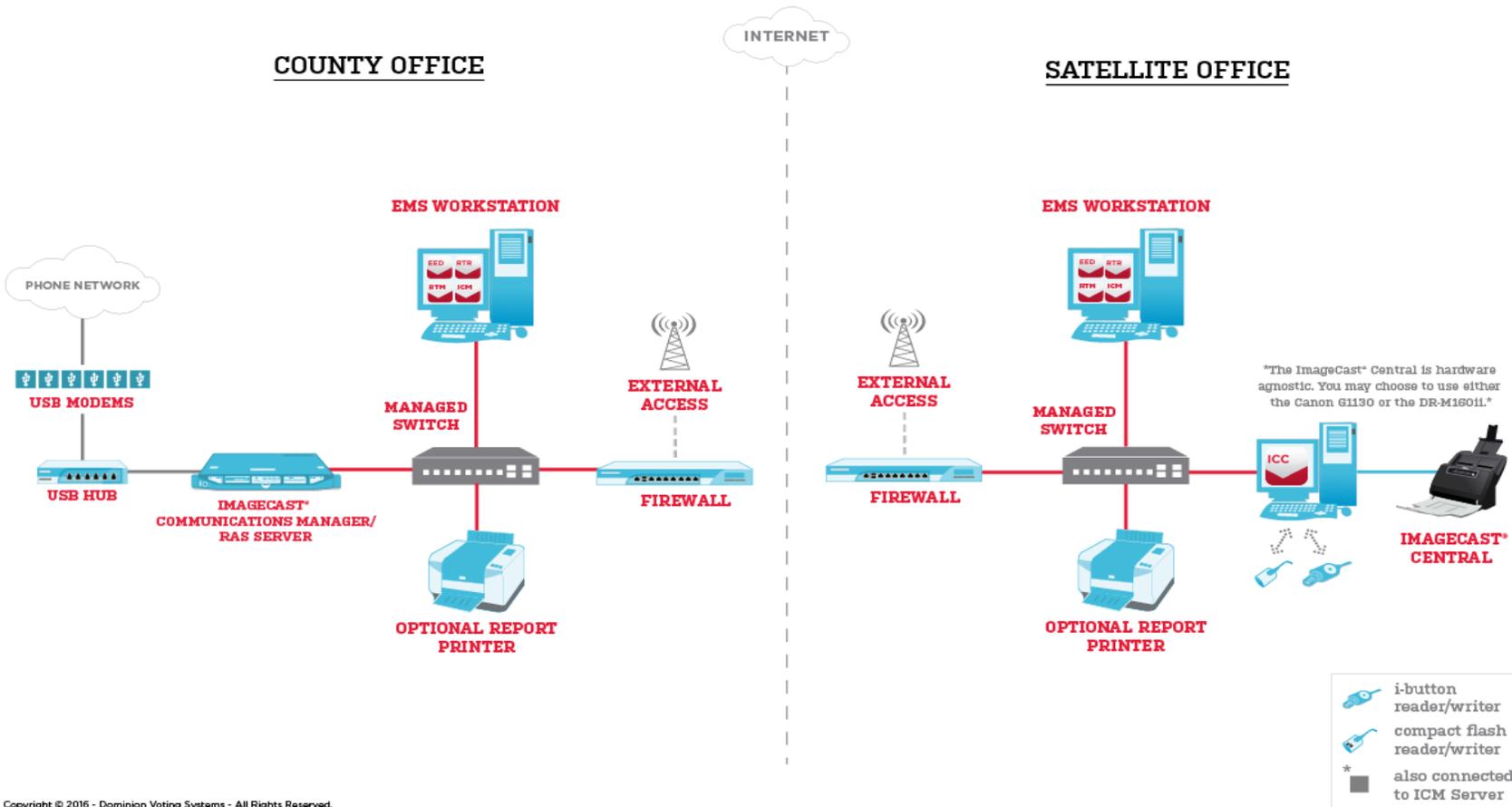




- EMS Express (no client station)
- Listener (wireless and analog modems)
- ICC (M160-II) for AVCB

Please see below for the Configuration diagram.

State of Michigan - Democracy Suite® System Configuration 4



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### Configuration 1 - Hardware Pricing

Product	Purchase Source	Quantity	Per-Unit Price	Total Price
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County or Central Location:				
EMS Standard Server - Rackmount	COTS	1	\$7,800.00	\$7,800.00
EMS Standard Server KVM Switch - Rackmount	COTS	1	\$80.00	\$80.00
EMS Standard Server Network Switch - Rackmount	COTS	1	\$400.00	\$400.00
EMS Standard Server Power Strip - Rackmount	COTS	1	\$200.00	\$200.00
EMS Standard Server Rack	COTS	1	\$900.00	\$900.00
EMS Standard Smart UPS	COTS	1	\$800.00	\$800.00
EMS Workstation PC	COTS	1	\$1,200.00	\$1,200.00
ImageCast Listener Standard Firewall - Rackmount	COTS	1	\$2,300.00	\$2,300.00
ImageCast Listener Standard Server - Rackmount	COTS	1	\$2,000.00	\$2,000.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per County:</b>				<b>\$15,930.00</b>

City or Town Location:				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express Server and Adjudication Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ICC Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Express Firewall	COTS	1	\$480.00	\$480.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per City or Town:</b>				<b>\$5,330.00</b>

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CONTRACT #071B7700117



## Configuration 2 - Hardware Pricing

Product	Purchase Source	Quantity	Per-Unit Price	Total Price
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<b>County or Central Location:</b>				
EMS Standard Server - Rackmount	COTS	1	\$7,800.00	\$7,800.00
EMS Standard Server KVM Switch - Rackmount	COTS	1	\$80.00	\$80.00
EMS Standard Server Network Switch - Rackmount	COTS	1	\$400.00	\$400.00
EMS Standard Server Power Strip - Rackmount	COTS	1	\$200.00	\$200.00
EMS Standard Server Rack	COTS	1	\$900.00	\$900.00
EMS Standard Smart UPS	COTS	1	\$800.00	\$800.00
EMS Workstation PC	COTS	1	\$1,200.00	\$1,200.00
ImageCast Listener Standard Firewall - Rackmount	COTS	1	\$2,300.00	\$2,300.00
ImageCast Listener Standard Server - Rackmount	COTS	1	\$2,000.00	\$2,000.00
ImageCast Listener Standard RAS Server - Rackmount	COTS	1	\$2,000.00	\$2,000.00
ImageCast Listener USB Hub	COTS	1	\$165.00	\$165.00
ImageCast Listener USB Modems - quantity based on 6 tabulators using analog modems	COTS	12	\$225.00	\$2,700.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per County:</b>				<b>\$20,795.00</b>

<b>City or Town Location:</b>				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express Server and Adjudication Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ICC Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Express Firewall	COTS	1	\$480.00	\$480.00

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EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per City or Town:</b>				<b>\$5,330.00</b>

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CONTRACT #071B7700117



### Configuration 3 - Hardware Pricing

Product	Purchase Source	Quantity	Per-Unit Price	Per-Unit Price
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County or Central Location:				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express and Listener Server - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Listener Express Firewall	COTS	1	\$480.00	\$480.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per County:</b>				<b>\$3,130.00</b>

City or Town Location:				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express Server and Adjudication Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ICC Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Express Firewall	COTS	1	\$480.00	\$480.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per City or Town:</b>				<b>\$5,330.00</b>

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CONTRACT #071B7700117



### Configuration 4 - Hardware Pricing

Product	Purchase Source	Quantity	Per-Unit Price	Per-Unit Price
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<b>County or Central Location:</b>				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express Server - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Listener Express Firewall	COTS	1	\$480.00	\$480.00
ImageCast Listener Express Server (Wireless and Analog)	COTS	1	\$2,000.00	\$2,000.00
ImageCast Listener USB Hub	COTS	1	\$165.00	\$165.00
ImageCast Listener USB Modems - quantity based on 6 tabulators using analog modems	COTS	12	\$225.00	\$2,700.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per County:</b>				<b>\$7,995.00</b>

<b>City or Town Location:</b>				
EMS Express Managed Switch	COTS	1	\$200.00	\$200.00
EMS Express Server and Adjudication Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ICC Workstation - Desktop	COTS	1	\$2,200.00	\$2,200.00
ImageCast Express Firewall	COTS	1	\$480.00	\$480.00
EMS Report Printer	COTS	1	\$250.00	\$250.00
<b>Total per City or Town:</b>				<b>\$5,330.00</b>

000614

CONTRACT #071B7700117



## Modular Software Pricing

### Adjudication Software Pricing

Based on total registered voters (county):	Purchase Source	5 year Initial Contract Period	Extended Service / Maintenance Annual Payment
0 to 15,000	Dominion	\$7,043	\$900
15,001 to 30,000	Dominion	\$14,085	\$1,800
30,001 to 60,000	Dominion	\$21,128	\$2,700
60,001 to 125,000	Dominion	\$31,500	\$4,050
125,001 to 250,000	Dominion	\$49,298	\$6,300
more than 250,000	Dominion	\$70,425	\$9,000

### Listener Software Pricing

Based on total registered voters (county):	Purchase Source	5 year Initial Contract Period	Extended Service / Maintenance Annual Payment
0 to 15,000	Dominion	\$9,000	\$1,000
15,001 to 30,000	Dominion	\$10,800	\$1,200
30,001 to 60,000	Dominion	\$12,600	\$1,400
60,001 to 125,000	Dominion	\$21,600	\$4,320
125,001 to 250,000	Dominion	\$36,000	\$7,200
more than 250,000	Dominion	\$54,000	\$10,800

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CONTRACT #071B7700117



**Mobile Ballot Printing Software Pricing**

Based on total registered voters (county):	Purchase Source	5 year Initial Contract Period	Extended Service / Maintenance Annual Payment
0 to 15,000	Dominion	\$3,240	\$360
15,001 to 30,000	Dominion	\$4,050	\$450
30,001 to 60,000	Dominion	\$4,860	\$540
60,001 to 125,000	Dominion	\$6,750	\$810
125,001 to 250,000	Dominion	\$10,530	\$1,170
more than 250,000	Dominion	\$16,200	\$1,800

## The State of Texas



Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060  
www.sos.texas.gov

Phone: 512-463-5650  
Fax: 512-475-2811  
Dial 7-1-1 For Relay Services  
(800) 252-VOTE (8683)

Ruth R. Hughes  
Secretary of State

### REPORT OF REVIEW OF DOMINION VOTING SYSTEMS DEMOCRACY SUITE 5.5-A

#### PRELIMINARY STATEMENT

On October 2-3, 2019, Dominion Voting Systems (“Dominion” or the “Vendor”) presented the Democracy Suite 5.5-A system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On October 2, 2019, Mr. Pinney, Mr. Mechler, and Dr. Sneeringer witnessed the installation of the Democracy Suite 5.5-A software and firmware that the Office of the Texas Secretary of State (the “Office”) received directly from the Independent Testing Authority. The next day, Mr. Pinney examined the accessibility components of the ImageCast X Ballot Marking Device.

On October 3, 2019, the Vendor demonstrated the Democracy Suite 5.5-A system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the Democracy Suite 5.5-A system are attached hereto and incorporated herein by this reference.

On December 27, 2019, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Democracy Suite 5.5-A system.

### BRIEF DESCRIPTION OF DEMOCRACY SUITE 5.5-A

The Democracy Suite 5.5-A system is an updated version of the Democracy Suite 5.5 system, which was denied certification by the Office on June 20, 2019. The Democracy Suite 5.5-A system includes certain software and hardware updates to the Suite 5.5 version.

Democracy Suite 5.5-A has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Democracy Suite 5.5-A was certified by the Election Assistance Commission (EAC) on January 30, 2019.

The components of Democracy Suite 5.5-A are as follows:

Component	Version	Description
EMS – Election Management System	5.5.12.1	Election Management System
ADJ – Adjudication	5.5.8.1	
ICC – ImageCast Central	5.5.3.0002	Central scanner
ICX – ImageCast X BMD	5.5.10.30	Ballot marking device
ICP – ImageCast Precinct	5.5.3-0002	Precinct scanner

### FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the findings of the voting system examiners as set out in their written reports.

The examiner reports identified multiple hardware and software issues that preclude the Office of the Texas Secretary of State from determining that the Democracy Suite 5.5-A system satisfies each of the voting-system requirements set forth in the Texas Election Code. Specifically, the examiner reports raise concerns about whether the Democracy Suite 5.5-A system is suitable for its intended purpose; operates efficiently and accurately; and is safe from fraudulent or unauthorized manipulation. Therefore, the Democracy Suite 5.5-A system and corresponding hardware devices do not meet the standards for certification prescribed by Section 122.001 of the Texas Election Code.

**CONCLUSION**

Accordingly, based upon the foregoing, I hereby deny certification of Dominion Voting Systems' Democracy Suite 5.5-A system for use in Texas elections.

Signed under my hand and seal of office, this 24<sup>th</sup> day of January 2020.

  
\_\_\_\_\_  
JOSE A. ESPARZA  
DEPUTY SECRETARY OF STATE

000619

State of Michigan )

County of Oakland ) Sworn Statement

1. My name is Kayla Toma, I am a law school graduate, a US citizen, an Oakland County resident, and registered voter who resides in Novi, MI.
2. On Election Day, November 3, 2020, I was a volunteer for the Michigan Republican Party and Trump Campaign in Lansing at the Radisson hotel. I signed up for the 12 to 3 PM shift, but ended up working until 12 AM.
3. At the headquarters, I filled out incident reports. I would get calls and emails relating to poll challengers, poll watchers, or concerned voters that called the EDO hotline to report an incident or something that they saw as suspicious.
4. I made notes about incidents as quickly as possible. I was able to receive and note scores of unlawful incidents and report them to the on-site attorneys.
5. If there was a clear violation of election law, I would walk over to the two supervisors, give them a quick description of the incident, and they reported it to the lawyers.
6. Our written reports contained blanks for description of the incident, name, phone, township or city, county, polling location, category of incident (illegal voting, intimidation, electioneering, ballots, machines, election workers, etc.), as well as what was the remedy/response (if any).
7. While making these reports, I began seeing a pattern and frequently encountering illegal situations, and other strange situations, that were very concerning and stuck with me.
8. The following is not an exhaustive list of the reports that were made to me as an EDO Hotline operator, but these stuck out as highly questionable or concerning:
9. During a challenger's shift at the polling location, the election worker preemptively shut down the machine, prior to any malfunction or jam. The election worker, after being approached by the challenger, told the challenger that they could just tell when a machine is about to jam so they were allowed to do this.
10. There were several reports of polling places with their malfunctioning machines
11. While the machines were down in various areas in the morning, afternoon and evening, concerned voters began calling to verify if it was OK that they are being told by election workers to place their ballots in the back of the machine even though the ballots were within reach and could be easily pulled out after they left.
12. Other callers, at separate polling locations, had similar concerns. Instead of putting their ballots in the back of the machine, they were required to place their ballots in a blue square clear bag located just behind the machine.

000620

13. In Detroit, after attempting to enforce the rules re. a provisional ballot, a challenger was met with a hostility by election workers—the challenger pointed out the hostility and they then refused to allow the challenger to see the poll book.

14. Similarly, several challengers were not allowed to stand behind the election workers and were blocked from seeing poll books.

15. In one situation, a challenger was extremely upset that she was told she had to be 10-15 feet away and could not see the poll book. She requested a lawyer to come out right away. Poll workers then became aggressive and bullied her by saying that she was blind for not being able to see a poll book 10-15 feet away from a diagonal angle, and even threatened to have her arrested.

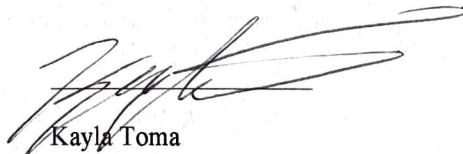
16. In different polling locations, there were several calls made about clear violations of the 100-foot rule. There were posters, pamphlets, and banners, explicitly advocating for Democratic candidates within 100 feet of the front door. The challengers/voters that I spoke with took photographs and videos of these violations, including incidents of literature distributed at the door, pamphlets of lists of Democrats that the voter should vote for within 50 feet of the door, and large Democratic boards and banners within 100 feet of the door.

17. Poll challengers or Republican voters reported a water pipe broken in a precinct. (I heard that in other states water pipes were breaking in Republican districts.)

18. There were several calls from challengers and voters claiming that voters were required to use permanent markers on the ballot; one voter observed that the marker bled through to the back of his ballot, allowing duplication of on the ground that this was a “mistake” by the voter.

19. One caller reported containers/coolers in the polling location which could have contained ballots.

20. One voter reported that Googling “Republican Party near me” and “Republican Party number near me,” showed only Democratic hotlines. It wasn’t until she searched MI GOP on Facebook that she got the number.

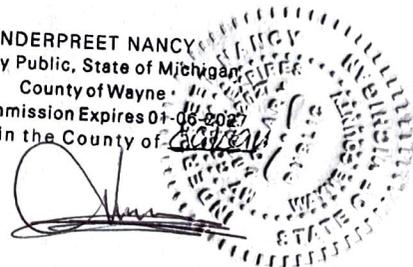


Kayla Toma

Sworn to before me this. 13 NOV, 2020

day of November 2020

INDERPREET NANCY  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 01-06-2027  
Acting in the County of Wayne



000621

State of Michigan )

County of Oakland ) Sworn Statement

1. My name is Kayla Toma, I am a law school graduate, a US citizen, an Oakland County resident, and registered voter who resides in Novi, MI.
2. On Wednesday, November 4, 2020, I received an email from Nicholas Schneider, Michigan Republican Deputy Coalitions Director in Michigan to volunteer.
3. I signed up to be a canvasser in Oakland County, Michigan.
4. On Nov. 4 at about 12:00 I arrived at the 1200 Building in Pontiac, Michigan. At 12:05, I found the Oakland County Elections Office. I told the front desk person that I that I was a canvasser.
5. Inside the office, I noticed a long line and stock pile of boxes, and bins that were stacked on top of one another. The bins were overfilled with folders.
6. The front desk lady showed me two sign-in sheets that were side-by-side. The left side, I was told, was for the general public, whereas the right was for the employees who would be reviewing and deciding on the reports. I signed in at 12:09, but I never signed the time that I left. (I have evidence of the sign-in sheet).
7. The canvassing room was huge, at least 100 feet long. There were five people having lunch close to one another.
8. There were two African females; one younger Caucasian female with dark hair; one older Caucasian female, with a blue shirt, red vest, and light-colored hair that was short; and one husky Caucasian older male.
9. Initially, (I have a video) the rooms were divided by sections of rows; at the end of the room and along the back walls, there were 5 office desks.
10. By the time I left, the room changed drastically. There were no more sections or tables--only chairs pushed to the walls and employees working at their desks at least 100ft away. One desk was 50ft away, so far that I could not observe anything or hear what was said or whispered.
11. The following is the layout (I have photos and videos of the layout) of how the room looked initially:

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12. There was at least one chair for every table. There was plexiglass that divided each table. There was at least six tables for each row (3, side-by-side).

13. Each row was long, and there were seven rows. Two rows were laid out on the right side of the room, directly when you walk into the room. Two rows were going vertically: one of those rows were where the employees were eating their lunch.

14. One row was in the near middle to the left side of the room; and two rows were on the left side of the room.

15. Five out of the seven rows had election materials on them, either they were folders, papers, and pencils and highlighters, and they also had very large bins stuffed to the top with large folders right next to the table or on top.

16. When I sat down, I pulled out my phone to take a picture. The older Caucasian female in the vest struck up a conversation with me. She told me everyone was at lunch and that they will not begin working for another 40 minutes. She suggested that I should to leave and return later. She told me it was going to be boring to observe. I said no thanks, I'd wait. She then asked me who am I here with, I told her that I am here as a volunteer to observe as a member of the public. She then asked again, who am I here with, and I replied that I was a Republican volunteer to observe as a canvasser. I could tell that the answer did not sit well with her because she began to get defensive and her mood switched. She then repeated that they were not going to start for another 40 minutes. And I said I'll wait, that I did not mind.

17. Shortly after the exchange, two other Caucasian females, middle-aged, came into the room. I noticed that the person in the red vest, looked at me and then went to those two females who then began whispering and huddling in a pack. One of the females had a manila envelope in her hand. I thought they were acting suspicious; their body language told me that they didn't like me there. So, I took pictures of them. One other woman said that she took a picture of us.

18. As they formed their group, I noticed another group come in. This time it was a group of men. The vested woman ordered him to break down the tables and put it on the outside of the side of the room. She told him to take away the plexiglass.

19. I asked one of the guys what they were doing, and then asked him how was I supposed to observe? He didn't like what was happening. (I have a video) he then walked over to the husky man. The husky man then walked over to me.

20. The husky man (recording number 348,1:35) told me that I needed to contact Rocky (Rajkowski), whom I knew to be a member of the Oakland County GOP.

21. The husky man stated that since we didn't get tables, we had to sit in the chairs, and then I asked how was I supposed to review (observe) the documents and then he said "you don't get to! This isn't what this about. Rocky has been here this morning, to straighten that out. He left with a clear understanding of the process." He told me that I needed to check in with Rocky. I told him that I do not have his contact information, and if he's willing to give it to me, and he said no.

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22. I explained that I was unfamiliar with the process and that I did not have Rocky's number, and asked if there were a particular rule that I should be aware of.

23. The husky man then told me that "the people who sent me should have prepared me." I said that I understood, and asked for a particular rule, and he told me MCL 160.

24. After looking this rule up on my phone, I realized that the husky man was intentionally trying to undermine my right to observe since there is no election law under MCL160. I turned on my camera and began recording them breaking down the tables and stacking up the chairs instead.

25. I made sure my chair was not going to be touched, by sitting in it, while it was already dragged off to the side and against the wall.

26. I contacted Mayra Rodriguez, who was involved with the 14th Congressional District. I told her at 12:44 that they were taking tables away, while everyone was out to lunch. She told me that she would let others know. I text her at 12:52 when I spoke with the supervisor, Ellie (or a name that is similar to it), who claimed that the tables were rentals, but they were never taken from the office. They were still on the side of the room off to the side, even at the time I left at 2pm. The tables were there for 2 hours, so they did not appear to rentals.

27. Before they began but after they broke down the tables, an older lady in navy-colored outfit, also a public observer, came back from her lunch break and sat near me. She told me that she was with the League of Women Voters of Michigan. (I have a recording of this conversation, recording number 349, 5:06). She said that the tables were a waste of space and it was good to have it removed because of Covid.

28. She attempted to say that they removed the tables because of social distancing. I said that social distancing meant 6 feet, not 20 feet, apart. I said that plexiglass dividers protected people. Observers were simply unable to observe.

29. Before lunch, the tables were set up, and used by everyone, but when I came at noon, after stating my political affiliation, the guys were called to break down the tables, and cleared out the room. I was fed up. I went out of the room and into the office area.

30. I recorded a conversation with the receptionist, Andie (or Angie or Addie) (I have this recording, recording number 350, at 1:20) Andie was at the front desk.

31. I approached Andie to ask if they are having the chairs placed on top of each other, or against the wall, where the observers were supposed to review the reports, as the distance they wanted was at least 100 feet between my seat and where the workers and reports were. I asked how I was supposed to observe from 100 feet away.

32. Andie stated that "you can't be on top of them." I told her that it is not my intention to be "on top of them" because I have a very low immune system, and even showed her medical proof.

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33. Andie became sympathetic. I explained that I understand there's high stress levels, hostility, in the workers who may resent that I was judging or checking their jobs, but that was not my intention. My intent was to volunteer to make sure that there was a lawful election.

34. I explained that this was the law. I also apologized to her in advance for asking more questions.

35. She then explained the process: at the end of the night, there was paperwork that each polling location required, including canvass reports. Everything had to be complete, signed properly, and votes balanced—all this was to be recorded.

36. I told her that they wanted me against the wall, with no tables in their room, with workers at their desk at the very end of the far side of the room. I couldn't see what is going on.

37. I said that they wanted me 100 feet away, so I could not observe, just try to listen.

38. Andie then introduced me to Ellie, who was "the second in command to the director". Ellie was a supervisor of the whole office.

39. I asked Ellie what happened if I could not observe or even hear discussions? The workers were whispering and barely talking.

40. Ellie told me that workers do not have to discuss the reports; they could unilaterally decide discrepancies, and correct them on the report that is within the report, without discussing it amongst their peers. I asked if they were going to at least call out the information on the reports and she told me that I wouldn't get to know the numbers, and they didn't have to tell me or discuss anything.

41. I asked why I should be there, i.e. what was the point of having a law for observers to observe if they could not hear or see anything. She couldn't answer this question. I realized that they were all following a pattern. Indeed, she went right back to talking about Covid. In addition, I thought that it was odd that the courthouse could not afford tables and had to rent them. It didn't make sense. Nevertheless, I went back into the room.

42. I heard the lady in the red vest tell the African-American female worker to add two points.

43. Immediately, I walked outside to find Ellie to ask her one last question. Andie told me Ellie is not in her office. Andie told me to tell her my question so she can relay it to Ellie since she is going to go look for her now. I stated to Andie, my question is whether I could ask questions to a person reviewing the reports, i.e. elaborate, after they made a remark? (Recording 352).

44. Ellie answered the question, according to Andie, who then relied that answer. Andie told me that I was not allowed to talk to them. I was not allowed to ask any questions nor obtain any information.

000625

45. At this time, I was so fed up that I texted Mayra and a family friend, saying that I needed a lawyer because I knew these were blatant violations.

46. I also then called Rocky and told him what the workers were claiming. I told him I was leaving because they would not let me hear or know or see anything. I walked out of the room. I told Rocky how they told me that I was unable to view any reports; they didn't need to talk to each other and could unilaterally decide and correct incorrect canvassing reports on their own.

47. I left the room about four times. Whenever I walked out of the room, the older lady in the red vest always followed me. I was being watched. She was listening to my conversations and watching what I was doing.

48. Before going on one restroom break, I placed my purse on the chair and left the room and the office. When I came back into the office, the doors were locked. I looked and pointed at the door after seeing Andie, who opened the door. The lady in the red vest was nearby. She seemed annoyed, and I noticed that two blue coolers that once were placed on top of each other were moved side by side.

49. By the coolers there was a black box that look like a drive or a modem. When the coolers were set side by side, the black box was in front.

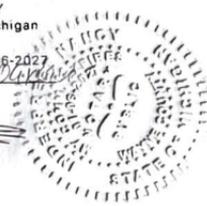
50. I believe it was odd that coolers were used because everyone brought their own lunch, and in their own lunch bags. (please see videos of break-down of tables). They never went to the coolers while I was present. I believe that other items, not the regular drinks or food, were kept in the coolers.

  
Kayla Foma

Sworn to before this 13 NOV. 2020

day of November 2020

INTERPREET NANCY  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires 01-06-2027  
Acting in the County of 



Primary Election

1. I am the Chairperson of the Wayne County Board of Canvassers.
2. The Board is a four-member board, required to have two Republican and two Democrat members, and I serve as one of the Republican members.
3. On August 4, 2020, the Michigan primary election was held.
4. On August 18, 2020, the Board held a public meeting at the Board's office in Detroit. I attended the meeting with the other three members of the Board.
5. The Board reviewed the Wayne County election results and considered whether to certify the August 4, 2020 primary election.
6. As reflected in the meeting minutes, Wayne County Election Director Gregory Mahar gave the Board a report at the meeting that included the following findings:
  - Staff encountered difficulties while trying to canvass the City of Detroit absentee precincts. "He indicated that aside from receiving the poll books on the first Friday and Sunday after the canvass began, the list of voters received made it difficult to determine how many voters actually returned their ballot. He reported that the City of Detroit used the QVF printed list of voters but there was also a handwritten list of voters, which is common to use both, but the two lists combined put the precincts severely out of balance."
  - "Director Mahar also reported on the difficulties staff encountered with trying to retabulate any absentee precincts that were out of balance. He stated that according to the Election Management system, he could see the City of Detroit did not scan a single precinct within a batch. When multiple precincts are scanned within a batch, it makes it nearly impossible to retabulate a precinct without potentially disrupting a perfectly balanced precinct."
  - "Deputy Director Jennifer Redmond reported on the irregularities she encountered while trying to retabulate out of balance precincts. She indicated that in some cases staff could not retabulate because the number of physical ballots counted in the container did not match the number of voters according to the poll book. Staff also requested the applications to vote for Detroit precinct 444 and precinct 262. Both containers had] fewer ballots in the container than the number of voters according to the poll book, but what was strange was there appeared to be some missing applications." 4.
7. It was reported that in the August 2020 primary that 72% of Detroit's absentee voting precincts were out of balance.
8. After discussion among the Board members, I voted along with all the other canvassers in a unanimous vote in favor of certifying the August 4, 2020

**AFIDAVIT**

I, Monica Palmer, being first duly sworn, and under oath, state:

9. Although certifying the primary election results, all Board members expressed serious concerns about the irregularities and inaccuracies. The Board unanimously approved a proposed joint resolution titled "Requesting a State Election Monitor and Investigation" that stated "Now Therefore Be it Resolved That, The Board of Canvassers for the County of Wayne, Michigan, request for the Secretary of State as Michigan's Chief Election Officer, to appoint a monitor to supervise the training and administration of the City of Detroit, Absentee Voter Counting Boards in the 2020 November General Election. Be it Finally Resolved, That, the Board of Canvassers for the County of Wayne, Michigan, request an investigation be conducted by the State Department of Elections into the training and processes used by the City of Detroit in the 2020 August Primary Election."
10. On November 3, 2020, the general election was held. I went to observe the election process at the TCF Center on November 3, 2020 and November 4, 2020.
11. Since November 5, I went to the Wayne County Canvas almost every day and helped the Wayne County staff.
12. On November 17, 2020, there was a board of Canvassers meeting scheduled to start at 3:00pm to determine whether or not to certify the November election. The meeting did not begin until 4:46pm.
13. Minutes before the meeting began at 4:46pm, I was given a report on the final canvass. We were not given an executive summary which was customary at most other certification meetings.
14. During this meeting, I determined that more than 70% of Detroit's 134 Absent Voter Counting Boards (AVCB) did not balance and many had no explanation to why they did not balance.
15. Vice-Chair Kinloch made a motion to certify the vote. I noted our prior reservations about unbalanced precincts in August 2020 and determined the record had discrepancies and irregularities and was incomplete.
16. A motion was made to certify the vote, and I voted not to certify. The vote to certify the Wayne County elections failed 2-2.
17. After the vote, my Democrat colleagues chided me and Mr. Hartmann for voting to not certify.
18. After the vote, public comment period began and dozens of people made personal remarks against me and Mr. Hartmann. The comments made accusations of racism and threatened me and members of my family. The public comment continued for over two hours and I felt pressured to continue the meeting without break.
19. After several hours of harsh comments, Vice-Chair Kinloch suggested a potential resolution. Wayne County Corporate Counsel Janet Anderson-Davis told me that I had to certify the vote that night. She told the members their role was ministerial and they could not use their discretion on matters like the record being incomplete. We were told that discretion was outside the board's authority.
20. After being told by Ms. Anderson-Davis that I could not use my discretion regarding the anomalies, I believed I had no choice but to certify the results despite my desire to oppose certification based on the incomplete record.
21. Additionally, we were presented with a resolution that promised a full, independent audit that would present answers to the incomplete record. I voted to agree to certify based on the promise of a full, independent audit. I would not have agreed to vote to certify but for that promise of a full, independent audit.

JANICE L. DANIELS  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF OAKLAND  
My Commission Expires August 3, 2022  
Acting in the County of Wayne



My Commission expires on:

08/3/2022

Sworn to before me this 18 day of November 2020 at 9:33 PM  
Date:

Signed Name:

Monica Palmer

Printed Name:

Monica S Palmer

with it, are all true and correct.

I certify under penalty of perjury, that my statement and the evidence submitted

and belief.

The above information is true to the best of my information, knowledge,

Wayne County results.

28. Until these questions are addressed, I remain opposed to certification of the

an additional period.

27. I initially voted not to certify the election, and I still believe this vote should *not* be certified and the State Board of Canvassers should canvass for

provide the information necessary.

an additional 10 days of canvass by the State Board of Canvassers will help

repeated requests, I have not received the requisite information and believe

voters that these elections were conducted fairly and accurately. Despite

investigation. I continue to ask for information to assure Wayne County

26. The Wayne County election had serious process flaws which deserve

25. I fully believe the Wayne County vote should not be certified.

elections.

24. As a result of these facts, I rescind my prior vote to certify Wayne County

which I relied.

comments disputed the representations made by Vice-Chair Kinloch on

made saying that she did not view our audit resolution to be binding. Her

23. Later that evening, I was sent statements that Secretary Jocelyn Benson

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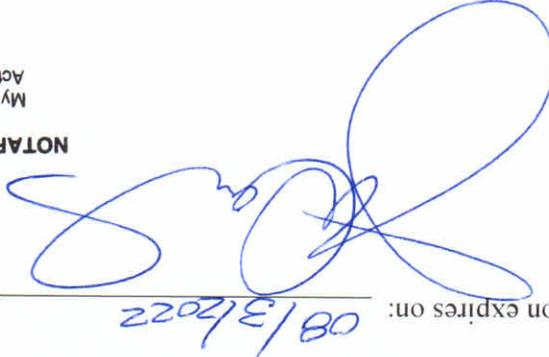
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21. Additionally, we were presented with a resolution that promised a full, independent audit that would present answers to the incomplete record. I voted to agree to certify based on the promise of a full, independent audit. I would not have agreed to vote to certify but for that promise of a full, independent audit.

000631

**JANICE L. DANIELS**  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF OAKLAND  
My Commission Expires August 3, 2022  
Acting in the County of Wayne



My Commission expires on: 08/3/2022

Sworn to before me this 18 day of November 2020 at 9:33 PM  
Date:

Signed Name: Monica Palmer

Printed Name: Monica S Palmer

I certify under penalty of perjury, that my statement and the evidence submitted with it, are all true and correct.

and belief.

The above information is true to the best of my information, knowledge,

Wayne County results.

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certification of the November election would result in a full, independent

22. Vice-Chairman Jonathan Kinloch gave me assurances that voting for the

**AFFIDAVIT**

The Affiant, William C. Hartmann, being first duly sworn, hereby deposes and states as follows:

1. My name is William C. Hartmann. I am an adult citizen, voter, and resident of the State of Michigan.
2. I am a member of the Board of Canvassers of Wayne County, Michigan.
3. I personally observed the Absent Voter Counting Boards in Detroit at TCF Center.
4. Since the election on November 3<sup>rd</sup>, I have attended the Wayne County Canvass on an almost daily basis.
5. On November 17, 2020, at 3:00 p.m. there was a meeting of the Board of Canvassers to determine whether to certify the results of Wayne County. The meeting did not start until 5:00 p.m. We were told it was delayed so that representatives of the Democrat Board members could obtain additional affidavits.
6. At 5:00 p.m. an open meeting and discussion began to discuss the issue of whether to certify the vote. In my review of the results, I determined that approximately 71% of Detroit's 134 Absent Voter Counting Boards (AVCB) were left unbalanced and many *unexplained*. I informed the Board members of the discrepancies, but soon thereafter, a motion to certify was

made by Vice-Chairman Jonathan Kinloch. After further discussion, I renewed my concerns that the reason that the numbers did not balance for the majority of AVCB's in Detroit, and importantly, could not be explained. If the vote totals did not match, there should have been a documented reason explaining why.

7. The Board considered the ultimate question of whether to certify the vote, and the motion to certify the Wayne County elections failed 2-2.
8. This vote was followed by public derision from our two democrat colleagues. I, and Monica Palmer, who also voted against certification, were berated and ridiculed by members of the public and other Board members. This conduct included specious claims that I was racially motivated in my decision. This public ostracism continued for hours during which time we were not provided an opportunity to break for dinner and were not advised that we could depart and resume the hearing on another date.
9. I discussed a potential resolution with Vice-Chair Kinloch in confidence. Ms. Anderson-Davis told us that we must vote to certify on that night. We were told that we could not consider matters such as the unexplained reasons that most of Detroit's AVCB's did not balance and no one knew why. We

were informed that this consideration was outside of the scope of the Board's authority.

10. During the evening, Wayne County counsel, Ms. Janet Anderson-Davis, and my colleagues on the Board, continued to discuss irregularities in the AVCB's. Ms. Anderson-Davis advised the Board that the discrepancies were not a reason to reject the certification, and based on her explicit legal guidance, I was under the belief that I could not exercise my independent judgment in opposition to the certification. Therefore, I voted to certify the results.

11. Late in the evening, I was enticed to agree to certify based on the promise that a full and independent audit would take place. I would not have agreed to the certification but for the promise of an audit.

12. Vice-Chairman Jonathan Kinloch then assured us that if we voted to certify the election, a full, independent, and complete audit of Detroit's election, would be undertaken. We relied on this assurance in coming to an agreement. Without this assurance, I would not have agreed to certify Wayne County on November 17<sup>th</sup>.

13. After the meeting, I was made aware that Michigan Secretary of State, Jocelyn Benson made a public claim that the representations made by Mr. Kinlock, on which we had relied, would not be followed.

- c. I am also concerned about the use of private monies directing local officials regarding the management of the elections, how those funds were used and whether such funds were used to pay election workers. I have not received answers to these questions, and I believe the people of Michigan deserve these answers. Can we release the logs to the tabulators demonstrating what happened in Detroit?
- d. Why do the pollbooks, Qualified Voter Files, and final tallies not match or balance?
- e. 71% of Detroit AVCB's did not balance, why not?
- f. Did the chairperson of each of Detroit's 134 AVCB's keep logs of shift changes?
- g. Why were republicans *not* used in signing seals certified at the end of the night on Monday, and Wednesday evening before ballot boxes were documented, closed, and locked?
- h. How many challenged ballots were counted?
- i. Was any information placed directly into the Qualified Voter Files in the AVCB's?
- j. How many voter birthdates were altered in the pollbooks?

k. Were ballots counted in TCF that were not reflected in the electronic pollbook or paper supplemental list?

l. Based upon information and belief, there were over 18,000 same-day registrations in Detroit on November 3. Were these new applicants verified as proper voters prior to the tabulation of their ballots?

18. I voted not to certify, and I still believe this vote should *not* be certified.

19. Until these questions are addressed, I remain opposed to certification of the Wayne County results.

19. The above information is true to the best of my information, knowledge, and belief.

I certify under penalty of perjury, that my statement and the evidence submitted with it, are all true and correct.

Printed Name: William C. Hartmann

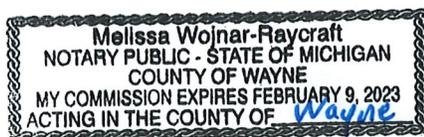
Signed Name: [Signature]

Date:

Sworn to before me this 18<sup>th</sup> day of November, 2020 at 6:29pm

Melissa Wojnar-Raycraft  
Notary Public Melissa Wojnar-Raycraft

My Commission expires on: Feb. 9, 2023



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

**PATRICK J. COLBECK,**

**Plaintiff,**

**AFFIDAVIT OF PATRICK J. COLBECK**

**-vs-**

**CITY OF DETROIT; DETROIT ELECTION COMMISSION; JANICE M. WINFREY, in her official capacity as the CLERK OF THE CITY OF DETROIT and the Chairperson of the DETROIT ELECTION COMMISSION; CATHY M. GARRETT, in her official capacity as the CLERK OF WAYNE COUNTY; and the WAYNE COUNTY BOARD OF CANVASSERS,**

**FILE NO: 20-\_\_\_\_\_ -AW**

**JUDGE**

**Defendants.**

**David A. Kallman (P34200)  
Erin E. Mersino (P70886)  
Jack C. Jordan (P46551)  
Stephen P. Kallman (P75622)**

**GREAT LAKES JUSTICE CENTER  
Attorneys for Plaintiff  
5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
(517) 322-3207/Fax: (517) 322-3208**

**AFFIDAVIT**

The Affiant, Patrick J. Colbeck, being first duly sworn, hereby deposes and states as follows:

1. My name is Patrick J. Colbeck, I was a poll challenger for the November 3, 2020 election, and I am a resident of Wayne County.
2. At approximately 5:30pm on November 3, 2020, I asked Daniel Baxter if Tabulation Computers were connected to internet. Mr. Baxter said simply "No."

GREAT LAKES JUSTICE CENTER

GREAT LAKES JUSTICE CENTER

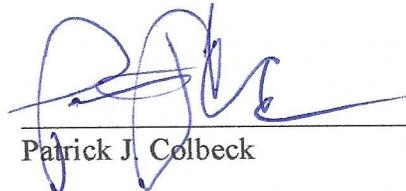
3. At approximately 5:45pm on November 3, 2020, I first asked Chris Thomas how the tabulated results were to be transferred to the County and other parties. He said he didn't know, but he would find out. I repeated this inquiry throughout the evening until Mr. Thomas responded that he would not be able to release that information until the end of the next day. Early during the morning, I was able to look at a copy of the Detroit Election manual which specified that the tabulated votes would be copied from the adjudicator computers to a series of flash drives.

4. At approximately 7:30pm on November 3, 2020, about 50% of Poll Workers left the AV Counting Board before 8pm in violation of MCL 168.792a(11). An announcement was made by Detroit Election Officials at 7:45pm calling them back but most had already left the AV Counting Board area.

5. At approximately 11pm on November 3, 2020, I asked David Nathan if any of the computers were connected to the internet. He said "No." When I asked for confirmation, he said "Trust me." I stated that he may have been misled. When I pressed for a demonstration, he repeated "Trust me." All it takes to confirm the connectivity status of a Windows computer is to roll the cursor over the LAN connection icon in the bottom right corner of the display. When there is no internet connection, a unique icon showing a cross-hatched globe appears. I proceeded to review the terminal screens for the Tabulator and Adjudicator computers and I observed the icon that indicates internet connection on each terminal. Other poll challengers can attest to this observation as required (e.g. Kristina Karamos and Randy Bishop).

6. Sometime during the evening I proceeded to examine the physical cabling connections between all of the computers in the facility. The results of this observation are captured in the attached network topology diagram. The IT technician stationed on the stage actively discouraged any close-up observation of the network. Phone usage ban discouraged taking photographs of equipment. There were no observed ethernet connections for Electronic Poll Books at AV Counting Boards, but Wi-Fi Routers were present with attached active Wi-Fi networks in area including one called "AV\_Connect" and a separate one for "CPSStaff" which were both of sufficient signal strength to be accessed outside of the Counting Board as well as inside. I did not confirm presence of internet connection for Electronic Poll Books but the "security incident" at 10am on 11/3 would seem to indicate that they were connected to internet via Wi-Fi.

7. Further affiant says not.



Patrick J. Colbeck

000639

On this 8<sup>th</sup> day of November, 2020, before me personally appeared Patrick J. Colbeck, who in my presence did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit by him subscribed and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.

*Patrick J. Colbeck*  


*Barbara A. Harrell*

Notary Public, Oakland County, Michigan  
My Commission Expires: Aug 4, 2025

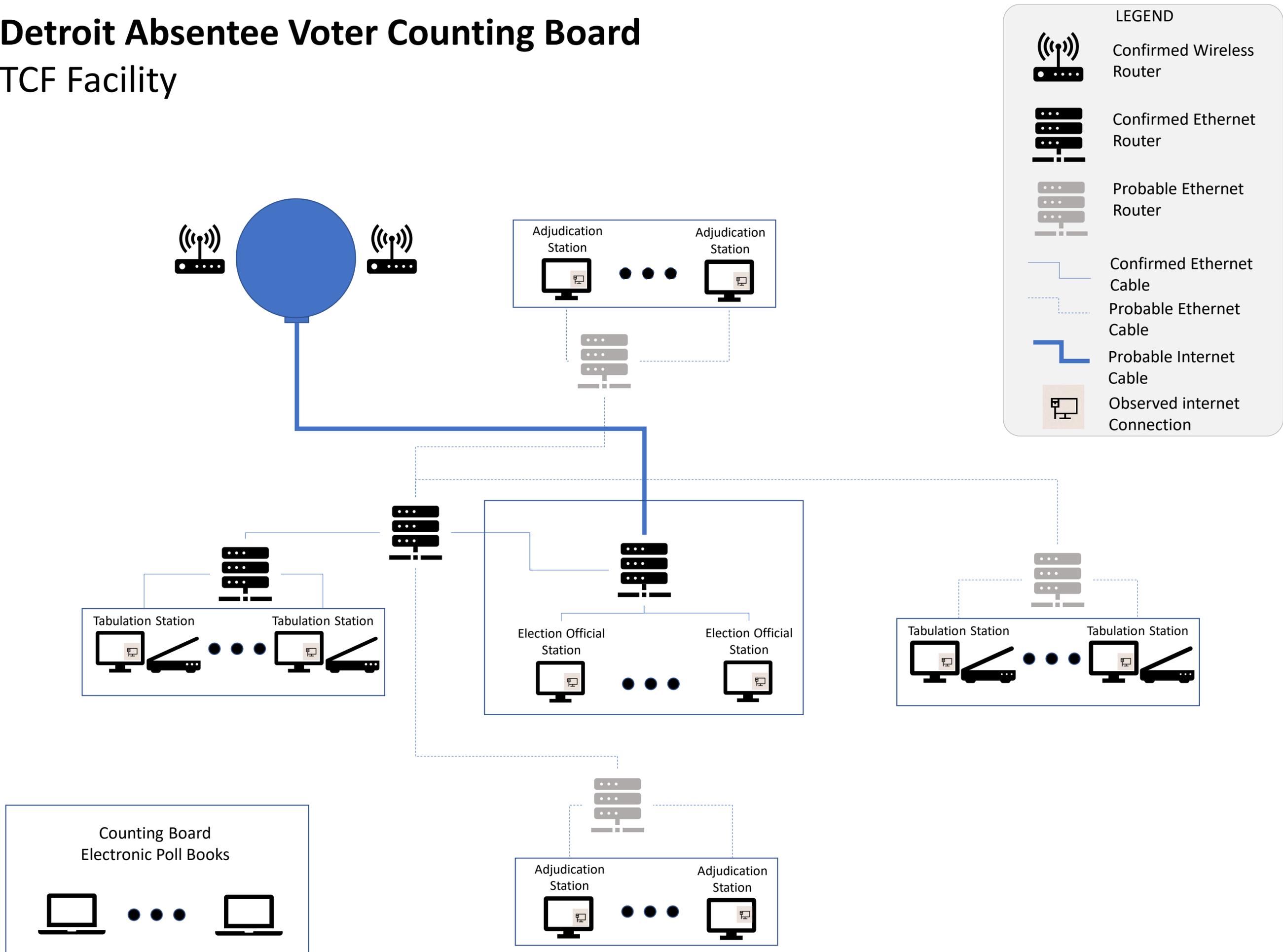
BARBARA A. HARRELL  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 4, 2025  
ACTING IN COUNTY OF *Wayne*

GREAT LAKES JUSTICE CENTER



ELECTIO  
CHALLENGE

# Detroit Absentee Voter Counting Board TCF Facility



< **Wi-Fi**

Wi-Fi Direct



ON



CPStaff



iPhone



TCF-ACF



Verizon-791L-30F3



AV\_Connect



Conti-HTE



Conti2018



cp77949



TCF\_Free



Verizon-MiFi8800L-60F4



Verizon-SM-JDBG965U-E936



Add network

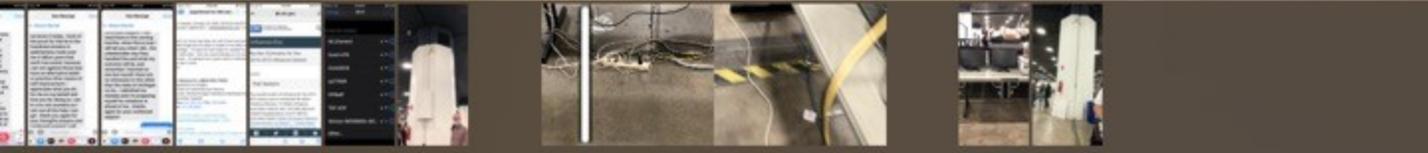


000643



Today  
8:38 PM

Edit



**AFFIDAVIT OF PATRICK COLBECK**

I, Patrick Colbeck, do depose and state the following under penalty of perjury:

1. I am a small business owner, certified Microsoft Small Business Specialist, and Poll Challenger at the Detroit AV Counting Board certified through the Election Integrity Fund
2. I have personal knowledge of the facts stated herein.
3. I am competent and able to testify if called to do so.
4. I make this affidavit of my own free will.
5. I have been registered to vote in the state of Michigan for 16 years.
6. I can be contacted at 47841 Royal Pointe Drive, Canton, MI 48187, (734)453-3105, pjcolbeck@comcast.net
7. During the period between 10pm on November 3 and the early hours of November 4, from a distance of ~12 feet away, I witnessed mass file transfer operations on the monitor of a Local Data Center computer operated by IT Staff, Detroit Election Officials, and Dominion Voting Systems employees. The Adjudicator workstations were arranged as a barrier around the Local Data Center computers to prevent close observation. As an experienced IT professional, I was curious as to what files would need to be transferred in mass as opposed to the serial process of importing results from each

tabulator one at a time as prescribed in the Detroit Elections manual. I recall asking one of my fellow poll challengers (Janice Daniels) if she had binoculars that would allow me to observe the file names being transferred, but none were available. Event logs from the Local Data Center computer should indicate what files were transferred during this and similar operations.

FURTHER AFFIANT SAYETH NOT

I declare under penalty of perjury that the foregoing is true and correct. (28 US Code § 1746.)

Dated this 20 day of NOVEMBER 2020.

  
\_\_\_\_\_  
(Signature of Affiant)

PATRICK J. COLBECK  
\_\_\_\_\_  
(Printed name of Affiant)



WILLIAM BARKER  
NOTARY PUBLIC - MICHIGAN  
WAYNE COUNTY  
MY COMMISSION EXPIRES 08/17/2026  
ACTING IN WAYNE COUNTY

APPEARED BEFORE ME THIS 20th DAY OF  
NOVEMBER 2020.

  
\_\_\_\_\_  
WILLIAM BARKER

# Congress of the United States

Washington, DC 20515

October 6, 2006

Henry M. Paulson, Jr.  
Secretary  
Department of the Treasury  
1500 Pennsylvania Ave., N.W.  
Washington, D.C. 20220

Dear Mr. Secretary:

I am writing to follow up on my letter of May 4, 2006, to Secretary Snow, seeking review by the Committee on Foreign Investment in the United States of the acquisition of Sequoia Voting Systems by Smartmatic, a foreign-owned company. I believe this transaction raises exactly the sort of foreign ownership issues that CFIUS is best positioned to examine for national security concerns. As discussed below, publicly reported information about Smartmatic's ownership and about the vulnerability of electronic voting machines to tampering raises serious concerns. I strongly urge CFIUS to independently verify the information provided to American officials and the public by Sequoia/Smartmatic, and to take all appropriate measures to safeguard our national security.

It is undisputed that Smartmatic is foreign-owned and it has acquired Sequoia, one of the three major voting machine companies doing business in the U.S. According to a Sequoia press release in May 2006 (copy attached) Sequoia voting machines were used to record over 125 million votes during the 2004 Presidential election in the United States. As we confront another election, Americans deserve to know that the Administration has made sure that any foreign ownership of voting machines poses no national security threat.

Although many press reports have tried, it appears that it is not possible to discern the true owners of Smartmatic from information available to the public. Smartmatic now acknowledges that Antonio Mugica, a Venezuelan businessman, has a controlling interest in Smartmatic, but the company has not revealed who all the other Smartmatic owners are. According to the press, Smartmatic's owners are hidden through a web of off-shore private entities. (See attached articles.)

The opaque nature of Smartmatic's ownership is particularly troubling since Smartmatic has been associated by the press with the Venezuelan government led by Hugo Chavez, which is openly hostile to the United States. According to press reports, Smartmatic shared a founder, officers, directors and a principal place of business with Bizta, a company in which, according to Smartmatic, the Venezuelan government previously held a 28% stake. Mugica is also a director of Bizta.

Henry M. Paulson, Jr.  
October 6, 2006  
Page 2

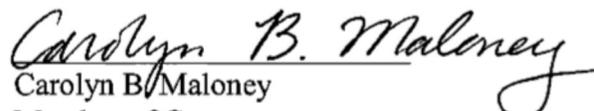
According to Smartmatic press releases, (copies attached) Smartmatic and Bizta were part of the consortium that received the government contract to provide the voting machines for the 2004 referendum election to recall Chavez as Venezuela's president, and have since been awarded other contracts by the Venezuelan government.

Smartmatic's possible connection to the Venezuelan government poses a potential national security concern in the context of its acquisition of Sequoia because electronic voting machines are susceptible to tampering and insiders are in the best position to engage in such tampering. The 2005 Government Accountability Office Report on electronic voting, GAO-05-956, and other private sector studies consistently support this conclusion. Thus, the reports that Sequoia brought Venezuelan nationals to the United States to work on the Chicago 2006 primary election raises questions about whether these individuals are subject to direction from a foreign interest that might pose a threat to the integrity of the election. Similarly, the use of Smartmatic software and machines developed in Venezuela, such as the HAAT software that was at issue in Chicago, raises questions as to whether this software is susceptible to manipulation by its unknown creators. Reportedly, Smartmatic may soon be introducing into the United States the type of electronic voting machines that were used (with Bizta software) in the controversial 2004 Venezuelan recall election, under the label AVC Edge II Plus.

In reviewing the Smartmatic acquisition of Sequoia, it is important that CFIUS understand the products and services that are of Venezuelan origin and evaluate Smartmatic's ownership to determine who could have influence and control over these and other Sequoia products and services that are in use or intended for use in U.S. elections. In light of Smartmatic's failure fully to answer these questions to date, this issue demands the most thorough independent investigation by CFIUS.

Thank you for your consideration of this letter.

Sincerely,

  
Carolyn B. Maloney  
Member of Congress

Attachments

## Congress of the United States

Washington, DC 20510

December 6, 2019

Sami Mnaymneh  
Founder and Co-Chief Executive Officer  
H.I.G. Capital, LLC

Tony Tamer  
Founder and Co-Chief Executive Officer  
H.I.G. Capital, LLC

Dear Messrs. Mnaymneh and Tamer:

We are writing to request information regarding H.I.G. Capital's (H.I.G.) investment in Hart InterCivic Inc. (Hart InterCivic) one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.<sup>1</sup> For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"<sup>2</sup> owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimmed on security in favor of convenience," leaving voting systems across the country "prone to security problems."<sup>3</sup> In light of these concerns, we request that you provide information about your firm, the portfolio

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<sup>1</sup> Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, <https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/>; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, <https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html>.

<sup>2</sup> ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, <https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it>.

<sup>3</sup> Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>.

companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early 2000s, almost twenty vendors competed in the election technology market.<sup>4</sup> Today, three large vendors—Election Systems & Software, Dominion Voting Systems, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.<sup>5</sup> Private equity firms reportedly own or control each of these vendors, with very limited “information available in the public domain about their operations and financial performance.”<sup>6</sup> While experts estimate that the total revenue for election technology vendors is about \$300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.<sup>7</sup>

Concentration in the election technology market and the fact that vendors are often “more seasoned in voting machine and technical services contract negotiations” than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems—leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.<sup>8</sup> In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider “the cost to purchase or lease, operate, and maintain a voting system over its life span ... [and to] know how the vendor(s) plan to be profitable” when signing contracts, because vendors typically make their profits by ensuring “that they will be around to maintain it after the sale.” The EAC has warned election officials that “[i]f you do not manage the vendors, they will manage you.”<sup>9</sup>

Election security experts have noted for years that our nation’s election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States’ election infrastructure as “critical infrastructure” in order to prioritize the protection of our elections and to more effectively assist state and local election

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<sup>4</sup> Bloomberg, “Private Equity Controls the Gatekeepers of American Democracy,” Anders Melin and Reade Pickert, November 3, 2018, <https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy>.

<sup>5</sup> Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf); Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>9</sup> U.S. Election Assistance Commission, “Ten Things to Know About Selecting a Voting System,” October 14, 2017, <https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/>.

officials in addressing these risks.<sup>10</sup> However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.<sup>11</sup> In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state “using some machines that are no longer manufactured.”<sup>12</sup> Moreover, even when state and local officials work on replacing antiquated machines, many continue to “run on old software that will soon be outdated and more vulnerable to hackers.”<sup>13</sup>

In 2018 alone “voters in South Carolina [were] reporting machines that switched their votes after they’d inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana.”<sup>14</sup> In addition, researchers recently uncovered previously undisclosed vulnerabilities in “nearly three dozen backend election systems in 10 states.”<sup>15</sup> And, just this year, after the Democratic candidate’s electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county’s Republican Chairwoman said, “[n]othing went right on Election Day. Everything went wrong. That’s a problem.”<sup>16</sup> These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

H.I.G. reportedly owns or has had investments in Hart InterCivic, a major election technology vendor. In order to help us understand your firm’s role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.<sup>17</sup>
2. Which election technology companies, including all affiliates or related entities, does H.I.G. have a stake in or own? Please provide the name of and a brief description of the services each company provides.

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<sup>10</sup> Department of Homeland Security, “Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector,” January 6, 2017,

<https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.

<sup>11</sup> AP News, “US election integrity depends on security-challenged firms,” Frank Bajak, October 29, 2018, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>; Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>12</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf).

<sup>13</sup> Associated Press, “AP Exclusive: New election systems use vulnerable software,” Tami Abdollah, July 13, 2019, <https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1>.

<sup>14</sup> Vice, “Here’s Why All the Voting Machines Are Broken and the Lines Are Extremely Long,” Jason Koebler and Matthew Gault, November 6, 2018, [https://www.vice.com/en\\_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long](https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long).

<sup>15</sup> Vice, “Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials,” Kim Zetter, August 8, 2019, [https://www.vice.com/en\\_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials](https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials).

<sup>16</sup> New York Times, “A Pennsylvania Country’s Election Day Nightmare Underscores Voting Machine Concerns,” Nick Corasaniti, November 30, 2019, <https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html>.

<sup>17</sup> Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.

- a. Which election technology companies, including all affiliates or related entities, has H.I.G. had a stake in or owned in the past twenty years? Please provide the name of and a brief description of the services each company provides or provided.
  - b. For each election technology company H.I.G. had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
    - i. The name of the company
    - ii. Ownership stake
    - iii. Total revenue
    - iv. Net income
    - v. Percentage of revenue dedicated to research and development
    - vi. Total number of employees
    - vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
    - viii. Other private-equity firms that own a stake in the company
3. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.
  4. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.
  5. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.
  6. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

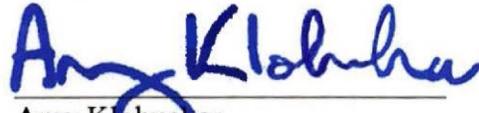
7. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren  
United States Senator



Amy Klobuchar  
United States Senator



Ron Wyden  
United States Senator



Mark Pocan  
Member of Congress

**Congress of the United States**  
Washington, DC 20510

December 6, 2019

Michael McCarthy  
Chairman  
McCarthy Group, LLC

Dear Mr. McCarthy:

We are writing to request information regarding McCarthy Group, LLC's (McCarthy Group) investment in Election Systems & Software (ES&S), one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.<sup>1</sup> For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"<sup>2</sup> owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimmed on security in favor of convenience," leaving voting systems across the country "prone to security problems."<sup>3</sup> In light of these concerns, we request that you provide information about your firm, the portfolio companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early

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<sup>1</sup> Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, <https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/>; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, <https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html>.

<sup>2</sup> ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, <https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it>.

<sup>3</sup> Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>.

2000s, almost twenty vendors competed in the election technology market.<sup>4</sup> Today, three large vendors—ES&S, Dominion Voting Systems, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.<sup>5</sup> Private equity firms reportedly own or control each of these vendors, with very limited “information available in the public domain about their operations and financial performance.”<sup>6</sup> While experts estimate that the total revenue for election technology vendors is about \$300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.<sup>7</sup>

Concentration in the election technology market and the fact that vendors are often “more seasoned in voting machine and technical services contract negotiations” than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems—leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.<sup>8</sup> In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider “the cost to purchase or lease, operate, and maintain a voting system over its life span ... [and to] know how the vendor(s) plan to be profitable” when signing contracts, because vendors typically make their profits by ensuring “that they will be around to maintain it after the sale.” The EAC has warned election officials that “[i]f you do not manage the vendors, they will manage you.”<sup>9</sup>

Election security experts have noted for years that our nation’s election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States’ election infrastructure as “critical infrastructure” in order to prioritize the protection of our elections and to more effectively assist state and local election officials in addressing these risks.<sup>10</sup> However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our

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<sup>4</sup> Bloomberg, “Private Equity Controls the Gatekeepers of American Democracy,” Anders Melin and Reade Pickert, November 3, 2018, <https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy>.

<sup>5</sup> Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf); Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>9</sup> U.S. Election Assistance Commission, “Ten Things to Know About Selecting a Voting System,” October 14, 2017, <https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/>.

<sup>10</sup> Department of Homeland Security, “Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector,” January 6, 2017, <https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.

elections at avoidable and increased risk.<sup>11</sup> In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state “using some machines that are no longer manufactured.”<sup>12</sup> Moreover, even when state and local officials work on replacing antiquated machines, many continue to “run on old software that will soon be outdated and more vulnerable to hackers.”<sup>13</sup>

In 2018 alone “voters in South Carolina [were] reporting machines that switched their votes after they’d inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana.”<sup>14</sup> In addition, researchers recently uncovered previously undisclosed vulnerabilities in “nearly three dozen backend election systems in 10 states.”<sup>15</sup> And, just this year, after the Democratic candidate’s electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county’s Republican Chairwoman said, “[n]othing went right on Election Day. Everything went wrong. That’s a problem.”<sup>16</sup> These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

McCarthy Group reportedly owns or has had investments in ES&S, a major election technology vendor. In order to help us understand your firm’s role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.<sup>17</sup>
2. Which election technology companies, including all affiliates or related entities, does McCarthy Group have a stake in or own? Please provide the name of and a brief description of the services each company provides.
  - a. Which election technology companies, including all affiliates or related entities, has McCarthy Group had a stake in or owned in the past twenty

<sup>11</sup> AP News, “US election integrity depends on security-challenged firms,” Frank Bajak, October 29, 2018, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>; Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>12</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf).

<sup>13</sup> Associated Press, “AP Exclusive: New election systems use vulnerable software,” Tami Abdollah, July 13, 2019, <https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1>.

<sup>14</sup> Vice, “Here’s Why All the Voting Machines Are Broken and the Lines Are Extremely Long,” Jason Koebler and Matthew Gault, November 6, 2018, [https://www.vice.com/en\\_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long](https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long).

<sup>15</sup> Vice, “Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials,” Kim Zetter, August 8, 2019, [https://www.vice.com/en\\_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials](https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials).

<sup>16</sup> New York Times, “A Pennsylvania Country’s Election Day Nightmare Underscores Voting Machine Concerns,” Nick Corasaniti, November 30, 2019, <https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html>.

<sup>17</sup> Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.

years? Please provide the name of and a brief description of the services each company provides or provided.

- b. For each election technology company McCarthy Group had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
    - i. The name of the company
    - ii. Ownership stake
    - iii. Total revenue
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    - v. Percentage of revenue dedicated to research and development
    - vi. Total number of employees
    - vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
    - viii. Other private-equity firms that own a stake in the company
3. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.
4. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.
5. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.
6. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.
7. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the

past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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Amy Klobuchar  
United States Senator



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Ron Wyden  
United States Senator



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Mark Pocan  
Member of Congress

## Congress of the United States

Washington, DC 20510

December 6, 2019

Stephen D. Owens  
Managing Director  
Staple Street Capital Group, LLC



Hootan Yaghoobzadeh  
Managing Director  
Staple Street Capital Group, LLC



Dear Messrs. Owens and Yaghoobzadeh:

We are writing to request information regarding Staple Street Capital Group, LLC's (Staple Street) investment in Dominion Voting System (Dominion) one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.<sup>1</sup> For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"<sup>2</sup> owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimmed on security in favor of convenience," leaving voting systems across the country "prone to security problems."<sup>3</sup> In light of these concerns, we request that you provide information about your firm, the portfolio

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<sup>1</sup> Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, <https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/>; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, <https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html>.

<sup>2</sup> ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, <https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it>.

<sup>3</sup> Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>.

companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early 2000s, almost twenty vendors competed in the election technology market.<sup>4</sup> Today, three large vendors—Election Systems & Software, Dominion, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.<sup>5</sup> Private equity firms reportedly own or control each of these vendors, with very limited “information available in the public domain about their operations and financial performance.”<sup>6</sup> While experts estimate that the total revenue for election technology vendors is about \$300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.<sup>7</sup>

Concentration in the election technology market and the fact that vendors are often “more seasoned in voting machine and technical services contract negotiations” than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems—leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.<sup>8</sup> In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider “the cost to purchase or lease, operate, and maintain a voting system over its life span ... [and to] know how the vendor(s) plan to be profitable” when signing contracts, because vendors typically make their profits by ensuring “that they will be around to maintain it after the sale.” The EAC has warned election officials that “[i]f you do not manage the vendors, they will manage you.”<sup>9</sup>

Election security experts have noted for years that our nation’s election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States’ election infrastructure as “critical infrastructure” in order to prioritize the protection of our elections and to more effectively assist state and local election

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<sup>4</sup> Bloomberg, “Private Equity Controls the Gatekeepers of American Democracy,” Anders Melin and Reade Pickert, November 3, 2018, <https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy>.

<sup>5</sup> Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf); Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>9</sup> U.S. Election Assistance Commission, “Ten Things to Know About Selecting a Voting System,” October 14, 2017, <https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/>.

officials in addressing these risks.<sup>10</sup> However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.<sup>11</sup> In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state “using some machines that are no longer manufactured.”<sup>12</sup> Moreover, even when state and local officials work on replacing antiquated machines, many continue to “run on old software that will soon be outdated and more vulnerable to hackers.”<sup>13</sup>

In 2018 alone “voters in South Carolina [were] reporting machines that switched their votes after they’d inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana.”<sup>14</sup> In addition, researchers recently uncovered previously undisclosed vulnerabilities in “nearly three dozen backend election systems in 10 states.”<sup>15</sup> And, just this year, after the Democratic candidate’s electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county’s Republican Chairwoman said, “[n]othing went right on Election Day. Everything went wrong. That’s a problem.”<sup>16</sup> These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

Staple Street reportedly owns or has had investments in Dominion, a major election technology vendor. In order to help us understand your firm’s role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.<sup>17</sup>
2. Which election technology companies, including all affiliates or related entities, does Staple Street have a stake in or own? Please provide the name of and a brief description of the services each company provides.

<sup>10</sup> Department of Homeland Security, “Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector,” January 6, 2017,

<https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.

<sup>11</sup> AP News, “US election integrity depends on security-challenged firms,” Frank Bajak, October 29, 2018, <https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c>; Penn Wharton Public Policy Initiative, “The Business of Voting,” July 2018, <https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting>.

<sup>12</sup> Brennan Center for Justice, “America’s Voting Machines at Risk,” Lawrence Norden and Christopher Famighetti, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf).

<sup>13</sup> Associated Press, “AP Exclusive: New election systems use vulnerable software,” Tami Abdollah, July 13, 2019, <https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1>.

<sup>14</sup> Vice, “Here’s Why All the Voting Machines Are Broken and the Lines Are Extremely Long,” Jason Koebler and Matthew Gault, November 6, 2018, [https://www.vice.com/en\\_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long](https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long).

<sup>15</sup> Vice, “Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials,” Kim Zetter, August 8, 2019, [https://www.vice.com/en\\_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials](https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials).

<sup>16</sup> New York Times, “A Pennsylvania Country’s Election Day Nightmare Underscores Voting Machine Concerns,” Nick Corasaniti, November 30, 2019, <https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html>.

<sup>17</sup> Stop Wall Street Looting Act, S.2155, <https://www.congress.gov/bill/116th-congress/senate-bill/2155>.

- a. Which election technology companies, including all affiliates or related entities, has Staple Street had a stake in or owned in the past twenty years? Please provide the name of and a brief description of the services each company provides or provided.
  - b. For each election technology company Staple Street had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
    - i. The name of the company
    - ii. Ownership stake
    - iii. Total revenue
    - iv. Net income
    - v. Percentage of revenue dedicated to research and development
    - vi. Total number of employees
    - vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
    - viii. Other private-equity firms that own a stake in the company
3. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.
  4. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.
  5. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.
  6. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

7. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

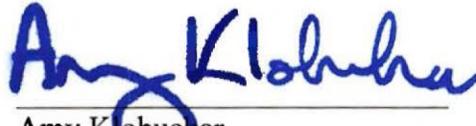
Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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Amy Klobuchar  
United States Senator



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Ron Wyden  
United States Senator



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Mark Pocan  
Member of Congress

**STATEMENT BY ANA MERCEDES DÍAZ CARDOZO**

I, Ana Mercedes Díaz Cardozo, hereby declare the following:

1. My name is Ana Mercedes Díaz Cardozo. I'm known as Ana Diaz by many. I am an adult of the sound mind and was born in Caracas, Venezuela on March 24, 1960. I'm a naturalized American citizen. I reside at 923 Gulf Stream Court, Weston, Florida 33327.

2. I make this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive anything in exchange for my testimony and give this statement. I have no expectation of any benefit or reward and understand that there are those who can try to hurt me for what I say in this statement.

3. I moved from Venezuela to the United States in 2004 due to political corruption and rapid decline in my home country of Venezuela. I want to alert the public and let the world know the truth about corruption, manipulation, and lies committed through a conspiracy of individuals and businesses with the intention of betraying the honest people of the United States and its legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries around the world. It is a conspiracy to unjustly gain and maintain power and wealth. These are political leaders, powerful companies, and others whose purpose is to gain and maintain power by changing people's free will and subverting the proper course of governing.

4. After graduating from high school, I attended the University of Santa Maria in Caracas, Venezuela and graduated as a lawyer in 1987. Then I studied a postgraduate degree in administrative law at the University of Central Venezuela. Before I could submit my thesis for a Master's degree in Administrative Law, I moved to the United States. I'm certified as an arbiter of international trade.

5. I was a career official for 25 years at the Supreme Electoral Council of Venezuela, which is the name that it was called in the 1970's. It is currently called the National Electoral Council. This is the highest electoral administrative agency in Venezuela and oversees all elections in Venezuela. In 1979, at the age of 19, I began my career at the Supreme Electoral Council of Venezuela as secretary in the regional delegation of the federal district. When I graduated from the university as a lawyer, my position on the Supreme Electoral Council changes to the position as an adviser to the Judicial Council of the Supreme Council Electoral. In 1991, I was appointed Assistant Director General of Political Parties, where I served until Hugo Chavez came to power in 1998. Also during this time, I served for seven years as a member of the Legislative Commission of the Venezuelan Electoral Council. It was the role of the Legislative Commission to review and identify any issues related to candidates

for elected positions. The Legislative Commission and my office had access to many resources within the various departments of the Electoral Council, including an information technology section that had experts in computers, computer programming, computer systems and telecommunications features such as modems, telephone lines. I was regularly in communication with the various departments of the Electoral Body for my daily duties. In the last years of my work for the Electoral Counsel, a little of my activities and duties were to learn about electronic voting systems and their functioning by Council experts.

6. As Deputy Director General of Political Parties in the Supreme Electoral Council, it was my duty to oversee everything related to political parties in Venezuela, particularly the participation of political parties in elections and the selection and qualifications of candidates for political office. My office reviewed everything to do with the ability of political parties to participate in the electoral process. Before a political party could be formed, it had to undergo a process for approval. This included legal approval of the party name, its colors and a list of its members. The proposed party had to have a certain percentage of Venezuela's population depending on whether it wanted to be a regional or national party. It could not be constituted as a political party until it was approved by the Supreme Electoral Council. My office also oversaw the creation of ballots that bore the name of the candidates and any party symbol or color that the candidate would like to use. When our office approved these matters, we sent the ballot for printing and circulation. Any conflict over which group could be a political party, which would be a candidate for elected office, how that candidate would be included in the vote, were decided by my office. I was a signatory to all decisions taken by the Political Parties office at the Supreme Electoral Council.

7. After Hugo Chavez was elected, he changed the Venezuelan Constitution. One such change was in the Supreme Electoral Council, now the Electoral Power. In February 2009, a national referendum was passed to change Venezuela's Constitution to end mandate limits for elected officials, including the President of Venezuela. This change allowed Hugo Chavez to be re-elected an unlimited number of times.

8. In 2003, I was appointed Director General of Political Parties at the National Electoral Council. At the end of that year there was a national effort to hold a referendum to remove Hugo Chavez from the post of President. In 2004 I was appointed to the Validation Committee that was responsible for reviewing petitions, the requirements of the signatories were their name, their signature, their fingerprint and their identification number. I discovered many ways that the party in power was trying to override requests. One was the change of forms to reflect that the petition was a referendum on the removal of members of the Venezuelan Congress

rather than the removal of the Venezuelan president. The purpose of manipulating petitions was to prevent a referendum to remove President Chavez from office. I investigated the allegations of fraud with the referendum petitions and lobbied for the fraudulent changes to be rectified. Because of my resistance and protests to this voter fraud, I received a letter in March 2004 stating that my position was trusted and trust had been lost in me and I was fired from the service.

9. After my dismissal, I decided to commit to the study of electoral processes both within Venezuela and in other countries, particularly in South American countries that were experiencing electoral unrest and government manipulation of constitutions, laws and elections. I joined a small group of highly educated and informed people who had access to information about the Venezuelan government and its activities. This group and I conduct interviews with Venezuelan citizens, read news publications and specialized treaties, and write evaluating the political, economic, legal and electoral changes taking place in Venezuela, South American countries, and other parts of the world controlled by socialist dictators and oligarchies. I read these treatises, studies, and publications to educate myself on how elections were manipulated and the use of empirical analysis to detect and identify the manipulation of elections and their results. In addition, I have collected copies of official Venezuelan government documents.

10. Official documents of the Venezuelan government include documents showing the bidding process for the implementation of a new electronic voting system in March 2004 and the award of the contract for that new system to Smartmatic. A true and authentic copy of the venezuelan National Electoral Council's tender documents, internal memorandums and contract signed between the Venezuelan government and the SBC Consortium (Smartmatic) are labeled Exhibit 1 and this statement is attached. I received the documents that constitute Exhibit 1 from a reliable person who had taken some notes on the documents and highlighted some parts for my attention. I have not made any alterations to what I have received, and the substantive content of the documents is authentic. For convenience, I've had the Bates document tagged at the bottom right of each page.

11. I have studied the documents contained in Exhibit 1 and have several observations. Exhibit 1 says that it is a contract between the National Electoral Council and the SBC Consortium (Smartmatic) and is dated 15 March 2004. It has a stamp that says Bolivarian Republic of Venezuela, Secretary General of the National Electoral Council. That is the official seal of the Secretary of the National Electoral Council. The initials at the bottom right side confirm the document's authenticity.

12. You would notice that page DIAZ 00002 is important because it shows that the contract is being made on February 16, 2004. Page DIAZ 00027, reflects that on February 14, 2004 at 11:50 a.m., in the Council's session room, Francisco Carrasquero López, Ezequiel Zamora Presilla, Jorge Rodríguez Gómez (Jorge Rodríguez), Sobella Mejías, and William Pacheco Medina, Vice President, the directors of the Secretary General of Electoral Voters respectively, in order to proceed with the delivery to the technical commissions, designated at the meeting dated 13 February 2004, they opened the tender envelopes containing the tenders of the companies that wanted to be awarded a contract for the automation of Venezuela's voting system and the processes used to carry out the 2004 referendum on the revocation of Hugo Chavez's election. Below you can read the amounts of offers made by Smartmatic SBC, Diebold and other bidders.

13. Then, on page DIAZ 000031, there is an internal note from the Director General of Administration, Mr. Medina. It was dated 14 February 2004 and said that a report on the research and evaluation of companies bidding for the automation of the voting system needed to be prepared.

14. It would then draw attention to the page marked DIAZ 000029. It is a document made on February 13, 2004. While this page is out of sequence, it shows the speed at which the decision was made to award the electoral system contract. The tender began on February 13 and had ended on February 16<sup>th</sup> -- a three-day period to review contracts and evaluate the specifications and performance of bidders' systems, including software, hardware, security, performance and bidding costs for the procurement, installation, training and operation of the systems. By February 16<sup>th</sup>, a decision to choose Smartmatic was made. This is convincing evidence that there was no genuine competition for the electoral system contract or serious consideration for alternative contracts. There was no due diligence and the bidding was rigged. It is not possible that within three or four days to do the formal investigation to evaluate the bids and award a contract of this size and important. The impropriety of this action is confirmed by the fact that the contract with Smartmatic was signed a month later, on 15 March 2004.

15. After the contract was awarded to Smartmatic, it was learned that Smartmatic had no previous experience in conducting elections and electoral tabulations. More importantly, it was discovered that the Smartmatic voting system contained two-way communication functions that allowed voting data not only to be sent to a central system of operation and voting, but the central voting system in operation and tabulation to send operational instructions and data to voting machines. It is not mentioned in the contract documents and specifications that the system would be bidirectional and would allow the transmission of data and instructions from the central operating system directly to voting machines. One

simply has to examine the system diagram on page DIAZ 000057 of Exhibit 1. If this feature of the Smartmatic system had been disclosed to the Electoral Council, it could not have adequately accepted Smartmatic's offer because it would allow the Smartmatic voting system to be handled in a way that manipulated votes and interfered with the legitimate voting and electoral process by impersonating the will to govern officials with the will of the electorate: the citizens of Venezuela. It was not surprising that Hugo Chávez and his successors then constantly won the election through the use and manipulation of the Smartmatic voting system.

16. In the 16 years since I left my post as Director General of Political Parties at the National Electoral Council of Venezuela, I have studied the electoral systems of Bolivia, Colombia, Ecuador, Guatemala, Honduras and Nicaragua and have observed elections and participated in pro-democratic forums in Colombia, Ecuador, Honduras and Nicaragua. I have also studied and researched electoral processes in Europe, participating in public academic conferences in Spain and Italy on the subject of democratic electoral processes.

17. Based on my specialized experiences with electoral systems, I have a firm view that no legitimate electronic voting system should be allowed to have the ability of two-way communications to send data and instructions between central tabulation operations and voting machines over telephone lines or the Internet. Having such characteristics compromise the integrity of the entire voting process by allowing injection of data and instructions to manipulate voting before, during and after an election and to avoid detection of processes and mechanisms designed to prevent voting manipulation and fraud.

I declare under penalty of perjury that the above is true and correct and that this Statement was prepared in Dallas County, Texas, and executed on November 20, 2020.



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Ana Mercedes Díaz Cardozo

# CYBERSECURITY ADVISORY

**TLP:WHITE**

Product ID: AA20-304A

October 30, 2020

## Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data

### SUMMARY

This advisory uses the MITRE Adversarial Tactics, Techniques, and Common Knowledge (ATT&CK®) framework. See the [ATT&CK for Enterprise](#) framework for all referenced threat actor techniques.

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites—to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.<sup>1</sup> (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

### TECHNICAL DETAILS

Analysis by CISA and the FBI indicates this actor scanned state websites, to include state election websites, between September 20 and September 28, 2020, with the Acunetix vulnerability scanner (*Active Scanning: Vulnerability Scanning [T1595.002]*). Acunetix is a widely used and legitimate web scanner, which has been used by threat actors for nefarious purposes. Organizations that do not regularly use Acunetix should monitor their logs for any activity from the program that originates from IP addresses provided in this advisory and consider it malicious reconnaissance behavior.

Additionally, CISA and the FBI observed this actor attempting to exploit websites to obtain copies of voter registration data between September 29 and October 17, 2020 (*Exploit Public-Facing*

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<sup>1</sup> See FBI FLASH, ME-000138-TT, disseminated 10/29/20, <https://www.ic3.gov/Media/News/2020/201030.pdf>. This disinformation (hereinafter, “the propaganda video”) was in the form of a video purporting to misattribute the activity to a U.S. domestic actor and implies that individuals could cast fraudulent ballots, even from overseas. <https://www.odni.gov/index.php/newsroom/press-releases/item/2162-dni-john-ratcliffe-s-remarks-at-press-conference-on-election-security>.

To report suspicious or criminal activity related to information found in this Joint Cybersecurity Advisory, contact your local FBI field office at [www.fbi.gov/contact-us/field](http://www.fbi.gov/contact-us/field), or the FBI’s 24/7 Cyber Watch (CyWatch) at (855) 292-3937 or by e-mail at [CyWatch@fbi.gov](mailto:CyWatch@fbi.gov). When available, please include the following information regarding the incident: date, time, and location of the incident; type of activity; number of people affected; type of equipment used for the activity; the name of the submitting company or organization; and a designated point of contact. To request incident response resources or technical assistance related to these threats, contact CISA at [Central@cisa.dhs.gov](mailto:Central@cisa.dhs.gov).

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*Application* [T1190]). This includes attempted exploitation of known vulnerabilities, directory traversal, Structured Query Language (SQL) injection, web shell uploads, and leveraging unique flaws in websites.

CISA and the FBI can confirm that the actor successfully obtained voter registration data in at least one state. The access of voter registration data appeared to involve the abuse of website misconfigurations and a scripted process using the cURL tool to iterate through voter records. A review of the records that were copied and obtained reveals the information was used in the propaganda video.

CISA and FBI analysis of identified activity against state websites, including state election websites, referenced in this product cannot all be fully attributed to this Iranian APT actor. FBI analysis of the Iranian APT actor's activity has identified targeting of U.S. elections' infrastructure (*Compromise Infrastructure* [T1584]) within a similar timeframe, use of IP addresses and IP ranges – including numerous virtual private network (VPN) service exit nodes – which correlate to this Iran APT actor (*Gather Victim Host Information* [T1592]), and other investigative information.

## Reconnaissance

The FBI has information indicating this Iran-based actor attempted to access PDF documents from state voter sites using advanced open-source queries (*Search Open Websites and Domains* [T1539]). The actor demonstrated interest in PDFs hosted on URLs with the words “vote” or “voter” and “registration.” The FBI identified queries of URLs for election-related sites.

The FBI also has information indicating the actor researched the following information in a suspected attempt to further their efforts to survey and exploit state election websites.

- YOURLS exploit
- Bypassing ModSecurity Web Application Firewall
- Detecting Web Application Firewalls
- SQLmap tool

## Acunetix Scanning

CISA's analysis identified the scanning of multiple entities by the Acunetix Web Vulnerability scanning platform between September 20 and September 28, 2020 (*Active Scanning: Vulnerability Scanning* [T1595.002]).

The actor used the scanner to attempt SQL injection into various fields in `/registration/registration/details` with status codes 404 or 500:

```
/registration/registration/details?addresscity=-1 or 3*2<(0+5+513-513) --  
&addressstreet1=xxxxx&btbeginregistration=begin voter  
registration&btnnextelectionworkerinfo=next&btnnextpersonalinfo=next&btnnextresde  
tails=next&btnnextvoterinformation=next&btsubmit=submit&chkageverno=on&chkagever  
yes=on&chkcitizenno=on&chkcitizenyes=on&chkdisabledvoter=on&chkelectionworker=on&  
chkresprivate=1&chkstatecancel=on&dlnumber=1&dob=xxxx/x/x&email=sample@email.tst&
```

```
firstname=xxxxx&gender=radio&hdnaddresscity=&hdngender=&last4ssn=xxxxx&lastname=x  
xxxxinjeuee&mailaddresscountry=sample@xxx.xxx&mailaddressline1=sample@email.tst&  
mailaddressline2=sample@xxx.xxx&mailaddressline3=sample@xxx.xxx&mailaddressstate=  
aa&mailaddresszip=sample@xxxx.xxx&mailaddresszipex=sample@xxx.xxx&middlename=xxxx  
x&overseas=1&partycode=a&phoneno1=xxx-xxx-xxxx&phoneno2=xxx-xxx-  
xxxx&radio=consent&statecancelcity=xxxxxxx&statecancelcountry=usa&statecancelstat  
e=XXaa&statecancelzip=xxxxx&statecancelzipext=xxxxx&suffixname=esq&txtmailaddress  
city=sample@xxx.xxx
```

### Requests

The actor used the following requests associated with this scanning activity.

```
2020-09-26 13:12:56 x.x.x.x GET /x/x v[$acunetix]=1 443 - x.x.x.x  
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.  
0.2228.0+Safari/537.21 - 200 0 0 0
```

```
2020-09-26 13:13:19 X.X.x.x GET /x/x voterid[$acunetix]=1 443 - x.x.x.x  
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.  
0.2228.0+Safari/537.21 - 200 0 0 1375
```

```
2020-09-26 13:13:18 .X.x.x GET /x/x voterid=;print(md5(acunetix_wvs_security_test));  
443 - X.X.x.x
```

### User Agents Observed

CISA and FBI have observed the following user agents associated with this scanning activity.

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome  
/41.0.2228.0+Safari/537.21 - 500 0 0 0
```

```
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-  
US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

```
Mozilla/5.0+(X11;+U;+Linux+i686;+en-  
US;+rv:1.8.1.17)+Gecko/20080922+Ubuntu/7.10+(gutsy)+Firefox/2.0.0.17
```

### Exfiltration

#### Obtaining Voter Registration Data

Following the review of web server access logs, CISA analysts, in coordination with the FBI, found instances of the cURL and FDM User Agents sending GET requests to a web resource associated with voter registration data. The activity occurred between September 29 and October 17, 2020. Suspected scripted activity submitted several hundred thousand queries iterating through voter

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identification values, and retrieving results with varying levels of success [*Gather Victim Identity Information* (T1589)]. A sample of the records identified by the FBI reveals they match information in the aforementioned propaganda video.

### Requests

The actor used the following requests.

```
2020-10-17 13:07:51 x.x.x.x GET /x/x voterid=XXXX1 443 - x.x.x.x curl/7.55.1 - 200 0 0 1406
```

```
2020-10-17 13:07:55 x.x.x.x GET /x/x voterid=XXXX2 443 - x.x.x.x curl/7.55.1 - 200 0 0 1390
```

```
2020-10-17 13:07:58 x.x.x.x GET /x/x voterid=XXXX3 443 - x.x.x.x curl/7.55.1 - 200 0 0 1625
```

```
2020-10-17 13:08:00 x.x.x.x GET /x/x voterid=XXXX4 443 - x.x.x.x curl/7.55.1 - 200 0 0 1390
```

**Note:** incrementing voterid values in cs\_uri\_query field

### User Agents

CISA and FBI have observed the following user agents.

```
FDM+3.x
```

```
curl/7.55.1
```

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.0.2228.0+Safari/537.21 - 500 0 0 0
```

```
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

See figure 1 below for a timeline of the actor's malicious activity.

## TECHNICAL FINDINGS

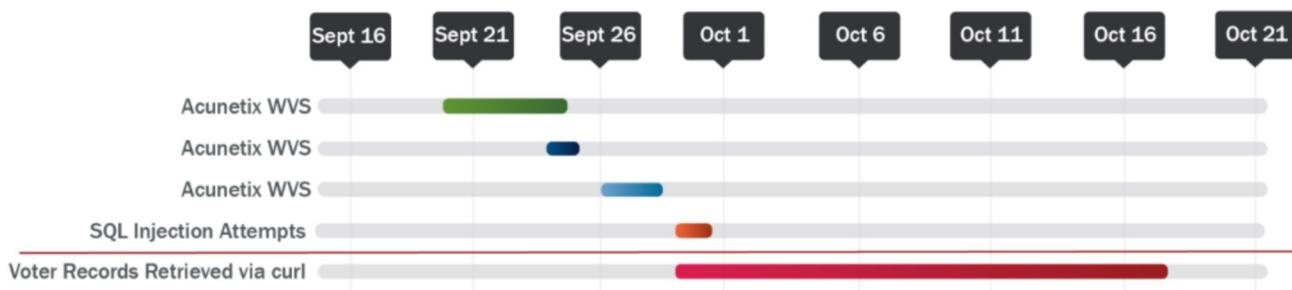


Figure 1: Overview of malicious activity

## MITIGATIONS

### Detection

#### Acunetix Scanning

Organizations can identify Acunetix scanning activity by using the following keywords while performing log analysis.

- `$acunetix`
- `acunetix_wvs_security_test`

#### Indicators of Compromise

For a downloadable copy of IOCs, see [AA20-304A.stix](#).

**Disclaimer:** Many of the IP addresses included below likely correspond to publicly available VPN services, which can be used by individuals all over the world. Although this creates the potential for false positives, any activity listed should warrant further investigation. The actor likely uses various IP addresses and VPN services.

The following IPs have been associated with this activity.

- 102.129.239[.]185 (Acunetix Scanning)
- 143.244.38[.]60 (Acunetix Scanning and cURL requests)
- 45.139.49[.]228 (Acunetix Scanning)
- 156.146.54[.]90 (Acunetix Scanning)
- 109.202.111[.]236 (cURL requests)
- 185.77.248[.]17 (cURL requests)
- 217.138.211[.]249 (cURL requests)
- 217.146.82[.]207 (cURL requests)
- 37.235.103[.]85 (cURL requests)
- 37.235.98[.]64 (cURL requests)
- 70.32.5[.]96 (cURL requests)

- 70.32.6[.]20 (cURL requests)
- 70.32.6[.]8 (cURL requests)
- 70.32.6[.]97 (cURL requests)
- 70.32.6[.]98 (cURL requests)
- 77.243.191[.]21 (cURL requests and FDM+3.x (Free Download Manager v3) enumeration/iteration)
- 92.223.89[.]73 (cURL requests)

CISA and the FBI are aware the following IOCs have been used by this Iran-based actor. These IP addresses facilitated the mass dissemination of voter intimidation email messages on October 20, 2020.

- 195.181.170[.]244 (Observed September 30 and October 20, 2020)
- 102.129.239[.]185 (Observed September 30, 2020)
- 104.206.13[.]27 (Observed September 30, 2020)
- 154.16.93[.]125 (Observed September 30, 2020)
- 185.191.207[.]169 (Observed September 30, 2020)
- 185.191.207[.]52 (Observed September 30, 2020)
- 194.127.172[.]98 (Observed September 30, 2020)
- 194.35.233[.]83 (Observed September 30, 2020)
- 198.147.23[.]147 (Observed September 30, 2020)
- 198.16.66[.]139 (Observed September 30, 2020)
- 212.102.45[.]3 (Observed September 30, 2020)
- 212.102.45[.]58 (Observed September 30, 2020)
- 31.168.98[.]73 (Observed September 30, 2020)
- 37.120.204[.]156 (Observed September 30, 2020)
- 5.160.253[.]50 (Observed September 30, 2020)
- 5.253.204[.]74 (Observed September 30, 2020)
- 64.44.81[.]68 (Observed September 30, 2020)
- 84.17.45[.]218 (Observed September 30, 2020)
- 89.187.182[.]106 (Observed September 30, 2020)
- 89.187.182[.]111 (Observed September 30, 2020)
- 89.34.98[.]114 (Observed September 30, 2020)
- 89.44.201[.]211 (Observed September 30, 2020)

## Recommendations

The following list provides recommended self-protection mitigation strategies against cyber techniques used by advanced persistent threat actors:

- Validate input as a method of sanitizing untrusted input submitted by web application users. Validating input can significantly reduce the probability of successful exploitation by providing

protection against security flaws in web applications. The types of attacks possibly prevented include SQL injection, Cross Site Scripting (XSS), and command injection.

- Audit your network for systems using Remote Desktop Protocol (RDP) and other internet-facing services. Disable unnecessary services and install available patches for the services in use. Users may need to work with their technology vendors to confirm that patches will not affect system processes.
- Verify all cloud-based virtual machine instances with a public IP, and avoid using open RDP ports, unless there is a valid need. Place any system with an open RDP port behind a firewall and require users to use a VPN to access it through the firewall.
- Enable strong password requirements and account lockout policies to defend against brute-force attacks.
- Apply multi-factor authentication, when possible.
- Maintain a good information back-up strategy by routinely backing up all critical data and system configuration information on a separate device. Store the backups offline, verify their integrity, and verify the restoration process.
- Enable logging and ensure logging mechanisms capture RDP logins. Keep logs for a minimum of 90 days and review them regularly to detect intrusion attempts.
- When creating cloud-based virtual machines, adhere to the cloud provider's best practices for remote access.
- Ensure third parties that require RDP access follow internal remote access policies.
- Minimize network exposure for all control system devices. Where possible, critical devices should not have RDP enabled.
- Regulate and limit external to internal RDP connections. When external access to internal resources is required, use secure methods, such as a VPNs. However, recognize the security of VPNs matches the security of the connected devices.
- Use security features provided by social media platforms; use [strong passwords](#), change passwords frequently, and use a different password for each social media account.
- See CISA's Tip on [Best Practices for Securing Election Systems](#) for more information.

## General Mitigations

### *Keep applications and systems updated and patched*

Apply all available software updates and patches and automate this process to the greatest extent possible (e.g., by using an update service provided directly from the vendor). Automating updates and patches is critical because of the speed of threat actors to create new exploits following the release of a patch. These "N-day" exploits can be as damaging as zero-day exploits. Ensure the authenticity and integrity of vendor updates by using signed updates delivered over protected links. Without the rapid and thorough application of patches, threat actors can operate inside a defender's patch cycle.<sup>2</sup>

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<sup>2</sup> NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" <https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nas-top10-cybersecurity-mitigation-strategies.pdf>

Additionally, use tools (e.g., the OWASP Dependency-Check Project tool<sup>3</sup>) to identify the publicly known vulnerabilities in third-party libraries depended upon by the application.

### ***Scan web applications for SQL injection and other common web vulnerabilities***

Implement a plan to scan public-facing web servers for common web vulnerabilities (e.g., SQL injection, cross-site scripting) by using a commercial web application vulnerability scanner in combination with a source code scanner.<sup>4</sup> Fixing or patching vulnerabilities after they are identified is especially crucial for networks hosting older web applications. As sites get older, more vulnerabilities are discovered and exposed.

### ***Deploy a web application firewall***

Deploy a web application firewall (WAF) to prevent invalid input attacks and other attacks destined for the web application. WAFs are intrusion/detection/prevention devices that inspect each web request made to and from the web application to determine if the request is malicious. Some WAFs install on the host system and others are dedicated devices that sit in front of the web application. WAFs also weaken the effectiveness of automated web vulnerability scanning tools.

### ***Deploy techniques to protect against web shells***

Patch web application vulnerabilities or fix configuration weaknesses that allow web shell attacks, and follow guidance on detecting and preventing web shell malware.<sup>5</sup> Malicious cyber actors often deploy web shells—software that can enable remote administration—on a victim's web server. Malicious cyber actors can use web shells to execute arbitrary system commands commonly sent over HTTP or HTTPS. Attackers often create web shells by adding or modifying a file in an existing web application. Web shells provide attackers with persistent access to a compromised network using communications channels disguised to blend in with legitimate traffic. Web shell malware is a long-standing, pervasive threat that continues to evade many security tools.

### ***Use multi-factor authentication for administrator accounts***

Prioritize protection for accounts with elevated privileges, remote access, or used on high-value assets.<sup>6</sup> Use physical token-based authentication systems to supplement knowledge-based factors such as passwords and personal identification numbers (PINs).<sup>7</sup> Organizations should migrate away from single-factor authentication, such as password-based systems, which are subject to poor user

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<sup>3</sup> <https://owasp.org/www-project-dependency-check/>

<sup>4</sup> NSA "Defending Against the Exploitation of SQL Vulnerabilities to Compromise a Network" <https://apps.nsa.gov/iaarchive/library/ia-guidance/tech-briefs/defending-against-the-exploitation-of-sql-vulnerabilities-to-cfm>

<sup>5</sup> NSA & ASD "CyberSecurity Information: Detect and Prevent Web Shell Malware" <https://media.defense.gov/2020/Jun/09/2002313081/-1/-1/0/CSI-DETECT-AND-PREVENT-WEB-SHELL-MALWARE-20200422.PDF>

<sup>6</sup> <https://us-cert.cisa.gov/cdm/event/Identifying-and-Protecting-High-Value-Assets-Closer-Look-Governance-Needs-HVAs>

<sup>7</sup> NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" <https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nas-top10-cybersecurity-mitigation-strategies.pdf>

choices and more susceptible to credential theft, forgery, and password reuse across multiple systems.

### ***Remediate critical web application security risks***

First, identify and remediate critical web application security risks. Next, move on to other less critical vulnerabilities. Follow available guidance on securing web applications.<sup>8,9,10</sup>

### **How do I respond to unauthorized access to election-related systems?**

#### ***Implement your security incident response and business continuity plan***

It may take time for your organization's IT professionals to isolate and remove threats to your systems and restore normal operations. In the meantime, take steps to maintain your organization's essential functions according to your business continuity plan. Organizations should maintain and regularly test backup plans, disaster recovery plans, and business continuity procedures.

#### ***Contact CISA or law enforcement immediately***

To report an intrusion and to request incident response resources or technical assistance, contact CISA ([Central@cisa.gov](mailto:Central@cisa.gov) or 888-282-0870) or the FBI through a local field office or the FBI's Cyber Division ([CyWatch@ic.fbi.gov](mailto:CyWatch@ic.fbi.gov) or 855-292-3937).

## **RESOURCES**

- CISA Tip: [Best Practices for Securing Election Systems](#)
- CISA Tip: [Securing Voter Registration Data](#)
- CISA Tip: [Website Security](#)
- CISA Tip: [Avoiding Social Engineering and Phishing Attacks](#)
- CISA Tip: [Securing Network Infrastructure Devices](#)
- Joint Advisory: [Technical Approaches to Uncovering and Remediating Malicious Activity](#)
- CISA Insights: [Actions to Counter Email-Based Attacks on Election-related Entities](#)
- FBI and CISA Public Service Announcement (PSA): [Spoofed Internet Domains and Email Accounts Pose Cyber and Disinformation Risks to Voters](#)
- FBI and CISA PSA: [Foreign Actors Likely to Use Online Journals to Spread Disinformation Regarding 2020 Elections](#)
- FBI and CISA PSA: [Distributed Denial of Service Attacks Could Hinder Access to Voting Information, Would Not Prevent Voting](#)
- FBI and CISA PSA: [False Claims of Hacked Voter Information Likely Intended to Cast Doubt on Legitimacy of U.S. Elections](#) FBI and CISA PSA: [Cyber Threats to Voting Processes Could Slow But Not Prevent Voting](#)

<sup>8</sup> NSA "Building Web Applications – Security for Developers" <https://apps.nsa.gov/iaarchive/library/ia-guidance/security-tips/building-web-applications-security-recommendations-for.cfm>

<sup>9</sup> <https://owasp.org/www-project-top-ten/>

<sup>10</sup>

[https://cwe.mitre.org/top25/archive/2020/2020\\_cwe\\_top25.html](https://cwe.mitre.org/top25/archive/2020/2020_cwe_top25.html)

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FBI | CISA

- FBI and CISA PSA: [Foreign Actors and Cybercriminals Likely to Spread Disinformation Regarding 2020 Election Results](#)

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STATE OF COLORADO     )  
County of Douglas     )ss.

COMES NOW, Affiant Joseph T. Oltmann, being first duly sworn, under oath, and states under penalty of perjury that the following information is true and accurate within his personal knowledge and belief:

My name Joseph Oltmann. I am over eighteen years of age. I am not suffering under any mental disability and am competent to give this sworn affidavit. I am able to read and write and to give this affidavit voluntarily and on my own free will and accord. No one has used any threats, force, pressure, or intimidation to make me sign this affidavit. I make this affidavit in support of the truth.

I am the CEO of a tech company based just outside of Denver, Colorado. I am also the founder of an organization called FEC United. [[Fecunited.com](https://www.fecunited.com)] The goal of this organization is to restore constitutional integrity to our community and empower those in our community to stand up to state and national leadership that intends to suppress the rights of individuals holistically.

Through this organization “FEC” I became a target of journalists who began to slander both me and my organization. I became the topic of Antifa and extremists through my involvement in a movement to resist the narrative that police are bad and our society represented the rhetoric shared by these extremists. As a result of these attacks, I started researching Antifa, BLM, Inc. and their connection to violence and unrest inside of our communities. As a result, I set out to infiltrate Antifa meetings and de-mask those Antifa members who are journalists in the mainstream media in Colorado specifically.

On or about the week of September 27, 2020, I was able to attend an Antifa meeting which appeared to be between Antifa members in Colorado Springs and in Denver Colorado. I cannot verify the connection between the two or the leadership as they were disorganized. Discussions of Our Revolution and Antifa were discussed. Rhetoric of “eliminating fascists” and frustration as to the dwindling of support to rally in the street was evident.

Then I honed in among other conversations key actors in the organization who work for local and state news publications. One such person of interest was Heidi Beedle, identified leader of Our Revolution in El Paso County (Southern Colorado) and Antifa leader of the same area.

Heidi's name is actually Sean Beedle. She is a journalist at Colorado Springs Independent, Colorado Springs Business Journal and a freelance writer for several online publications. Others to remain unnamed in this were present.

The conversation went like this:

Someone identified as "Eric" began to speak. Someone asked who Eric was, and someone else replied "he is the Dominion guy" [paraphrased].

Eric then began to speak after being told to continue, but was interrupted and asked by someone, "What are we going to do if Trump wins this fucking election?"

Eric responded, "Don't worry about the election. Trump is not going to win. I made fucking sure of that.. Hahaha"

Someone responded, "Fucking right."

Eric continued with fortifying the groups and recruiting. I would describe his tone as eccentric and boisterous. I wrote down his name and started to do some research into him.

At the time, I thought that they were so disconnected with reality that they think they can "make sure Trump is not elected."

I started with a simple google search: Keywords: "Eric," "Dominion," "Denver Colorado." The fifth result in organic search returned:

[Dominion Voting Systems | Employee Profiles, Emails, Mutual ...](#)

www.leadcandy.io › company › Dominion-Voting-Syst...

Find people working at Dominion Voting Systems. LeadCandy provides Full ... Denver, Colorado. VIEW FULL PROFILE ... FULL PROFILE. Eric Coomer's photo ...

Above that were results for Eric Schussler- Old Dominion University and Eric E Johnson, Attorney - Sherman & Howard. The first two on organic search however was as follows:

[Dominion - Colorado Secretary of State](#)

www.sos.state.co.us › elections › files › projectPlans  
PDF

Sep 9, 2016 — our most recent pilots in the City and County of Denver and Mesa County.  
... 1 Democracy Suite is a registered trademark of Dominion Voting Systems. ... Eric  
Coomer graduated from the University of California, Berkeley in ...

And

[Eric Coomer's email & phone | Dominion Voting Systems's ...](#)

rocketreach.co › eric-coomer-email\_7112825

Location, Denver, Colorado, United States. Work, Director, Market Strategy @ Dominion  
Voting Systems Member, Board of Directors @ Friends of Levitt Pavilion ...

I began doing research on Eric Coomer and discovered that Colorado Secretary of state  
link the following about Dr. Eric Coomer on page 26:

*“Eric Coomer graduated from the University of California, Berkeley in 1997 with a Ph.D. in Nuclear Physics. After working in IT consulting for several years, Eric entered the elections industry in 2005 with Sequoia Voting Systems as Chief Software Architect. After three years with the company, Eric took over all development operations as Vice President of Engineering. When Sequoia was acquired by Dominion Voting Systems in 2010, Eric joined the DVS team as Vice President of US Engineering overseeing development in the Denver, Colorado office.*

*Recently, Eric has taken over as the Director of Product Strategy driving the creation of next generation products through close collaboration with customers, combined with a deep understanding of technology and the needs of Elections departments throughout the United States and abroad. Eric has been an active participant in the development of the IEEE common data format for Elections systems, as well as the working group for developing standards for Risk-Limiting Audits for elections results. When not designing new products, Eric supports large and small scale customers during Election season.”*

I did some cursory research on Eric, but my conclusion was that he was either a part of the government or not relevant to the conversation. In other words, this was not a target I would

identify as being influential in Antifa. My conclusion was based on his credentials of having a PhD in Nuclear Physics. Did not add up for someone with that intelligence. I set it aside and concentrated my focus on the activist journalist who were actually Antifa members.

On October 15, 2020 I spoke at an FEC meeting in Bandimere Speedway. It was a rally around the unconstitutional actions of Jefferson County, Colorado government leadership to hurt Bandimere Speedway. I spoke and before the event started they escorted a suspected Antifa Journalist Erik Maulbetsch [Colorado Recorder] off the premises. In that meeting I talked about outing activist journalists who were Antifa and holding them accountable in our community for attacking organizations like FEC United that serve the community.

These activist journalists frequently slander people of faith, conservatives and call them names that defame them in the community. I had enough and warned that we would call them out by name. Maulbetsch wrote an article reflecting this as he was listening in online and decided to omit details about the meeting, causing the entire journalistic community to wonder if they were on the list. It had a positive effect contrary to their intentions.

On Friday November 6th, I received a forwarded article about Georgia irregularities on the election day. I normally do not read many of these articles because I am inundated with information both from FEC, and my company. I started reading it and noticed Eric Coomer was the spokesperson for a company called Dominion Voting Systems. I immediately stopped and started to go back through my notes to find the info on Eric Coomer. I then started research Dominion Voting Systems. The information became rather scary as everywhere I looked I found Eric's name. Some listing him as VP of Security and others calling him Director of Strategy and Security. I began my search for everything Eric Coomer, Dr. Eric Coomer and any information related to legal filings, RFPs, states using Dominion, Colorado uses and even areas in Colorado that do not use Dominion.

I then turned my attention to Eric Coomer's Facebook profile and page while I gathered information on correlating email addresses, profiles, screen names, etc. Searching Twitter, Reddit, Facebook, 4Chan, etc etc.

I was able to get screenshots of Eric Coomer's Facebook posts going back to 2016. What I discovered was disturbing. Anti-Trump rhetoric, posts referring to: Fuck USA, Fuck the Police, A.C.A.B., posts that were anti Conservative, and even posts being happy someone died. Then the bigger shocker. He reposted the Antifa "Manifesto" letter to Donald Trump. I knew that I had the right guy and someone that was clearly mentally unstable and radical. I started digging into the

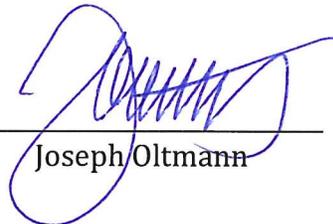
code irregularities and tying all of the pieces together with the irregularities and the Dominion uses in the disputed states. The correlation was astonishing. I then found the information related to justifying voting machines being online and his justification that they had “hardware and IP address protection”. This statement by itself is FALSE.

I then attempted to reach out to all sources to bring this information to light. Calling major news stations and attempting to connect with the DOJ.

I took the information to the listeners of an organization that I also own called Conservative Daily. We have a podcast that we do on weekdays. I felt I had enough information and was confident that the Eric on the conference call was the same Eric Coomer that worked for Dominion. I was also confident that given the Facebook and other information I was able to collect that Eric Coomer was interfering with the election and as he admits in one of his posts that people at his company think and feel the same way he does. I began to research his patents, who owns them, the pattern of states they acquired as clients.

I began to research the connection to Diane Feinstein, her husband, campaign manager, Clinton Foundation and became worried that the finger of radicals had taken away the voice of the American people in deciding the election. I used ARIMA analysis to show me trends on data and probability models to prove that they were in fact using code and technology to ghost votes, switch votes or even remove probable ballots completely. Code is random unless it is not. Since we are a data company and understand artificial intelligence and use of neural networks, we understand the capabilities of creating chaos in outcome based on weighted density of probable voters.

These statements are true and accurate to the best of my knowledge.

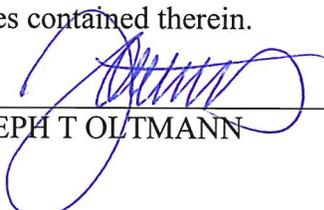


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Joseph Oltmann

STATE OF COLORADO  
COUNTY OF Douglas

Personally appeared before me, LYNN KIEFFER, a Notary Public in and for the aforesaid State and County, JOSEPH T OLTMANN, the within named bargainer, with whom I am personally acquainted and who, after being duly sworn, acknowledged that she executed the foregoing Agreement for the purposes contained therein.

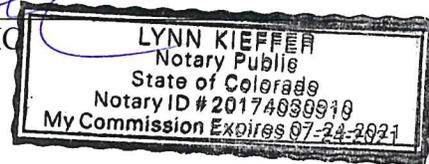
  
\_\_\_\_\_  
JOSEPH T OLTMANN

Sworn to and subscribed before me this 13<sup>th</sup> day of November, 2020.

My Commission Expires:

07-24-2021

  
\_\_\_\_\_  
NOTARY PUBLIC



## **Marian Sheridan**

Pursuant to 28 U.S.C Section 1746, I, Marian Sheridan, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I worked as a Republican Poll challenger in 2018 at TCF and in August of 2020. As Grassroots Vice chair of the Michigan Republican Party I organized and helped train hundreds of poll challengers for the 2020 election.
3. I reside at 7259 White Oak Drive, West Bloomfield Mi 48324
4. My affidavit highlights voting irregularities from Wayne County, Michigan
5. A team of almost 1200 people participated in reviewing the voting records of 51,018 registered voters who voted for the first time in the November 3rd election of 2020. Of the 51,018 voter records, 30,133 were reviewed. Of the reviewed records the team has re-checked 8,094 of the 10,182 records with irregularities.
6. To the best of our ability we found 205 of the voters were deceased, with an additional 1005 unverifiable through our sources.
7. 2,362 had invalid addresses, with the residence of an additional 857 unverifiable.

8. 20,300 of the 51,018 list did not have a “ballot requested date” in Wayne County,

10. 16,636 of the 20,300 ‘ballot request date” were from Detroit.

11. 10,620 absentee ballots show a “ballot sent date” *40 days before the election*, after August 13th but before September 24.

Marian Sheridan

11/29/2020

# An Analysis of Surveys Regarding Absentee Ballots Across Several States

William M. Briggs

November 23, 2020

## 1 Summary

Survey data was collected from individuals in several states, sampling those who the states listed as not returning absentee ballots. The data was provided by Matt Braynard.

The survey asked respondents whether they (a) had ever requested an absentee ballot, and, if so, (b) whether they had in fact returned this ballot. From this sample I produce predictions of the total numbers of: **Error #1**, those who were recorded as receiving absentee ballots *without* requesting them; and **Error #2**, those who returned absentee ballots but whose votes went missing (i.e. marked as unreturned).

The sizes of both errors were large in each state. The states were Georgia, Michigan, Wisconsin, and Arizona where ballots were across parties. Pennsylvania data was for Republicans only.

## 2 Analysis Description

Each analysis was carried out separately for each state. The analysis used (a) the number of absentee ballots recorded as unreturned, (b) the total responding to the survey, (c) the total of those saying they did not request a ballot, (d) the total of those saying they did request a ballot, and of these (e) the number saying they returned their ballots. I assume survey respondents are representative and the data is accurate.

From these data a simple parameter-free predictive model was used to calculate the probability of all possible outcomes. Pictures of these probabilities were derived, and the 95% prediction interval of the relevant numbers was calculated. The pictures appear in the Appendix at the end. They are summarized here with their 95% prediction intervals.

**Error #1:** being recorded as sent an absentee ballot without requesting one.

**Error #2:** sending back an absentee ballot and having it recorded as not returned.

State	Unreturned ballots	Error #1	Error #2
Georgia	138,029	16,938–22,771	31,559–38,866
Michigan	139,190	29,611–36,529	27,928–34,710
Pennsylvania*	165,412	32,414–37,444	26,954–31,643
Wisconsin	96,771	16,316–19,273	13,991–16,757
Arizona	518,560	208,333–229,937	78,714–94,975

\*Number for Pennsylvania represent Republican ballots only.

Ballots that were not requested, and ballots returned and marked as not returned were classed as *troublesome*. The estimated average number of troublesome ballots for each state were then calculated using the table above and are presented next.

State	Unreturned ballots	Estimated average troublesome ballots	Percent
Georgia	138,029	53,489	39%
Michigan	139,190	62,517	45%
Pennsylvania*	165,412	61,780	37%
Wisconsin	96,771	29,594	31%
Arizona	518,560	303,305	58%

\*Number for Pennsylvania represent Republican ballots only.

## 3 Conclusion

There are clearly a large number of troublesome ballots in each state investigated. Ballots marked as not returned that were never requested are clearly an error of some kind. The error is not small as a percent of the total recorded unreturned ballots.

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Ballots sent back and unrecorded is a separate error. These represent votes that have gone missing, a serious mistake. The number of these missing ballots is also large in each state.

Survey respondents were not asked if they received an unrequested ballot whether they sent these ballots back. This is clearly a lively possibility, and represents a third possible source of error, including the potential of voting twice (once by absentee and once at the polls). No estimates or likelihood can be calculated for this potential error due to absence of data.

#### 4 Declaration of William M. Briggs, PhD

1. My name is William M. Briggs. I am over 18 years of age and am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge.
2. I received a Ph.D of Statistics from Cornell University in 2004.
3. I am currently a statistical consultant. I make this declaration in my personal capacity.
4. I have analyzed data regarding responses to questions relating to mail ballot requests, returns and related issues.
5. I attest to a reasonable degree of professional certainty that the resulting analysis are accurate.

I declare under the penalty of perjury that the foregoing is true and correct.



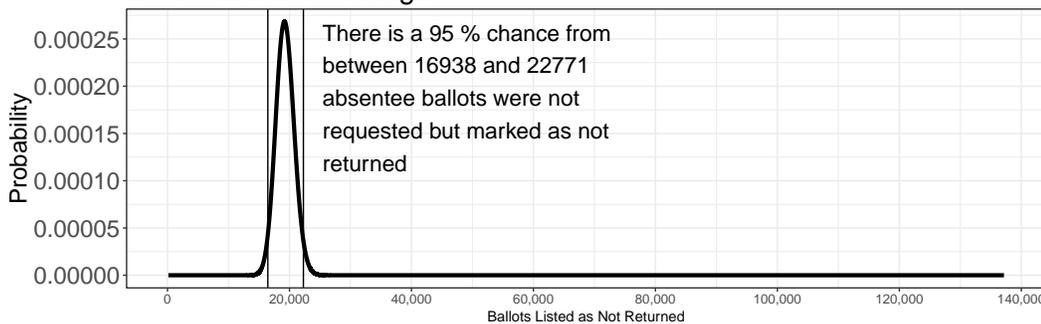
23 November 2020

William M. Briggs

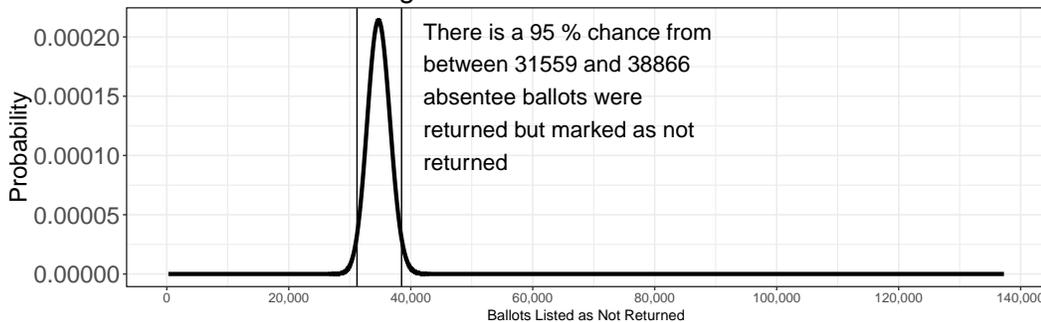
#### 5 Appendix

The probability pictures for each state for each outcome as mentioned above.

**Probability of numbers of un-requested absentee ballots listed as not returned for Georgia**

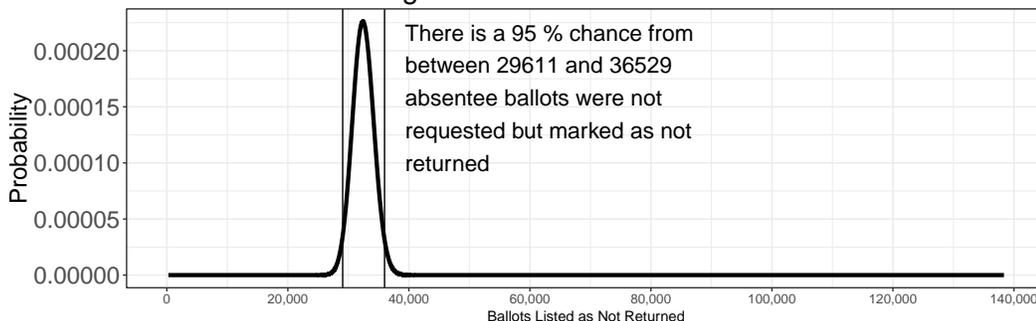


**Probability of numbers of absentee ballots returned but listed as not returned for Georgia**

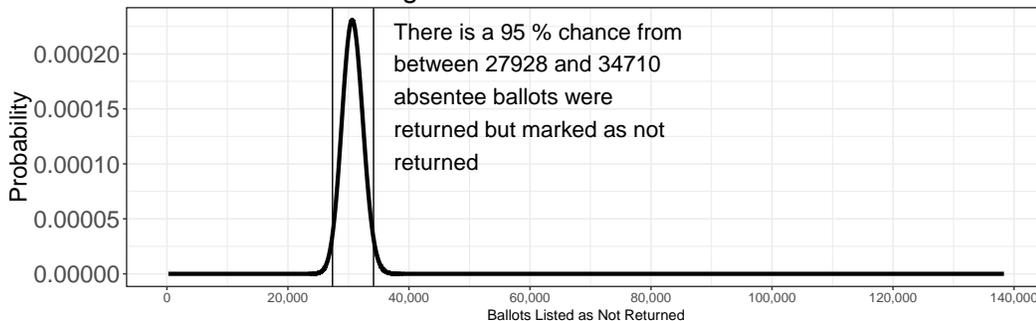


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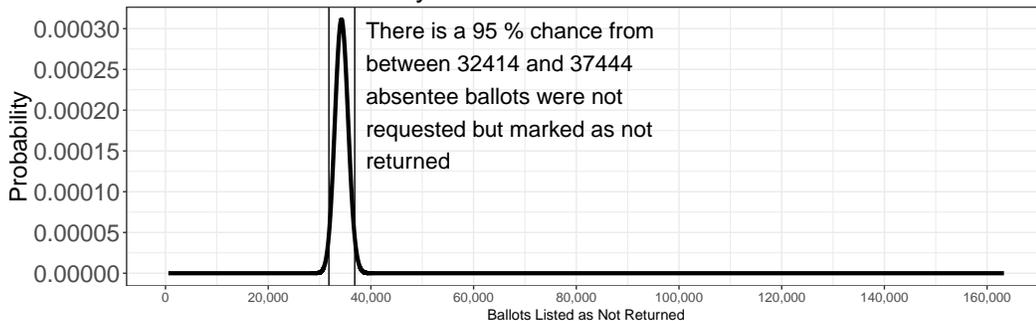
Probability of numbers of un-requested absentee ballots listed as not returned for Michigan



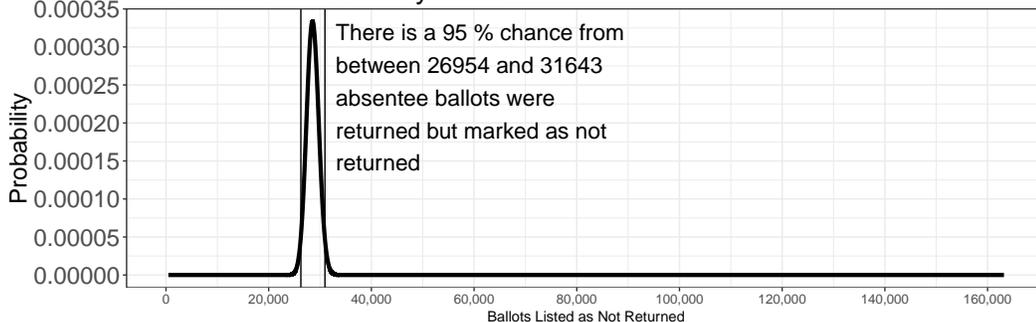
Probability of numbers of absentee ballots returned but listed as not returned for Michigan



Probability of numbers of un-requested absentee ballots listed as not returned for Pennsylvania

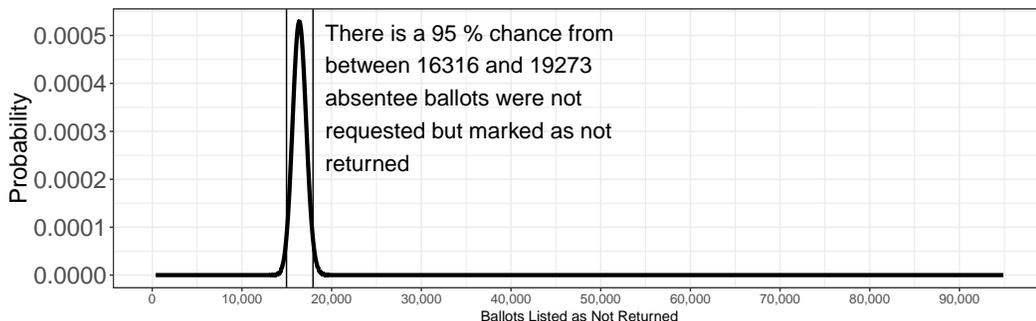


Probability of numbers of absentee ballots returned but listed as not returned for Pennsylvania

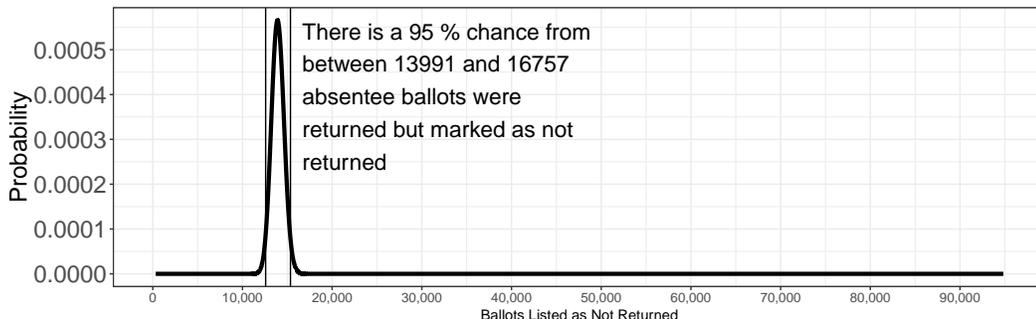


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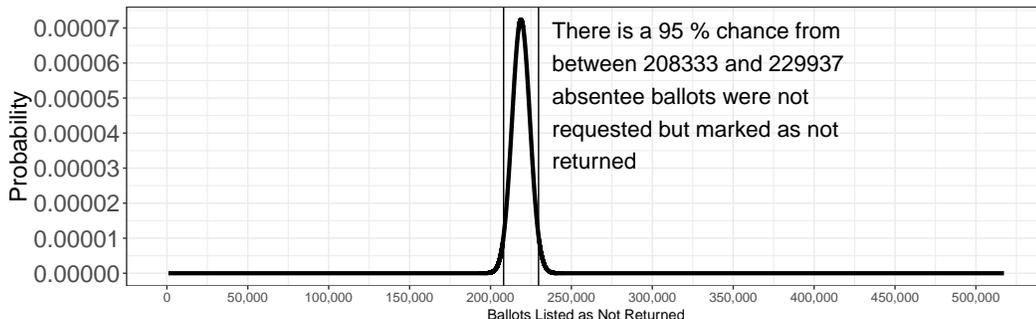
Probability of numbers of un-requested absentee ballots listed as not returned for Wisconsin



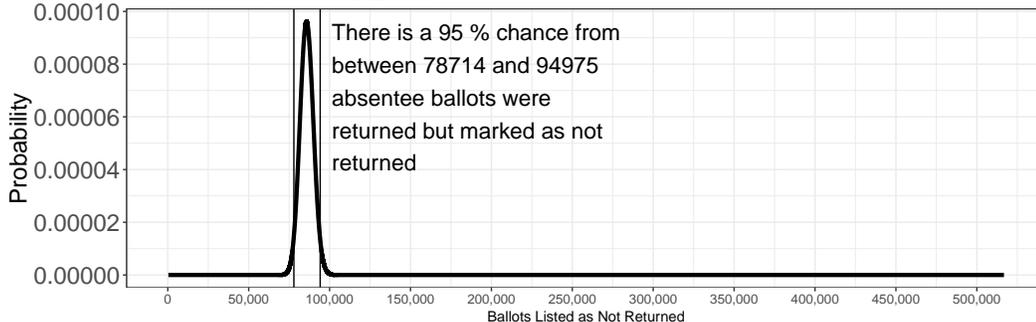
Probability of numbers of absentee ballots returned but listed as not returned for Wisconsin



Probability of numbers of un-requested absentee ballots listed as not returned for Arizona



Probability of numbers of absentee ballots returned but listed as not returned for Arizona



**William M. Briggs, PhD**

*Statistician to the Stars!*

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917-392-0691

## 1. EXPERIENCE

- (1) 2016: AUTHOR OF *Uncertainty: The Soul of Modeling, Probability & Statistics*, a book which argues for a complete and fundamental change in the philosophy and practice of probability and statistics. Eliminate hypothesis testing and estimation, and move to verifiable predictions. This includes AI and machine learning. Call this The Great Reset, but a good one.
- (2) 2004-2016 ADJUNCT PROFESSOR OF STATISTICAL SCIENCE, CORNELL UNIVERSITY, ITHACA, NEW YORK  
I taught a yearly Masters course to people who (rightfully) hate statistics. Interests: philosophy of science & probability, epistemology, epidemiology (ask me about the all-too-common epidemiologist fallacy), Bayesian statistics, medicine, climatology & meteorology, goodness of forecasts, over-confidence in science; public understanding of science, limitations of science, scientism; scholastic metaphysics (as it relates to epistemology).
- (3) 1998-PRESENT. STATISTICAL CONSULTANT, VARIOUS COMPANIES  
Most of my time is spent coaxing people out of their money to tell them they are too sure of themselves. All manner of analyses cheerfully undertaken. Example: Fraud analysis; I created the *Wall Street Journal's* College Rankings. I consultant regularly at Methodist and other hospitals, start-ups, start-downs, and with any institution willing to fork it over.
- (4) 2003-2010. RESEARCH SCIENTIST, NEW YORK METHODIST HOSPITAL, NEW YORK  
Besides the usual, I sit/sat on the Institutional Review Committee to assess the statistics of proposed research. I was an Associate Editor for *Monthly Weather Review* (through 2011). Also a member of the American Meteorological Society's Probability and Statistics Committee (through 2011). At a hospital? Yes, sir; at a hospital. It rains there, too, you know.
- (5) FALL 2007, FALL 2010 VISITING PROFESSOR OF STATISTICS, DEPARTMENT OF MATHEMATICS, CENTRAL MICHIGAN UNIVERSITY, MT. PLEASANT, MI  
Who doesn't love a visit from a statistician? Ask me about the difference between "a degree" and "an education."
- (6) 2003-2007, ASSISTANT PROFESSOR STATISTICS, WEILL MEDICAL COLLEGE OF CORNELL UNIVERSITY, NEW YORK, NEW YORK  
Working here gave me a sincere appreciation of the influences of government money; grants galore.
- (7) 2002-2003. GOTHAM RISK MANAGEMENT, NEW YORK  
A start-up then, after Enron's shenanigans, a start-down. We set future weather derivative and weather insurance contract prices that incorporated information from medium- and long-range weather and climate forecasts.
- (8) 1998-2002. DOUBLECLICK, NEW YORK  
Lead statistician. Lot of computer this and thats; enormous datasets.
- (9) 1993-1998. GRADUATE STUDENT, CORNELL UNIVERSITY

Meteorology, applied climatology, and finally statistics. Was Vice Chair of the graduate student government; probably elected thanks to a miracle.

- (10) 1992-1993. NATIONAL WEATHER SERVICE, SAULT STE. MARIE, MI  
Forecast storms o' the day and launched enormous balloons in the name of Science. My proudest moment came when I was able to convince an ancient IBM-AT machine to talk to an *analog*, 110 baud, phone-coupled modem, all using BASIC!
- (11) 1989-1992. UNDERGRADUATE STUDENT, CENTRAL MICHIGAN UNIVERSITY  
Meteorology and mathematics. Started the local student meteorology group to chase tornadoes. Who knew Michigan had so few? Spent a summer at U Michigan playing with a (science-fiction-sounding) lidar.
- (12) 1983-1989. UNITED STATES AIR FORCE  
Cryptography and other secret stuff. Shot things; learned pinochle. I adopted and became proficient with a fascinating and versatile vocabulary. Irritate me for examples. TS/SCI, etc. security clearance (now inactive).

## 2. EDUCATION

- (1) Ph.D., 2004, Cornell University. Statistics.
- (2) M.S., 1995, Cornell University. Atmospheric Science.
- (3) B.S., Summa Cum Laude, 1992, Central Michigan University. Meteorology and Math.

## 3. PUBLICATIONS

### 3.0.1. *Popular.*

- (1) Op-eds in various newspapers; articles in *Stream*, *Crisis Magazine*, *The Remnant*, *Quadrant*, *Quirks*; blog with ~70,000 monthly readers. Various briefs submitted to government agencies, such as California Air Resources Board, Illinois Department of Natural Resources. Talks and holding-forths of all kinds.

### 3.0.2. *Books.*

- (1) Richards, JW, WM Briggs, and D Axe, 2020. *UThe Price of Panic: How the Tyranny of Experts Turned a Pandemic into a Catastrophe*. Regnery. Professors Jay Richards, William Briggs, and Douglas Axe take a deep dive into the crucial questions on the minds of millions of Americans during one of the most jarring and unprecedented global events in a generation.
- (2) Briggs, WM., 2016. *Uncertainty: The Soul of Modeling, Probability & Statistics*. Springer. Philosophy of probability and statistics. A new (old) way to view and to use statistics, a way that doesn't lead to heartbreak and pandemic over-certainty, like current methods do.
- (3) Briggs, WM., 2008 *Breaking the Law of Averages: Real Life Probability and Statistics in Plain English*. Lulu Press, New York. Free text for undergraduates.
- (4) Briggs, WM., 2006 *So You Think You're Psychic?* Lulu Press, New York. Hint: I'll bet you're not.

3.0.3. *Methods.*

- (1) Briggs, WM and J.C. Hanekamp, 2020. Uncertainty In The MAN Data Calibration & Trend Estimates. *Atmospheric Environment*, In review.
- (2) Briggs, WM and J.C. Hanekamp, 2020. Adjustments to the Ryden & McNeil Ammonia Flux Model. *Soil Use and Management*, In review.
- (3) Briggs, William M., 2020. Parameter-Centric Analysis Grossly Exaggerates Certainty. In *Data Science for Financial Econometrics*, V Kreinovich, NN Thach, ND Trung, DV Thanh (eds.), In press.
- (4) Briggs, WM, HT Nguyen, D Trafimow, 2019. Don't Test, Decide. In *Behavioral Predictive Modeling in Econometrics*, Springer, V Kreinovich, S Sriboonchitta (eds.). In press.
- (5) Briggs, William M. and HT Nguyen, 2019. Clarifying ASA's view on p-values in hypothesis testing. *Asian Journal of Business and Economics*, 03(02), 1–16.
- (6) Briggs, William M., 2019. Reality-Based Probability & Statistics: Solving The Evidential Crisis (invited paper). *Asian Journal of Business and Economics*, 03(01), 37–80.
- (7) Briggs, William M., 2019. Everything Wrong with P-Values Under One Roof. In *Beyond Traditional Probabilistic Methods in Economics*, V Kreinovich, NN Thach, ND Trung, DV Thanh (eds.), pp 22–44.
- (8) Briggs, WM, HT Nguyen, D Trafimow, 2019. The Replacement for Hypothesis Testing. In *Structural Changes and Their Econometric Modeling*, Springer, V Kreinovich, S Sriboonchitta (eds.), pp 3–17.
- (9) Trafimow, D, V Amrhein, CN Areshenkoff, C Barrera-Causil, ..., WM Briggs, (45 others), 2018. Manipulating the alpha level cannot cure significance testing. *Frontiers in Psychology*, 9, 699. doi.org/10.3389/fpsyg.2018.00699.
- (10) Briggs, WM, 2018. Testing, Prediction, and Cause in Econometric Models. In *Econometrics for Financial Applications*, ed. Anh, Dong, Kreinovich, and Thach. Springer, New York, pp 3–19.
- (11) Briggs, WM, 2017. The Substitute for p-Values. *JASA*, 112, 897–898.
- (12) J.C. Hanekamp, M. Crok, M. Briggs, 2017. Ammoniak in Nederland. *Enkele kritische wetenschappelijke kanttekeningen*. V-focus, Wageningen.
- (13) Briggs, WM, 2017. Math: Old, New, and Equalitarian. *Academic Questions*, 30(4), 508–513.
- (14) Monckton, C, W Soon, D Legates, ... (several others), WM Briggs 2018. On an error in applying feedback theory to climate. In submission (currently *J. Climate*).
- (15) Briggs, WM, JC Hanekamp, M Crok, 2017. Comment on Goedhart and Huijsmans. *Soil Use and Management*, 33(4), 603–604.
- (16) Briggs, WM, JC Hanekamp, M Crok, 2017. Response to van Pul, van Zanten and Wichink Kruit. *Soil Use and Management*, 33(4), 609–610.
- (17) Jaap C. Hanekamp, William M. Briggs, and Marcel Crock, 2016. A volatile discourse - reviewing aspects of ammonia emissions, models, and atmospheric concentrations in The Netherlands. *Soil Use and Management*, 33(2), 276–287.

- (18) Christopher Monckton of Brenchley, Willie Soon, David Legates, William Briggs, 2015. Keeping it simple: the value of an irreducibly simple climate model. *Science Bulletin*. August 2015, Volume 60, Issue 15, pp 1378–1390.
- (19) Briggs, WM, 2015. The Third Way Of Probability & Statistics: Beyond Testing and Estimation To Importance, Relevance, and Skill. *arxiv.org/abs/1508.02384*.
- (20) Briggs, WM, 2015. The Crisis Of Evidence: Why Probability And Statistics Cannot Discover Cause. *arxiv.org/abs/1507.07244*.
- (21) David R. Legates, Willie Soon, William M. Briggs, Christopher Monckton of Brenchley, 2015. Climate Consensus and ‘Misinformation’: A Rejoinder to Agnotology, Scientific Consensus, and the Teaching and Learning of Climate Change. *Science and Education*, 24, 299–318, DOI 10.1007/s11191-013-9647-9.
- (22) Briggs, WM, 2014. The Problem Of Grue Isn’t. *arxiv.org/abs/1501.03811*.
- (23) Christopher Monckton of Brenchley, Willie Soon, David Legates, William Briggs, 2014. Why models run hot: results from an irreducibly simple climate model. *Science Bulletin*. January 2015, Volume 60, Issue 1, pp 122-135.
- (24) Briggs, WM, 2014. Common Statistical Fallacies. *Journal of American Physicians and Surgeons*, Volume 19 Number 2, 58–60.
- (25) Aalt Bast, William M. Briggs, Edward J. Calabrese, Michael F. Fenech, Jaap C. Hanekamp, Robert Heaney, Ger Rijkers, Bert Schwitters, Pieter Verhoeven, 2013. Scientism, Legalism and Precaution—Contending with Regulating Nutrition and Health Claims in Europe. *European Food and Feed Law Review*, 6, 401–409.
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- (27) Briggs, WM, 2012. On Probability Leakage. *arxiv.org/abs/1201.3611*.
- (28) Briggs, WM, 2012. Why do statisticians answer questions no one ever asks? *Significance*. Volume 9 Issue 1 Doi: 10.1111/j.1740-9713.2012.00542.x. 30–31.
- (29) Briggs, WM, Soon, W, Legates, D, Carter, R, 2011. A Vaccine Against Arrogance. *Water, Air, & Soil Pollution: Volume 220, Issue 1 (2011)*, Page 5-6
- (30) Briggs, WM, and R Zaretski, 2009. Induction and falsifiability in statistics. *arxiv.org/abs/math/0610859*.
- (31) Briggs, WM, 2011. Discussion to A Gelman. Why Tables are Really Much Better than Graphs. *Journal Computational and Graphical Statistics*. Volume 20, 16–17.
- (32) Zaretski R, Gilchrist MA, Briggs WM, and Armagan A, 2010. Bias correction and Bayesian analysis of aggregate counts in SAGE libraries. *BMC Bioinformatics*, 11:72doi:10.1186/1471-2105-11-72.
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- (37) Briggs, WM, Positive evidence for non-arbitrary assignments of probability, 2007. Edited by Knuth et al. Proceedings 27th International Workshop on Bayesian Inference and Maximum Entropy Methods in Science and Engineering. American Institute of Physics. 101-108.
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- (44) Briggs, WM, and D Ruppert, 2005. Assessing the skill of Yes/No Predictions. *Biometrics*. **61(3)**, 799-807. PMID: 16135031.
- (45) Briggs, WM, 2004. Discussion to T Gneiting, LI Stanberry, EP Gritmit, L Held, NA Johnson, 2008. Assessing probabilistic forecasts of multivariate quantities, with an application to ensemble predictions of surface winds. *Test*. **17**, 240-242.
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- (49) Briggs, W.M., and R.A. Levine, 1997. Wavelets and Field Forecast Verification. *Monthly Weather Review*, **25 (6)**, 1329-1341.
- (50) Briggs, WM, and DS Wilks, 1996. Estimating monthly and seasonal distributions of temperature and precipitation using the new CPC long-range forecasts. *Journal of Climate*, **9**, 818-826.

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- (51) Briggs, WM, and DS Wilks, 1996. Extension of the CPC long-lead temperature and precipitation outlooks to general weather statistics. *Journal of Climate*, **9**, 3496-3504.

3.0.4. *Applications.*

- (1) Jamorabo, Daniel, Renelus, Benjamin, Briggs, WM, 2019. "Comparative outcomes of EUS-guided cystogastrostomy for peripancreatic fluid collections (PFCs): A systematic review and meta-analysis, 2019. *Therapeutic Advances in Gastrointestinal Endoscopy*, in press.
- (2) Benjamin Renelus, S Paul, S Peterson, N Dave, D amorabo, W Briggs, P Kancharla, 2019. Racial disparities with esophageal cancer mortality at a high-volume university affiliated center: An All ACCESS Invitation, *Journal of the National Medical Association*, in press.
- (3) Mehta, Bella, S Ibrahim, WM Briggs, and P Efthimiou, 2019. Racial/Ethnic variations in morbidity and mortality in Adult Onset Still's Disease: An analysis of national dataset", *Seminars in Arthritis and Rheumatism*, doi: 10.1016/j.semarthrit.2019.04.0044.
- (4) Ivanov A, Dabiesingh DS, Bhumireddy GP, Mohamed A, Asfour A, Briggs WM, Ho J, Khan SA, Grossman A, Klem I, Sacchi TJ, Heitner JF. Prevalence and Prognostic Significance of Left Ventricular Noncompaction in Patients Referred for Cardiac Magnetic Resonance Imaging. *Circ Cardiovasc Imaging*. 2017 Sep;10(9). pii: e006174. doi: 10.1161/CIRCIMAGING.117.006174.
- (5) Ivanov A, Kaczowska BA, Khan SA, Ho J, Tavakol M, Prasad A, Bhumireddy G, Beall AF, Klem I, Mehta P, Briggs WM, fpaSacchi TJ, Heitner JF, 2017. Review and Analysis of Publication Trends over Three Decades in Three High Impact Medicine Journals. *PLoS One*. 2017 Jan 20;12(1):e0170056. doi: 10.1371/journal.pone.0170056.
- (6) A. Ivanova, G.P. Bhumireddy, D.S. Dabiesingh, S.A. Khana, J. Hoa N. Krishna, N. Dontineni, J.A Socolow, W.M. Briggs, I. Klem, T.J. Sacchi, J.F. Heitner, 2016. Importance of papillary muscle infarction detected by cardiac magnetic resonance imaging in predicting cardiovascular events. *International Journal of Cardiology*. Volume 220, 1 October 2016, Pages 558–563. PMID: 27390987.
- (7) A Ivanov, J Yossef, J Taillon, B Worku, I Gulkarov, A Tortolani, TJ Sacchi, WM Briggs, SJ Brener, JA Weingarten, JF Heitner, 2015. Do pulmonary function tests improve risk stratification before cardiothoracic surgery? *Journal of Thoracic and Cardiovascular Surgery*. 2015 Oct 30. pii: S0022-5223(15)02165-0. doi: 10.101. PMID: 26704058.
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- (10) Visconti A, Gaeta T, Cabezon M, Briggs W, Pyle M., 2013. Focused Board Intervention (FBI): A Remediation Program for Written Board Preparation

- and the Medical Knowledge Core Competency. *J Grad Med Educ.* 2013 Sep;5(3):464-7. PMID: 24404311.
- (11) Annika Krystyna, D Kumari, R Tenney, R Kosanovic, T Safi, WM Briggs, K Hennessey, M Skelly, E Enriquez, J Lajeune, W Ghani and MD Schwalb, 2013. Hepatitis c antibody testing in African American and Hispanic men in New York City with prostate biopsy. *Oncology Discovery*, Vol 1. DOI: 10.7243/2052-6199-1-1.
  - (12) Ziad Y. Fayad, Elie Semaan, Bashar Fahoum, W. Matt Briggs, Anthony Tortolani, and Marcus D'Ayala, 2013. Aortic mural thrombus in the normal or minimally atherosclerotic aorta: A systematic review and meta-analysis of the available literature. *Ann Vasc Surg.*, Apr;27(3):282-90. DOI:10.1016/j.avsg.2012.03.011.
  - (13) Elizabeth Haines, Gerardo Chiricolo, Kresimir Aralica, William Briggs, Robert Van Amerongen, Andrew Laudenbach, Kevin O'Rourke, and Lawrence Melniker MD, 2012. Derivation of a Pediatric Growth Curve for Inferior Vena Caval Diameter in Healthy Pediatric Patients. *Crit Ultrasound J.* 2012 May 28;4(1):12. doi: 10.1186/2036-7902-4-12.
  - (14) Wei Li, Piotr Gorecki, Elie Semaan, William Briggs, Anthony J. Tortolani, Marcus D'Ayala, 2011. Concurrent Prophylactic Placement of Inferior Vena Cava Filter in gastric bypass and adjustable banding operations: An analysis of the Bariatric Outcomes Longitudinal Database (BOLD). *J. Vascular Surg.* 2012 Jun;55(6):1690-5. doi: 10.1016/j.jvs.2011.12.056.
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000703

**MI Unreturned Live Agent - Mass Markets**

			11/15/2020	11/16/2020	11/17/2020
3,815	<b>Completes</b>		-	990	2,825
248	<b>Q4=01</b>	1-Completed Survey	-	36	212
1,257	<b>VM Message Left</b>	2-Message Delivered VM	-	388	869
2,310	<b>up/RC</b>	3-Refused	-	566	1,744
62,569	<b>No Answer</b>	4-No Answer	-	15,482	47,087
3,644	<b>Numbers/Language</b>	5-Bad Number	-	570	3,074
100.00%	<b>List Penetration</b>				
70,030	<b>Data Loads</b>				

<b>Q1 - May I please speak to &lt;lead on screen&gt;?</b>		<b>Response</b>	11/15/2020	11/16/2020	11/17/2020
958	23.65%	A-Reached Target	-	158	800
142	3.51%	Uncertain	-	57	85
2,950	72.84%	X = Refused	-	883	2,067
0	0.00%				
4,050	100.00%	<b>Sum of All Responses</b>	-	1,098	2,952

<b>Q2 - Did you request Absentee Ballot in state of MI?</b>		<b>Response</b>	11/15/2020	11/16/2020	11/17/2020
752	49.64%	A-Yes [Go to Q3]	-	167	585

000704

239	15.78%	B-No [Go to Q4]	-	39	200
50	3.30%	Member) [Go to Q3]	-	5	45
17	1.12%	Member) [Go to Q4]	-	2	15
37	2.44%	E-Unsure [Go to Close A]	-	4	33
11	0.73%	Moment [Go to Close A]	-	2	9
409	27.00%	X = Refused	-	63	346
<b>1,515</b>	<b>100.00%</b>	<b>Sum of All Responses</b>	<b>-</b>	<b>282</b>	<b>1,233</b>

Q3 - Did you mail your ballot back?	Response	11/15/2020	11/16/2020	11/17/2020
232	21.28% A-Yes [Go to Q4]	-	41	191
472	43.30% B-No [Go to Close A]	-	109	363
10	0.92% Member) [Go to Q4]	-	2	8
28	2.57% Member) [Go to Close A]	-	2	26
22	2.02% Close A]	-	5	17
326	29.91% X = Refused	-	60	266
		-		
<b>1,090</b>	<b>100.00% Sum of All Responses</b>	<b>-</b>	<b>219</b>	<b>871</b>

Q4 - Can you please give us the best phone number to reach you at?	Response	11/15/2020	11/16/2020	11/17/2020
246	69.89% A-Yes (Capture Number) [Go to Q5]	-	36	210
106	30.11% B-Refused [Go to Q5]	-	27	79

000705

0	0.00%				
0	0.00%				
<b>352</b>	<b>100.00%</b>	<b>Sum of All Responses</b>	<b>-</b>	<b>63</b>	<b>289</b>

<b>Q5 - Can you provide us your email address?</b>	<b>Response</b>	<b>11/15/2020</b>	<b>11/16/2020</b>	<b>11/17/2020</b>	
18	7.26% 01-Yes [Go to Close B]	-	5	13	
230	92.74% 02-No [Go to Close B]	-	31	199	
0	0.00%				
<b>248</b>	<b>100.00%</b>	<b>Sum of All Responses</b>	<b>-</b>	<b>36</b>	<b>212</b>

# Statistical voting analysis in the Michigan 2020 Presidential Election

*Wayne and Oakland Counties*

**Expert Analysis Prepared by Eric Quinnell, PhD**

A handwritten signature in black ink, appearing to read 'Eric Quinnell', written over a horizontal line.

Eric Quinnell, Ph.D.

November 25, 2020

## Contents

Executive Summary.....	2
Wayne County/Oakland are Right Targets .....	2
Wayne County.....	3
Oakland County.....	6

## Executive Summary

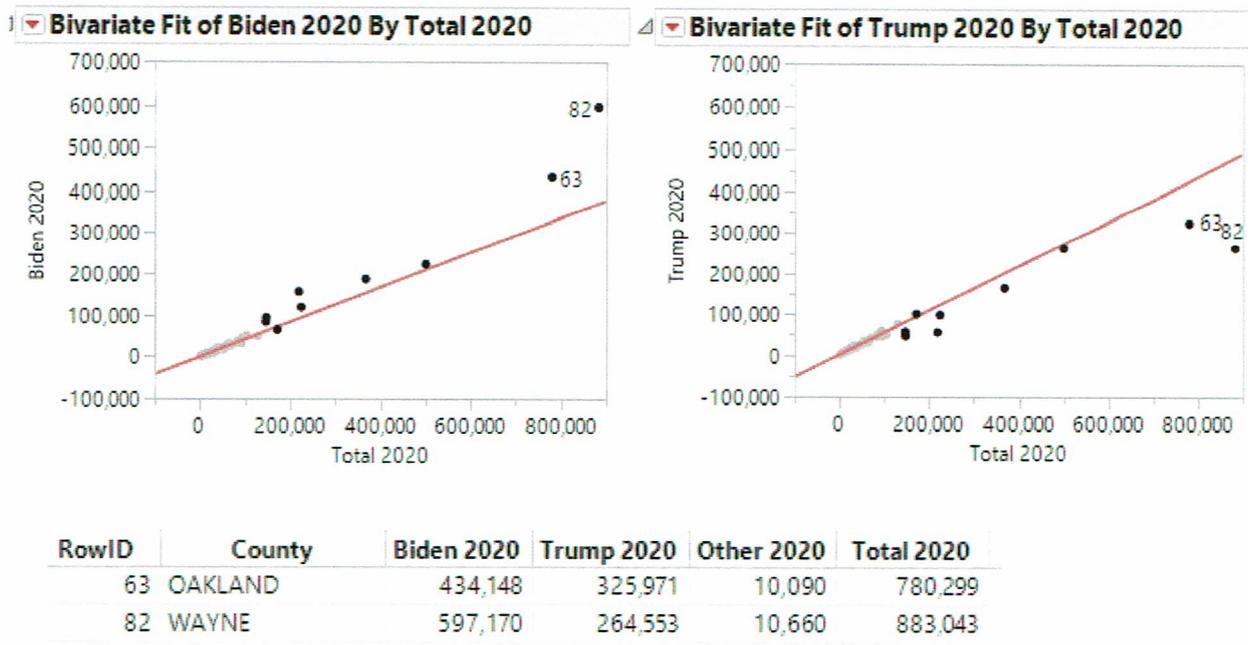
**Analysis** – A team of unpaid citizen volunteer mathematicians, scientists, and engineers collaborated in a statistical vote analysis in the Michigan 2020 Presidential Election.

Using simple linear regression of unproblematic voting districts, we predict hypothetically problematic voting districts. Using distributional characteristics within problematic counties, we point to problematic districts and precincts.

**Findings** – Two Michigan counties stand out as problematic in this analysis. Wayne and Oakland counties show approximately 40,000 and 46,000 excessive votes above a standard distribution, respectively. Problematic districts and precincts within these counties exhibit unusual Democrat to Republican ratios as compared to their history. Additionally, some precincts show an excessive number of votes in favor of candidate Joseph Biden sometimes even exceeding new voter registrations.

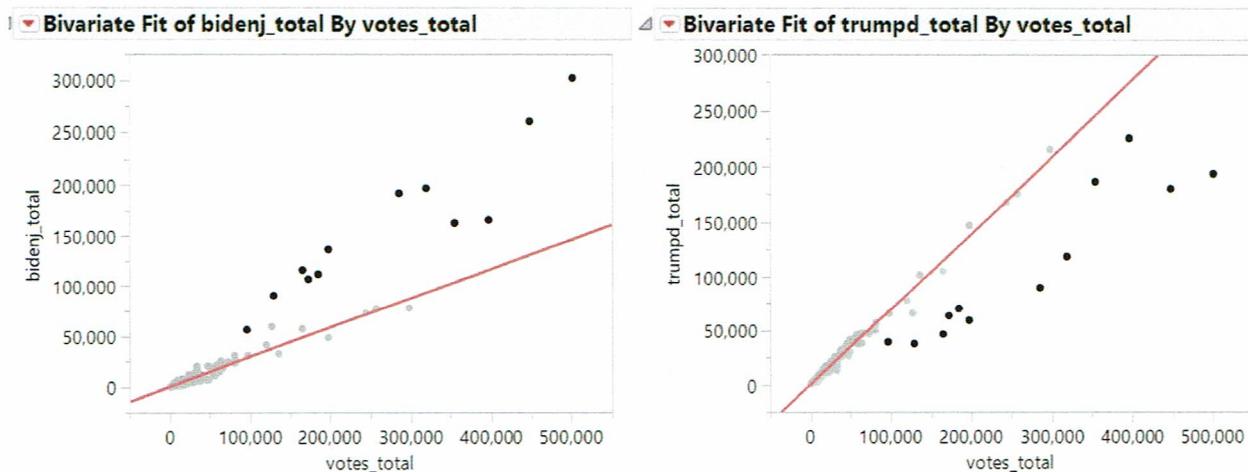
## Wayne County/Oakland Counties Stand Out

A bi-variate trendline across all Michigan counties identify Wayne County and Oakland County as behaving well outside the voting trends of the rest of the state in 2020. Thus, these two counties were selected for deeper analysis.



### Wayne County

A bi-variate linear fit of the Trump and Biden votes in 2020 Wayne County shows major precincts completely off the trend line as compared to the majority of the other precincts in the same county. The points exceedingly off the fit are mostly those in the Absentee Vote Counting Board (AVCB) districts. Several others outside of Detroit also miss the trend line of the rest of the area.



The AVCB mail-in districts within Detroit have no ability to correlate with the precincts inside the city, so a historical voting pattern per precinct is not possible. There is also no indication that the AVCB distributions include the same precincts from year to year, so therefore there is no way to link AVCB in obvious ways.

Instead, we first looked at the remainder of Wayne County. Outside the city, we have much more voting history and can observe both mail-in votes as well as election day votes correlated to a precinct..

Outside Detroit, Wayne County shows a significant disruption or new vote distribution well outside the 2016 norm. Specifically, both candidates achieved the total 2016 vote count and added to their sums, consistent with new turnout. What’s curious is that above the 2016 totals, a new vote ratio appears in contrast to the voting history of the area – showing new votes going 70% Democrat vs 30% Republican – a 15-point mismatch to the same area just in the last Presidential Election.

Gained Votes over 2016 Avg per Precinct	
Trump	79.85
Biden	185.41
Diff	105.56
2020 Dem/Rep Gain Ratio	2.32
%	70D / 30R
2016 Dem/Rep Historical Ratio	1.29
%	55D / 45R

Voting totals of precincts may presume to follow a semi-normal distribution with enough data points. By fitting a normal distribution to actual data and taking the difference between the fitted and actual, potentially anomalous precincts can be identified. Using a per-precinct history, we can take an election result like this:

2020 Actual	Register	Voted	Biden	Trump	D/R
	900050	620483	356234	251664	1.42
Turnout	68.9%		57.4%	40.6%	

This results in this prediction:

Total Predicted 2020	Register	Voted	Biden	Trump	D/R	Excess Votes
	900050	580056	315807	251664	1.25	40771
turnout	64.4%		54.4%	43.4%		

This prediction helps us identify several townships outside Detroit in Wayne County that significantly stick out. A partial list of main townships that show excessive votes against a standard normal with reasonable variance:

Township	Excessive Votes
Canton	5735
Livonia	5428
Redford	4159
Gr Pointe	3052

Taylor	2891
Westland	2559
Plymouth	2400
Dearborn	2240
Northville	2111

As an example of the excess vote gains above the norm, consider the Township of Livonia, broken into precincts.

Precinct	2016			2020 Gain									
	Trump	Clinton	Total	Dem/Rep	% Dem	New Trump	New Biden	New Total	New Registered	Gain Dem/Rep	Dem % of New Registered	Dem % of New Votes	
Livonia Pct 1A	650	783	1558	1.20	50%	119	263	310	272	2.21	97%	85%	
Livonia Pct 1B	310	348	706	1.12	49%	51	106	137	94	2.08	113%	77%	
Livonia Pct 2A	630	634	1337	1.01	47%	58	214	230	158	3.69	135%	93%	
Livonia Pct 3A	467	492	1035	1.05	48%	64	125	132	105	1.95	119%	95%	
Livonia Pct 3B	854	722	1680	0.85	43%	87	183	214	132	2.10	139%	86%	
Livonia Pct 4A	1034	834	1961	0.81	43%	44	233	217	137	5.30	170%	107%	
Livonia Pct 7A	823	638	1514	0.78	42%	31	164	168	102	5.29	161%	98%	
Livonia Pct 8A	752	398	1212	0.53	33%	20	134	123	71	6.70	189%	109%	
Livonia Pct 8B	598	426	1082	0.71	39%	18	135	114	30	7.50	450%	118%	
Livonia Pct 9A	947	635	1651	0.67	38%	12	264	238	146	22.00	181%	111%	
Livonia Pct 10A	615	478	1168	0.78	41%	47	153	152	105	3.26	146%	101%	
Livonia Pct 11A	797	715	1625	0.90	44%	53	218	193	95	4.11	229%	113%	
Livonia Pct 12A	544	671	1293	1.23	52%	78	159	183	146	2.04	109%	87%	
Livonia Pct 13A	637	709	1426	1.11	50%	44	180	177	131	4.09	137%	102%	
Livonia Pct 14A	755	721	1582	0.95	46%	53	163	143	60	3.08	272%	114%	
Livonia Pct 15A	732	563	1361	0.77	41%	74	140	181	114	1.89	123%	77%	
Livonia Pct 16A	713	506	1294	0.71	39%	84	133	176	106	1.58	125%	76%	
Livonia Pct 16B	479	408	961	0.85	42%	46	85	83	44	1.85	193%	102%	
Livonia Pct 178	646	493	1219	0.76	40%	114	226	287	297	1.98	76%	79%	
Livonia Pct 17A	732	488	1284	0.67	38%	-61	136	42	-111	-2.23	-123%	324%	
Livonia Pct 18A	884	597	1552	0.68	38%	57	161	171	88	2.82	183%	94%	
Livonia Pct 19A	674	494	1244	0.73	40%	57	148	158	103	2.60	144%	94%	
Livonia Pct 19B	768	598	1472	0.78	41%	69	183	181	68	2.65	269%	101%	
Livonia Pct 20A	861	602	1555	0.70	39%	32	208	183	90	6.50	231%	114%	
Livonia Pct 21A	715	566	1369	0.79	41%	39	219	207	100	5.62	219%	106%	
Livonia Pct 22A	712	576	1396	0.81	41%	33	223	192	119	6.76	187%	116%	
Livonia Pct 22B	592	486	1142	0.82	43%	32	128	125	86	4.00	149%	102%	
Livonia Pct 238	508	325	876	0.64	37%	119	390	498	524	3.28	74%	78%	
Livonia Pct 23A	579	550	1199	0.95	46%	-31	-89	-164	-315	2.87	28%	54%	
Livonia Pct 24B	492	591	1149	1.20	51%	102	235	313	182	2.30	129%	75%	
Livonia Pct 24A	535	610	1215	1.14	50%	69	126	155	161	1.83	78%	81%	
Livonia Pct 25A	358	358	784	1.00	46%	24	122	105	107	5.08	114%	116%	
Livonia Pct 31A	654	561	1286	0.86	44%	69	197	224	152	2.86	130%	88%	
Livonia Pct 31B	600	520	1199	0.87	43%	45	193	190	172	4.29	112%	102%	
Livonia Pct 32A	739	537	1345	0.73	40%	73	148	178	115	2.03	129%	83%	
Livonia Pct 33A	850	680	1616	0.80	42%	86	225	257	136	2.62	165%	88%	
Livonia Pct 34A	683	746	1532	1.09	49%	83	257	280	158	3.10	163%	92%	
Livonia Pct 34B	651	591	1345	0.91	44%	48	215	197	126	4.48	171%	109%	
Livonia Pct 34C	539	487	1107	0.90	44%	25	187	154	119	7.48	157%	121%	
Livonia Pct 35A	517	468	1085	0.91	43%	67	130	121	65	1.94	200%	107%	
Livonia Pct 35B	350	343	753	0.98	46%	28	144	135	62	5.14	232%	107%	
Livonia Pct 35C	330	315	703	0.95	45%	45	121	121	70	2.69	173%	100%	
Livonia Pct 36A	407	462	944	1.14	49%	62	145	163	151	2.34	96%	89%	
Livonia Pct 36B	534	469	1079	0.88	43%	104	165	219	142	1.59	116%	75%	
<b>Precinct</b>	<b>Trump</b>	<b>Clinton</b>	<b>Total</b>	<b>Dem/Rep</b>	<b>% Dem</b>	<b>New Trump</b>	<b>New Biden</b>	<b>New Total</b>	<b>New Registered</b>	<b>Gain Dem/Rep</b>	<b>Dem % of New Registered</b>	<b>Dem % of New Votes</b>	
<b>TOTAL</b>	28247	24194	55896	0.86	43%	2373	7595	7863	5015	3.20	151%	97%	
			<b>2016</b>	<b>Dem/Rep</b>					<b>2020 Gain</b>				
				46D / 54R						76D / 24R			

Nearly every single precinct first achieves the entire 2016 vote total for each party, but then a new population of votes skews excessively in favor of candidate Biden—resulting in a “new vote population” that is voting 76 D / 24 R...in a 2016 Republican township. Additionally, the votes gained by Biden well outpace even the new registrations in the township – gaining 151% of the new registered voters and 97% of the new votes above 2016. This result/example is incredibly mathematically anomalous.

## Oakland County

Oakland shares the Wayne County mathematical curiosity well outside the norm. In Oakland, all votes added by both candidates above the 2016 take show a new vote ratio of 70% Democrat to 30% Republican – a 15-point mismatch to the same area just in the last Presidential Election

Gained Votes over 2016 Avg per Precinct	
<i>Trump</i>	70.79
<i>Biden</i>	179.83
<i>Diff</i>	109.04
<i>2020 Dem/Rep Gain Ratio</i>	2.54
<i>%</i>	72D / 28R
<i>2016 Dem/Rep Historical Ratio</i>	1.19
<i>%</i>	54D / 46R

As mentioned, voting totals of precincts may presume to follow a normal distribution. By fitting a normal distribution to actual data and taking the difference between the fitted and actual, potentially anomalous precincts can be identified. Using a per-precinct history, we can take an election result like this:

<i>2020 Actual</i>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>
	1035172	771991	434148	325971	<b>1.33</b>
<i>Turnout</i>	75%		56%	42%	

This results in this prediction:

<i>Total Predicted 2020</i>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>	<b>Excess Votes</b>
	1035172	750646	388023	325971	<b>1.19</b>	46125
<i>turnout</i>	73%		52%	43%		

This prediction helps us identify several townships outside Detroit in Wayne County that significantly stick out. A partial list of main townships that show excessive votes against a standard normal with reasonable variance:

**Township Excess Votes**

<i>Troy</i>	4781
<i>Royal Oak</i>	4152
<i>Novi</i>	3911
<i>Farmington Hills</i>	3598
<i>Rochester Hills</i>	3597
<i>Bloomfield</i>	2696

As an example of the excess vote gains above the norm, consider the Township of Troy, broken into precincts. Nearly every single precinct first achieves the entire 2016 vote total for each party, but then a new population of votes skews excessively in favor candidate Biden – resulting in a “new vote population” that is voting 80 D / 20 R...in a 2016 almost even split Dem/Rep township. Additionally, the votes gained by Biden well outpace even the new registrations in the township – gaining 109% of the new registered voters and 98% of the new votes above 2016. Yet another example that is incredibly mathematically anomalous.

Precinct	2016				2020 Gain								Gain Dem/Rep	Dem % of New Registered	Dem % of New Votes
	Trump	Clinton	Total	Dem/Rep	% Dem	New Trump	New Biden	New Total	New Registered						
Troy, Precinct 1	462	434	944	0.94	46%	40	226	230	199	5.65	114%	98%			
Troy, Precinct 2	805	792	1680	0.98	47%	53	231	217	189	4.36	122%	106%			
Troy, Precinct 3	791	572	1446	0.72	40%	137	270	343	337	1.97	80%	79%			
Troy, Precinct 4	974	998	2064	1.02	48%	48	350	341	273	7.29	128%	103%			
Troy, Precinct 5	683	453	1193	0.66	38%	18	120	104	72	6.67	167%	115%			
Troy, Precinct 6	204	177	402	0.87	44%	19	55	61	40	2.89	138%	90%			
Troy, Precinct 7	571	625	1251	1.09	50%	49	197	201	184	4.02	107%	98%			
Troy, Precinct 8	536	731	1337	1.36	55%	29	153	125	68	5.28	225%	122%			
Troy, Precinct 9	843	746	1683	0.88	44%	134	188	254	216	1.40	87%	74%			
Troy, Precinct 10	760	673	1518	0.89	44%	21	306	263	273	14.57	112%	116%			
Troy, Precinct 11	754	680	1496	0.90	45%	-12	183	123	87	-15.25	210%	149%			
Troy, Precinct 12	523	534	1103	1.02	48%	56	128	155	137	2.29	93%	83%			
Troy, Precinct 13	939	1037	2112	1.10	49%	37	312	251	217	8.43	144%	124%			
Troy, Precinct 14	763	679	1508	0.89	45%	50	244	249	270	4.88	90%	98%			
Troy, Precinct 15	695	687	1443	0.99	48%	2	288	254	200	144.00	144%	113%			
Troy, Precinct 16	549	599	1223	1.09	49%	60	197	205	224	3.28	88%	96%			
Troy, Precinct 17	746	830	1644	1.11	50%	-35	219	133	139	-6.26	158%	165%			
Troy, Precinct 18	618	529	1208	0.86	44%	-14	177	127	111	-12.64	159%	139%			
Troy, Precinct 19	595	531	1189	0.89	45%	-32	224	157	73	-7.00	307%	143%			
Troy, Precinct 20	812	766	1647	0.94	47%	24	267	246	198	11.13	135%	109%			
Troy, Precinct 21	486	536	1096	1.10	49%	67	194	214	213	2.90	91%	91%			
Troy, Precinct 22	838	1008	1941	1.20	52%	82	320	329	325	3.90	98%	97%			
Troy, Precinct 23	866	954	1908	1.10	50%	124	344	403	380	2.77	91%	85%			
Troy, Precinct 24	801	669	1554	0.84	43%	181	178	311	295	0.98	60%	57%			
Troy, Precinct 25	724	802	1604	1.11	50%	153	216	329	363	1.41	60%	66%			
Troy, Precinct 26	616	699	1421	1.13	49%	120	332	369	330	2.77	101%	90%			
Troy, Precinct 27	404	671	1131	1.66	59%	128	150	246	280	1.17	54%	61%			
Troy, Precinct 28	380	679	1109	1.79	61%	60	155	173	149	2.58	104%	90%			
Troy, Precinct 29	840	885	1848	1.05	48%	35	236	179	168	6.74	140%	132%			
Troy, Precinct 30	202	199	425	0.99	47%	-12	81	56	27	-6.75	300%	145%			
Troy, Precinct 31	319	238	590	0.75	40%	24	136	141	95	5.67	143%	96%			
Precinct	Trump	Clinton	Total	Dem/Rep	% Dem	New Trump	New Biden	New Total	New Registered	Gain Dem/Rep	Dem % of New Registered	Dem % of New Votes			
<b>TOTAL</b>	20099	20413	42718	1.02	48%	1646	6677	6789	6132	4.06	109%	98%			
				<b>2016 Troy Dem/Rep</b>	<b>51D / 49R</b>						<b>2020 Troy Gain Dem/Rep</b>	<b>80D / 20R</b>			

**Matt Braynard** @MattBraynard · Nov 20  
Update:  
-Residency Analysis of ABS/EV Voters  
These are the two indicators of someone no longer eligible to vote due to residency:  
NCOA = Voters who filed change of address to another state.  
SVR = Subsequent Voter Registration in another state  
Merged = NCOA+SVR Deduped  
42 1K 2.1K

**Matt Braynard** @MattBraynard · Nov 20  
State / NCOA / SVR / Merged  
AZ / 5,084 / 744 / 5,790  
GA / 15,700 / 4926 / 20,311  
MI / 12,120 / 1,170 / 13,248  
NV / 5,145 / 3,401 / 8,502  
PA / 7,426 / 7,051 / 14,477  
WI / 6,207 / 765 / 6,966  
9 178 493

**Matt Braynard** @MattBraynard · Nov 20  
The SVR component was greatly hampered by the lack of reliable DOB from state voter records and/or commercial vendors, so these numbers are all artificially low. We only matched when we had a full DOB we were confident of.  
3 82 397

**Matt Braynard** @MattBraynard · Nov 20  
- Double ABS/EV Voter Analysis  
Voters who cast early/absentee in two+ states, and not including anyone who voted in person on E-Day as that data is not widely available. If it were, these numbers would be much higher.  
Counts are also artificially low due to DOB issues.  
4 82 360

[Matt Braynard on Twitter: "Update: -Residency Analysis of ABS/EV Voters These are the two indicators of someone no longer eligible to vote due to residency: NCOA = Voters who filed change of address to another state. SVR = Subsequent Voter Registration in another state Merged = NCOA+SVR Deduped" / Twitter](#)

**Affidavit of Russell James Ramsland, Jr.**

1. My name is Russell James Ramsland, Jr., and I am a resident of Dallas County, Texas. I hold an MBA from Harvard University, and a political science degree from Duke University. I have worked with the National Aeronautics and Space Administration (NASA) and the Massachusetts Institute of Technology (MIT), among other organizations, and have run businesses all over the world, many of which are highly technical in nature. I have served on technical government panels.

2. I am part of the management team of Allied Security Operations Group, LLC, (ASOG). ASOG is a group of globally engaged professionals who come from various disciplines to include Department of Defense, Secret Service, Department of Homeland Security, and the Central Intelligence Agency. It provides a range of security services, but has a particular emphasis on cybersecurity, open source investigation and penetration testing of networks. We employ a wide variety of cyber and cyber forensic analysts. We have patents pending in a variety of applications from novel network security applications to SCADA (Supervisory Control and Data Acquisition) protection and safe browsing solutions for the dark and deep web. For this report, I have relied on these experts and resources.

3. In November 2018, ASOG analyzed audit logs for the central tabulation server of the ES&S Election Management System (EMS) for the Dallas, Texas, General Election of 2018. Our team was surprised at the enormous number of error messages that should not have been there. They numbered in the thousands, and the operator ignored and overrode all of them. This led to various legal challenges in that election, and we provided evidence and analysis in some of them.

4. As a result, ASOG initiated an 18-month study into the major EMS providers in the United States, among which is Dominion that provides EMS services in Michigan. We did thorough background research of the literature and discovered there is quite a history from both Democrat and Republican stakeholders in the vulnerability of Dominion. The State of Texas rejected Dominion's certification for use there due to vulnerabilities. Next, we began doing passive penetration testing into the vulnerabilities described in the literature and confirmed for ourselves that in many cases, vulnerabilities already identified were still left open to exploit. We also noticed a striking similarity between the approach to software and EMS systems of ES&S and Dominion. This was logical since they share a common ancestry in the Diebold voting system.

5. Over the past three decades, almost all of the states have shifted from a relatively low-technology format to a high-technology format that relies heavily on a handful of private services companies. These private companies supply the hardware and software, often handle voter registrations, hold the voter records, partially manage the elections, program counting the votes and report the outcomes. Michigan is one of those states.

6. These systems contain a large number of vulnerabilities to hacking and tampering, both at the front end where Americans cast their votes, and at the back end where the votes are stored, tabulated, and reported. These vulnerabilities are well known, and experts in the field have written extensively about them.

7. Dominion ("Dominion") is a privately held company that provides election technologies and services to government jurisdictions. Numerous counties across the state of Michigan use the Dominion Election Management System. The Dominion system has both options to be an electronic, paperless voting system with no permanent record of the voter's choices, paper ballot based system or hybrid of those two.

8. The Dominion Election Management System's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows the internal operator or an external attacker the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events. The system makes the creation and maintenance of various logs voluntary, so that the user has a choice to "not retain" or "conceal" their actions. Further, when logs are left unprotected and can be altered, they no longer serve the functional purpose of provided a transparent audit log to the public or election officials.

9. My colleagues and I at ASOG have studied the information that is publicly available concerning the November 3, 2020, election results. Based on the significant anomalies and red flags that we have observed, we believe to a reasonable degree of professional certainty that election results have been manipulated within the Dominion system in Michigan. As one example, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has observed, with reference to Dominion Voting machines, "I figured out how to make a slightly different computer program that just before the polls were closed it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver." We list below other red flags that our team has uncovered. Until a thorough forensic analysis of the voting system hardware and software is conducted, it will be impossible to know for certain.

10. One red flag has been seen in Antrim County, Michigan. In Michigan we have seen reports of 6,000 votes in Antrim County that were switched from Donald Trump to Joe Biden and were only discoverable through a hand counted manual recount. While the first reports have suggested that it was due to a "glitch" after an update, it was recanted and later attributed to "clerical error." This change is important because if it were not due to clerical error, but due to a "glitch" emanating from an update, the system would be required to be "re-certified" according to Dominion officials. This was not done. We are skeptical of these assurances as we know firsthand this has many other plausible explanations and a full investigation of this event needs to be conducted as there are a reported 47 other counties using essentially the same system in Michigan. It is our belief (based on the information

we have acquired to this point) that the problem most likely did occur due to a glitch where an update file didn't properly synchronize the ballot barcode generation and reading portions of the system. If that is indeed the case, there is no reason to assume this would be an isolated error. This "glitch" would either cause the vote to be misread and directed to another candidate on the ballot or cause the entire ballot upload batch to read as zero in the tabulation processor. This in turn hands over to the system operator at the voting site full control of vote allocation for the entire batch of ballots. We also observed provisional ballots were accepted properly but in-person ballots were being rejected (zeroed out and/or changed - flipped). Because of the highly vulnerable nature of these systems to error and exploits, it is likely that some, or all of the other counties in MI with these systems may have experience the same problem.

11. Another statistical red flag can be observed in Michigan where even the very limited remaining public data reveals 643 precincts with voter turn-out above 80%, according to county records. Further if these very limited remaining public data votes were normalized to 80% turnout (still 15%+/- above normal), the excess votes are at least 36,812 over the maximum that could be expected. We anticipate that precincts with excess voter turnout will be even higher with complete public data (Some larger precincts in Wayne Co and others are no longer publicly reporting their data).

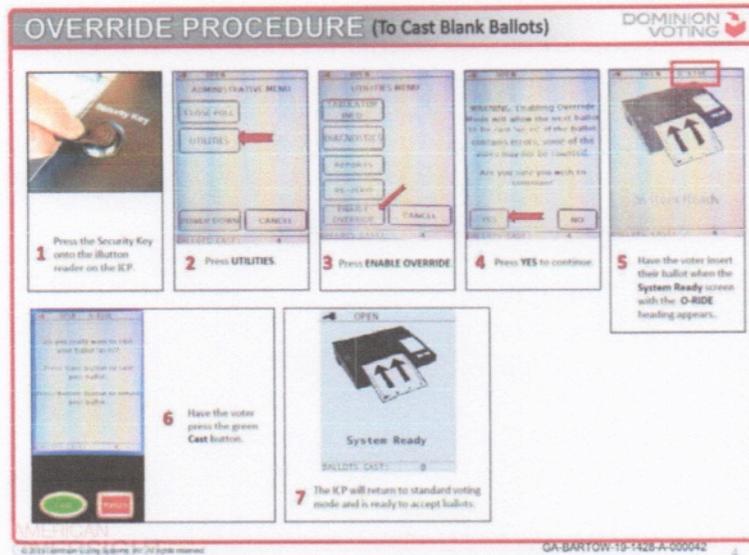
<u>Precinct/Township</u>	<u>% Turnout</u>
City of North Muskegon	781.91%
Zeeland Charter Township	460.51%
Grout Township	215.21%
City of Muskegon	205.07%
City of Detroit	139.29%
Spring Lake Township	120.00%
Greenwood Township	100.00%
Hart Township	100.00%
Leavitt Township	100.00%
Newfield Township	100.00%
Otto Township	100.00%
Pentwater Township	100.00%
Shelby Township	100.00%
Shelby Township	100.00%
Weare Township	100.00%
City of Hart	100.00%
Grand Island Township	96.77%
Tallmadge Charter Township	95.24%
Fenton	93.33%
Bohemia Twp	90.63%
Zeeland Charter Township	90.59%

12. The following data strongly suggests that the additive algorithm (a feature enhancement referred to as “ranked choice voting algorithm” or “RCV”) was activated in the code as shown in the Democracy Suite EMS Results Tally and Reporting User Guide, Chapter 11, Settings 11.2.2. It reads in part, “**RCV METHOD: This will select the specific method of tabulating RCV votes to elect a winner.**” For instance, blank ballots can be entered into the system and treated as “write-ins.” Then the operator can enter an allocation of the write-ins among candidates as he or she wishes. The result then awards the winner based on “points” that the algorithm computes, not actual voter votes. The fact that we observed raw vote data coming directly from the Dominion data feed that includes decimal places proves that the winner was selected by an algorithm, and not individual voter’s choice. Otherwise, votes would be solely represented as whole numbers (votes cannot possibly be added up and have decimal places reported). Below is an excerpt from Dominion’s direct feed to news outlets showing actual calculated votes with decimals.

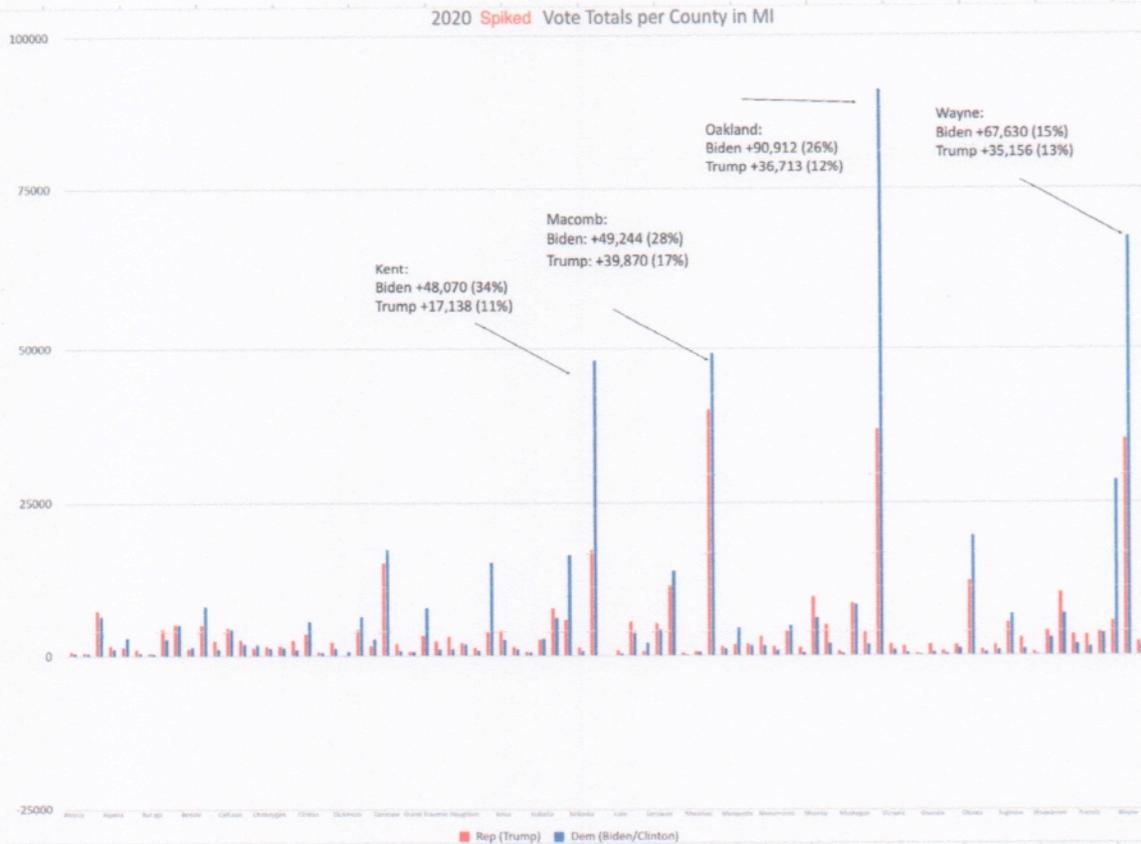
state	timestamp	eevp	trump	biden	TV	BV
michigan	2020-11-04T06:54:48Z	64	0.534	0.448	1925865.66	1615707.52
michigan	2020-11-04T06:56:47Z	64	0.534	0.448	1930247.664	1619383.808
michigan	2020-11-04T06:58:47Z	64	0.534	0.448	1931413.386	1620361.792
michigan	2020-11-04T07:00:37Z	64	0.533	0.45	1941758.975	1639383.75
michigan	2020-11-04T07:01:46Z	64	0.533	0.45	1945297.562	1642371.3
michigan	2020-11-04T07:03:17Z	65	0.533	0.45	1948885.185	1645400.25

13. Yet another statistical red flag in Michigan concerns the dramatic shift in votes between the two major party candidates as the tabulation of the turnout increased. A significant irregularity surfaces. Until the tabulated voter turnout reached approximately 83%, Trump was generally winning between 55% and 60% of every turnout point. Then, after the counting was closed at 2:00 am, the situation dramatically reversed itself, starting with a series of impossible spikes shortly after counting was supposed to have stopped. The several spikes cast almost solely for Biden could easily be produced in the Dominion EMS control system by pre-loading batches of blank ballots in files such as Write-Ins, then casting them almost all for Biden using the Override Procedure (to cast Write-In, Blank, or Error ballots) that is available to the operator of the system. A few batches of blank ballots could easily produce a reversal this extreme; a reversal that is almost as statistically difficult to explain as is the impossibility of the votes cast to the number of voters described in Paragraph 11 above. See Melissa Carone Affidavit, attached.

Dominion also has a "Blank Ballot Override" function. Essentially a save for later bucket that can be manually populated later.



13. The final red flag is perhaps the greatest. Something occurred in Michigan that is physically impossible, indicating the results were manipulated on election night within the EMS. The event as reflected in the data are the 4 spikes totaling 384,733 ballots allegedly processed in a combined interval of only 2 hour and 38 minutes. This is physically impossible given the equipment available at the 4 referenced locations (precincts/townships). We looked at ballots processed and cross referenced the serial numbers and types of the scanning devices used at each location to determine the amount of ballot processing capacity per the equipment performance specifications. The Model DRM16011 processes 60 images/min. without accounting for paper jams, replacement cover sheets or loading time, so we calculate 2,000 ballots/hr/machine in field conditions, which is probably generous. This calculation yields a sum of 94,867 ballots as the maximum number of ballots that could be processed. It should be noted that in the event of a jam and the counter is not reset, the ballots can be run through again effectively duplicating them – This was noted in Ms. Carone’s affidavit, a Dominion Contract Employee working in Detroit (attached). The existence of the spike is indicative of a manual adjustment either by the operator of the system (see paragraph 12 above) or an attack by outside actors. **In any event, there were 289,866 more ballots processed in the time available for processing in four precincts/townships, than there was processing capacity.** A look at the graph below demonstrates this.



14. Based on the foregoing, I believe these statistical anomalies and impossibilities compels the conclusion to a reasonable degree of professional certainty that the vote count in Michigan, and in Wayne County, in particular for candidates for President contain at least 289,866 illegal votes that must be disregarded.

Further affiant sayeth naught.

  
Russell James Ramsland, Jr.

11/24/2020  
Date

Sworn before me on 11/24/2020

Notary public: 



**RUSSELL JAMES RAMSLAND, Jr.*****Professional Summary***

Unusual breadth of experience as a Senior Management Executive with MBA in both start-up and private company environments. Background includes international and domestic experience, oil and gas exploration and production, advanced converged telecom, highly advanced semiconductor materials, hospitality, commercial real estate development & operation, investment banking and service industries.

**Professional Experience****Allied Special Operations Group, LLC.** – Addison, Texas**2017 –present****Co-Founder**

ASOG is a group of globally engaged professionals who come from various disciplines that includes Department of Defense, Secret Service, Department of Homeland Security, the Central Intelligence Agency and others. It offers services cybersecurity services, safety and security training, personal protection CONUS and OCONUS, Open Source Investigations, and two mission projects centered on the US Elections system and human trafficking.

**Independent Consultant** – Dallas, Texas**2003 – 2017**

General business consulting with a variety of clients and industries including oil and gas exploration, architectural firms, interiors design firms, printing companies, hospitality industry and real estate. Advise on strategic and operational issues, mergers and acquisitions, and financial performance enhancement.

**SandStream, Inc.** – Lewisville, Texas**1999–2003****CFO/VP Finance/Board of Directors**

Start-up company developed a fully interactive, converged service consisting of DVD quality streaming video, voice and data using IP and Ethernet over a fiber network. Responsible for all aspects of finance, accounting and legal departments. Worked closely with CEO on strategic planning and direction. Developed a new model for fiber-to-the-home deployments that saved 40% over traditional practices while supporting a 10% greater initial service offering. Patent application was filed and was named co-inventor. Conducted numerous private placement offerings of common and preferred securities with financial and strategic investors including Nortel Networks, Cisco Systems and Texas Instruments. Total amount of financing was \$70 million. Primary negotiator for company's senior secured and subordinated debt facilities. Company achieved a valuation in excess of \$250 million.

**Capital Alliance Corp.** - Dallas, Texas**1996-1999****Vice President**

A 39 year old investment banking firm based in Dallas, Texas specializing in middle market Mergers and Acquisitions with annual transaction volume of approximately \$200 million at the time. Participated in the successful launch of the International Division in 1996-97. Developed new business, structured financial transactions, sourced funds and negotiated on behalf of clients with banks and investors in the US and Mexico. Represented a variety of industries including telecommunications, tourism, healthcare, electrical contracting, construction, banking and oil and gas exploration.

**Grandactual Ltd. dba "The Texas Embassy Cantina"** – London, England**1994-2012****Co-founder, Principal and Director**

The Texas Embassy Cantina® on Trafalgar Square in London, England was Europe's highest grossing Tex-Mex restaurant and evolved into a brand name recognized worldwide. Responsibilities included operations oversight, development of MIS reports, investor relations and marketing. Negotiated the sale of the venture after 18 years of operation

**Microgravity Research Associates, Inc.** – Huntsville, Alabama**1980-1992****Co-Founder, Director, CEO**

This start-up company developed a unique Liquid Phase Electroepitaxial approach to grow very advanced III-V semiconductor materials as binaries, ternaries and quaternaries, first in the low gravity environment of space and later terrestrially for use in very advanced sensors and detectors as required by NASA and U.S. Department of Defense. Negotiated the nation's first Joint Endeavor Agreement (JEA) with NASA that pioneered a new form of partnership between the United States government and a private firm. Worked in concert with various entities of the Reagan White House, M.I.T., NASA (Marshall Space Flight Center), Boeing, Teledyne Brown and C. Itoh (Japan).

**Dinero Companies** - Midland, Texas**1979-Present****Chairman, Director**

Family based oil and gas exploration and production company based in Midland, Texas. Company has drilled and operated in 8 states, Canada and offshore Ecuador and was early pioneer in the search to develop shale oil bearing zones. In 2006, company was in the top 50 largest gas producers in the State of New Mexico. Over the years the company has had over 600 private partners with varying interest in several hundred wells.

**Tuku Tuku Ranch** – Formerly the Island of Efate, New Hebrides**1976-1977****Leader of Evaluation/Due Diligence Team**

Consultant to consortium of private individuals formed to establish a cattle ranching operation on Efate, New Hebrides in conjunction with a proposed Japanese fleet of processing ships supplying beef to Japanese mainland.

**Blue Seas Shipping Co.** – London, England & Riyadh, Saudi Arabia**1975-1977****Chief Financial Strategist**

Consultant to consortium of private individuals, the C.T. Bowring Group of London and Sheikh Jamil Khogeer of Mecca, Saudi Arabia that was formed to establish a Saudi flag carrier for shipping transport of crude oil.

**Honorable George W. Mahon** – U.S. HOUSE OF REPRESENTATIVES**1974****Chairman Mahon and the House Appropriations Committee**

Researched and reported to the Chairman in areas of oil & gas legislation and defense.

***PROFESSIONAL AND CIVIC ACTIVITIES – Past & Present******Present***

Member of Finance Committee of Park Cities Presbyterian Church

State Delegate to 5 Republican Conventions

Election Judge & Poll Watcher

Board of Directors - PhotonX, Inc.

***Past***

2016 Candidate for U.S. House of Representatives – CD-32 Texas

Founder and Leader of 1,200+ member Park Cities/Preston Hollow Leadership Forum dedicated to the political education of its members.

Precinct Chairman – several years

Member of the Society of International Business Fellows

Chairman and member of Finance Committee of Park Cities Presbyterian Church

Deacon at Park Cities Presbyterian Church - Dallas

Board of Directors – Permian Basin Petroleum Association

Co-founder of Young Producer's Forum (oil and gas)

Member of U.S. Department of Transportation's Commercial Space Transportation Advisory Committee (COMSTAC)

Member of National Chamber of Commerce (Washington) Space Policy Task Force

Member of Advisory Board of Main Hurdman's Space Industry Consulting Group

Member of U.S. Office of Technology Assessment Space Law Task Force

Consultant to NASA 1978-79

Invited speaker at Harvard University, M.I.T, the New York Society of Securities Analysts, International Space Conference at Montreux, Switzerland, and others.

***ACADEMIC BACKGROUND***

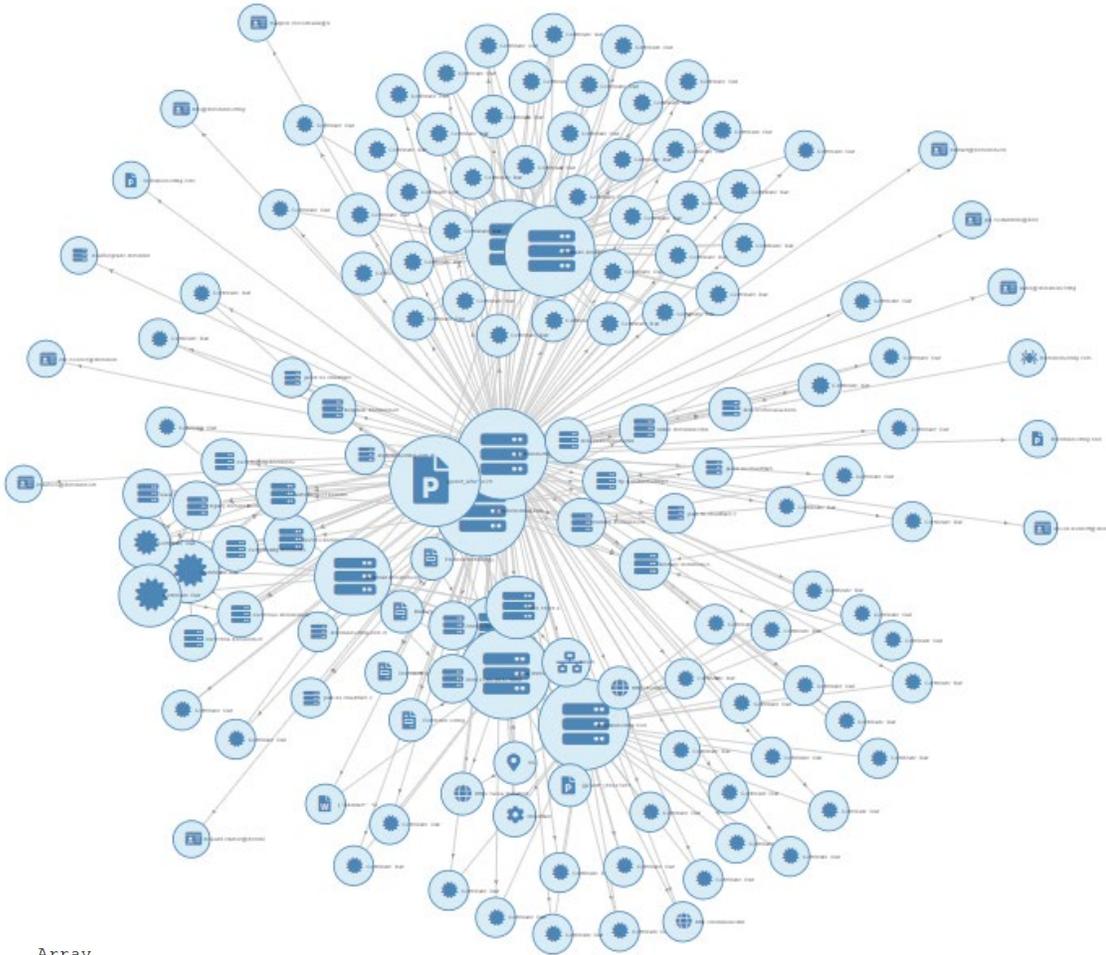
Harvard Graduate School of Business - M.B.A 1979

Duke University - B.A. - Political Science 1975

Declaration of [REDACTED]

Pursuant to 28 U.S.C Section 1746, [REDACTED] make the following declaration.

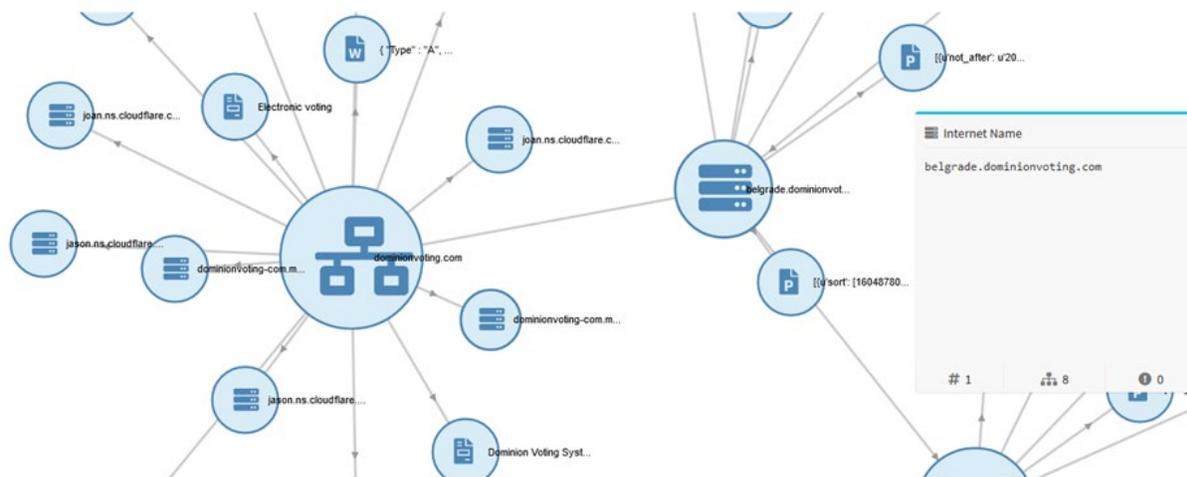
1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305<sup>th</sup> Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside [REDACTED] location in the United States of America.
4. Whereas the Dominion and Edison Research systems exist in the internet of things, and whereas this makes the network connections between the Dominion, Edison Research and related network nodes available for scanning,
5. And whereas Edison Research's primary job is to report the tabulation of the count of the ballot information as received from the tabulation software, to provide to Decision HQ for election results,
6. And whereas Spiderfoot and Robtex are industry standard digital forensic tools for evaluation network security and infrastructure, these tools were used to conduct public security scans of the aforementioned Dominion and Edison Research systems,
7. A public network scan of Dominionvoting.com on 2020-11-08 revealed the following inter-relationships and revealed 13 unencrypted passwords for dominion employees, and 75 hashed passwords available in TOR nodes:



```
Array  
(  
  [id] => 544167324  
  [luser] => ian.macvicar  
  [domain] => dominionvoting.com  
  [password] => jamley  
)
```

```
7  
Array  
(  
  [id] => 599400504  
  [luser] => jelena.tanaskovic  
  [domain] => dominionvoting.com
```

8. The same public scan also showed a direct connection to the group in Belgrade as highlighted below:



→ [robtex.com/dns-lookup/dominionvoting.com](https://robtex.com/dns-lookup/dominionvoting.com)

8 results shown.

IP numbers of the name servers	Subdomains/Hostnames
2400:cb00:2049:1::adf5:3bb3	Domains or hostnames one step under this dom
2606:4700:50::adf5:3aad	barracuda.dominionvoting.com
2803:f800:50::6ca2:c0ad	<b>belgrade.dominionvoting.com</b>
2803:f800:50::6ca2:c1b3	webmail.dominionvoting.com
2a06:98c1:50::ac40:20ad	www.dominionvoting.com
108.162.192.173	4 results shown.
108.162.193.170	

9. A cursory search on LinkedIn of “dominion voting” on 11/19/2020 confirms the numerous employees in Serbia:

 **Vukašin Đorđević** • 3rd  
Software Developer at Dominion Voting Systems  
Serbia

 **Edvan Sabanovic** • 3rd  
Senior Full-stack Web Developer  
Belgrade, Serbia  
Past: Senior Web Developer at Dominion Voting Systems

10. An additional search of Edison Research on 2020-11-08 showed that Edison Research has an Iranian server seen here:



Inputting the Iranian IP into Robtex confirms the direct connection into the “edisonresearch” host from the perspective of the Iranian domain also. This means that it is not possible that the connection was a unidirectional reference.

The screenshot shows the Robtex interface for the domain 'edisonresearch.xn--mgb3a4fra.ir'. The 'QUICK INFO' section provides a summary of the host name and a table of general information:

General	
FQDN	edisonresearch.xn--mgb3a4fra.ir
Host Name	edisonresearch
Domain Name	xn--mgb3a4fra.ir
Registry	ir
TLD	ir

The 'SHARED' section shows related hostnames and IP numbers, with a sub-section 'On other TLD:s and domains' listing:

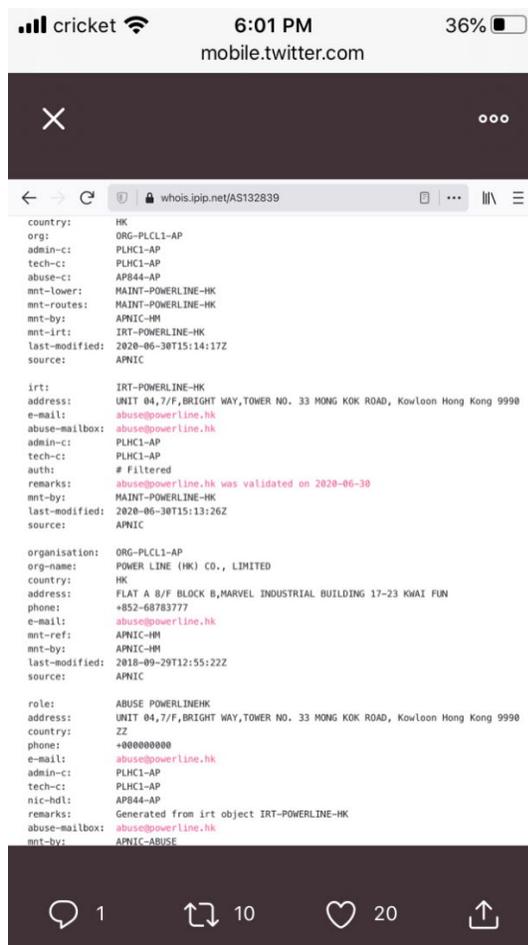
- xn--mgb3a4fra.com
- xn--mgb3a4fra.net
- xn--mgb3a4fra.tk

3 results shown.

A deeper search of the ownership of Edison Research “edisonresearch.com” shows a connection to BMA Capital Management, where shareofear.com and bmacapital.com are both connected to edisonresearch.com via a VPS or Virtual Private Server, as denoted by the “vps” at the start of the internet name:



Dominionvoting is also dominionvotingsystems.com, of which there are also many more examples, including access of the network from China. The records of China accessing the server are reliable.



CHINA UNICOM China169 Backbone - Fraud Risk

Low Risk

← Lowest Risk Highest Risk →

0 Fraud Score: 3 100

We consider **CHINA UNICOM China169 Backbone** to be a potentially low fraud risk ISP, by which we mean that web traffic from this ISP potentially poses a low risk of being fraudulent. Other types of traffic may pose a different risk or no risk. They operate 1,889,865 IP addresses, some of which are running

6 77 126

Domain Name: dominionvotingsystems.com  
Registry Domain ID: 2530599738\_DOMAIN\_COM-VRSN  
Registrar WHOIS Server: whois.godaddy.com  
Registrar URL: http://www.godaddy.com  
Updated Date: 2020-05-26T15:48:58Z  
Creation Date: 2020-05-26T15:48:57Z  
Registrar Registration Expiration Date: 2021-05-26T15:48:57Z  
Registrar: GoDaddy.com, LLC  
Registrar IANA ID: 146  
Registrar Abuse Contact Email: abuse@godaddy.com  
Registrar Abuse Contact Phone: +1.4806242505  
Domain Status: clientTransferProhibited <http://www.icann.org/epp#clientTransferProhibited>  
Domain Status: clientUpdateProhibited <http://www.icann.org/epp#clientUpdateProhibited>  
Domain Status: clientRenewProhibited <http://www.icann.org/epp#clientRenewProhibited>  
Domain Status: clientDeleteProhibited <http://www.icann.org/epp#clientDeleteProhibited>  
Registrant Organization:  
Registrant State/Province: Hunan  
Registrant Country: CN  
Registrant Email: Select Contact Domain Holder link at  
<https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com>  
Admin Email: Select Contact Domain Holder link at  
<https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com>  
Tech Email: Select Contact Domain Holder link at  
<https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com>  
Name Server: NS1.DNS.COM  
Name Server: NS2.DNS.COM  
DNSSEC: unsigned

Overview - [dominionvotingsystems.com](#)

---

**DNS Records** 4

Type	Value	OSH	Security score
A	45.195.162.194 - AS132839 - POWER LINE DATACENTER	2	15
NS	ns1.dns.com 27.152.186.193 - AS133776 - Quanzhou	9	100
	119.167.180.131 - AS4837 - CHINA UNICOM China169 Bac...	8	100
	218.96.111.202 - AS21859 - ZNET	14	100
NS	ns2.dns.com 183.253.57.193 - AS9808 - Guangdong Mobile Communic...	6	100
	121.12.104.65 - AS134763 - CHINANET Guangdong provin...	4	100
SOA	ns1.dns.com Hostname dnsadmin.dns.com		

[View all DNS Records](#)

---

**Domains with same A records** - [dominionvotingsystems.com](#)

1 Domains with same A records

Domain	Site Title	Alexa rank	DNS A	OSH	DNS CNAME
boanglobal.com	—	—	45.195.162.194 - AS132839 - POWER LINE DATACENTER	2	—

---

**CVE** - [dominionvotingsystems.com](#)

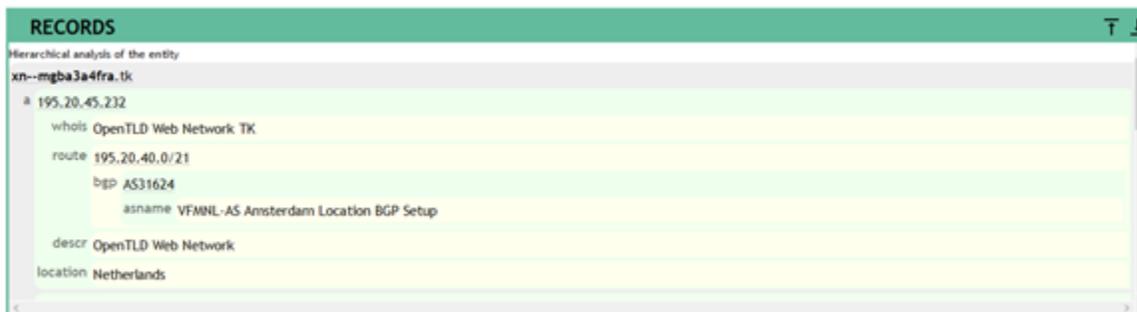
22 CVE Columns Copy Download

ID	Base Score	Severity	Vector	Source	Description
<a href="#">CVE-2018-20685</a>	2.6	LOW	AV:N/A/C/M:N/C/N:P/N	<a href="#">45.195.162.194</a>	In OpenSSH 7.8, scp.c in the scp client allows remote SSH servers to bypass intended access restrictions via the filename of, or an empty filename. The impact is modifying the permissions of the target directory on the client side.
<a href="#">CVE-2019-4564</a>	6.9	MEDIUM	AV:N/A/C/M:N/C/C/C/C	<a href="#">45.195.162.194</a>	Use-after-free vulnerability in the msn_answer_pam_base_ctx function in monitor.c in sshd in OpenSSH before 7.8 on non-OpenBSD platforms might allow local users to gain privileges by leveraging control of the sshd uid to send an unexpectedly early MONITOR_REQ_PAM_FREE_CTX request.
<a href="#">CVE-2016-1908</a>	7.5	HIGH	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	The client in OpenSSH before 7.2 mishandles failed cookie generation for untrusted X11 forwarding and relies on the local X11 server for access control decisions, which allows remote X11 clients to trigger a fallback and obtain trusted X11 forwarding privileges by leveraging configuration issues on this X11 server, as demonstrated by lack of the SECURITY extension on this X11 server.
<a href="#">CVE-2016-19010</a>	6.9	MEDIUM	AV:N/A/C/M:N/C/C/C/C	<a href="#">45.195.162.194</a>	sshd in OpenSSH before 7.4, when privilege separation is not used, creates forwarded Unix-domain sockets as root, which might allow local users to gain privileges via unspecified vectors, related to serverloop.c.
<a href="#">CVE-2016-6155</a>	7.8	HIGH	AV:N/A/C/M:N/N/A/C	<a href="#">45.195.162.194</a>	The auth_password function in auth-passwd.c in sshd in OpenSSH before 7.3 does not limit password lengths for password authentication, which allows remote attackers to cause a denial of service (crypt CPU consumption) via a long string.
<a href="#">CVE-2015-5680</a>	8.5	HIGH	AV:N/A/C/M:N/C/N/A/C	<a href="#">45.195.162.194</a>	The libidn2_init_device function in auth2-chall.c in sshd in OpenSSH through 6.8 does not properly restrict the processing of keyboard-interactive devices within a single connection, which makes it easier for remote attackers to conduct brute-force attacks or cause a denial of service (CPU consumption) via a long and duplicative list in the ssh-askPassInteractiveDevices option, as demonstrated by a modified client that provides a different password for each pam element on this list.
<a href="#">CVE-2015-4843</a>	1.9	LOW	AV:N/A/C/M:N/C/N/P/N	<a href="#">45.195.162.194</a>	The monitor component in sshd in OpenSSH before 7.8 on non-OpenBSD platforms accepts extraneous username data in MONITOR_REQ_PAM_UNT_CTX requests, which allows local users to conduct impersonation attacks by leveraging any SSH login access in conjunction with control of the sshd uid to send a crafted MONITOR_REQ_PAM_UNT request, related to monitor_init.c.
<a href="#">CVE-2018-15819</a>	5	MEDIUM	AV:N/A/C/M:N/C/P/N/A/N	<a href="#">45.195.162.194</a>	Remotely observable behaviour in auth_gss.c in OpenSSH through 7.8 could be used by remote attackers to detect existence of users on a target system when GSS2 is in use. NOTE: the discover status. We understand that the OpenSSH developers do not want to treat such a username enumeration (or "oracle") as a vulnerability.
<a href="#">CVE-2020-15778</a>	6.8	MEDIUM	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	scp in OpenSSH through 8.3p1 allows command injection in the scp.c:toname function, as demonstrated by backslash characters in the destination argument. NOTE: the vendor reportedly has stated that they intentionally omit validation of "anomalous argument transfers" because that could "stand a great chance of breaking existing workflows."
<a href="#">CVE-2019-6130</a>	4	MEDIUM	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	In OpenSSH 7.8, due to accepting and displaying arbitrary stderr output from the server, a malicious server (or Man-in-the-Middle attacker) can manipulate the client output, for example to use ANSI control codes to hide additional files being transferred.
<a href="#">CVE-2016-19011</a>	2.1	LOW	AV:L/A/C/M:N/C/P/N/A/N	<a href="#">45.195.162.194</a>	auth2.c in sshd in OpenSSH before 7.4 does not properly consider the effects of malloc on buffer contents, which might allow local users to obtain sensitive private-key information by leveraging access to a privilege-separated child process.
<a href="#">CVE-2016-19013</a>	7.2	HIGH	AV:L/A/C/M:N/C/C/C/C	<a href="#">45.195.162.194</a>	The shared memory manager (associated with pre-authentication compression) in sshd in OpenSSH before 7.4 does not ensure that a bounds check is enforced by all variables, which might allow local users to gain privileges by leveraging access to a standardized privilege separation process, related to the m_block and m_sib data structures.
<a href="#">CVE-2013-5352</a>	4.3	MEDIUM	AV:N/A/C/M:N/C/N/P/N	<a href="#">45.195.162.194</a>	The x11_open_jpeg function in channels.c in sshd in OpenSSH before 6.8, when ForwardX11Trusted mode is not used, lacks a check of the refusal deadline for X connections, which makes it easier for remote attackers to bypass intended access restrictions via a connection outside of the permitted time window.
<a href="#">CVE-2018-8225</a>	7.2	HIGH	AV:L/A/C/M:N/C/C/C/C	<a href="#">45.195.162.194</a>	The do_setup_eme function in session.c in sshd in OpenSSH through 7.3p1, when the UseLogin feature is enabled and PAM is configured to read pam_environment files in user home directories, allows local users to gain privileges by triggering a crafted environment for the PAM/login program, as demonstrated by an LD_PRELOAD environment variable.
<a href="#">CVE-2016-19009</a>	7.5	HIGH	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	Untrusted search path vulnerability in ssh-agent.c in ssh-agent in OpenSSH before 7.4 allows remote attackers to execute arbitrary local PKCS#11 modules by leveraging control over a forwarded agent socket.
<a href="#">CVE-2016-12708</a>	5	MEDIUM	AV:N/A/C/M:N/C/N/P/P	<a href="#">45.195.162.194</a>	sshd in OpenSSH before 7.4 allows remote attackers to cause a denial of service (NULL pointer dereference and daemon crash) via an out-of-sequence NEWKEYS message, as demonstrated by Honggfuzz, related to kex.c and packet.c.
<a href="#">CVE-2019-6109</a>	4	MEDIUM	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	An issue was discovered in OpenSSH 7.8. Due to missing character encoding in the progress display, a malicious server (or Man-in-the-Middle attacker) can employ crafted object names to manipulate the client output, e.g., by using ANSI control codes to hide additional files being transferred. This affects refresh_progress_meter() in progressmeter.c.
<a href="#">CVE-2016-6220</a>	4.3	MEDIUM	AV:N/A/C/M:N/C/P/N/A/N	<a href="#">45.195.162.194</a>	sshd in OpenSSH before 7.3, when SHA256 or SHA512 are used for user password hashing, uses BLOWFISH hashing on a static password when the username does not exist, which allows remote attackers to enumerate users by leveraging the timing difference between responses when a large password is provided.
<a href="#">CVE-2020-14145</a>	4.3	MEDIUM	AV:N/A/C/M:N/C/P/N/A/N	<a href="#">45.195.162.194</a>	The client side in OpenSSH 5.7 through 8.3 has an Observable Discrepancy leading to an information leak in the algorithm negotiation. This allows in-the-middle attackers to target initial connection attempts (before no host key for the server has been cached by the client).
<a href="#">CVE-2016-3115</a>	5.5	MEDIUM	AV:N/A/C/M:N/C/P/P/P	<a href="#">45.195.162.194</a>	Multiple CRLF injection vulnerabilities in session.c in sshd in OpenSSH before 7.2p2 allow remote authenticated users to bypass intended shell-command restrictions via crafted X11 forwarding data, related to the (1) do_authenticated() and (2) session_x11_req functions.

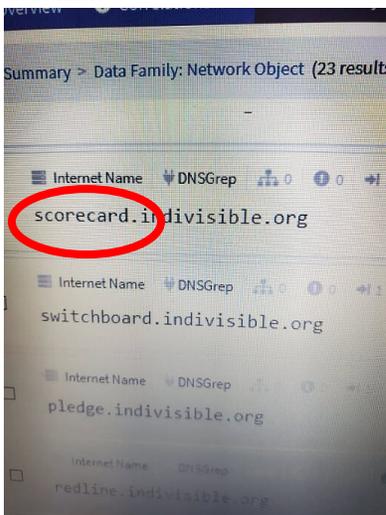
11. BMA Capital Management is known as a company that provides Iran access to capital markets with direct links publicly discoverable on LinkedIn (found via google on 11/19/2020):

www.linkedin.com > muhammad-talha-a0759660  
**Muhammad Talha - BMA Capital Management Limited**  
Manager, Money Market & Fixed Income at **BMA Capital Management Limited**. **BMA Capital ...**  
Manager-FMR at Pak Iran Joint Investment Company, Pakistan.  
Pakistan · Manager, Money Market & Fixed Income · BMA Capital Management Limited

The same Robtex search confirms the Iranian address is tied to the server in the Netherlands, which correlates to known OSINT of Iranian use of the Netherlands as a remote server (See Advanced Persistent Threats: APT33 and APT34):



12. A search of the indivisible.org network showed a subdomain which evidences the existence of scorecard software in use as part of the Indivisible (formerly ACORN) political group for Obama:



13. Each of the tabulation software companies have their own central reporting “affiliate”.  
Edison Research is the affiliate for Dominion.

14. Beanfield.com out of Canada shows the connections via co-hosting related sites, including dvscorp.com:

This domain redirects to **beanfield.com**

---

### DNS

View domain name system records, including but not limited to the A, CNAME, MX, and TXT records. View API →

<b>A</b>	96.45.195.194	5 Domains →
<b>MX</b>	10 barracuda.dominionvoting.com.	2 Domains →
<b>NS</b>	ns29.domaincontrol.com.	56,979,357 Domains →
	ns30.domaincontrol.com.	56,979,357 Domains →

---

### Co-Hosted

There are 5 domains hosted on 96.45.195.194 (AS21949 Beanfield Technologies Inc.). Show All → View API →

<a href="#">guta.ca</a>	<a href="#">ndbgroup.ca</a>	<a href="#">dvscorp.com</a>
<a href="#">aiyokuacardioulounge.com</a>	<a href="#">grantdyer.com</a>	

This Dominion partner domain “dvscopr” also includes an auto discovery feature, where new in-network devices automatically connect to the system. The following diagram shows some of the related dvscopr.com mappings, which mimic the infrastructure for Dominion and are an obvious typo derivation of the name. Typo derivations are commonly purchased to catch redirect traffic and sometimes are used as honeypots. The diagram shows that infrastructure spans multiple different servers as a methodology.

The screenshot shows a network analysis tool interface with the following data:

Data Element	Source Data Element
Similar Domain   TLD Searcher   1   0   1   0 dvscopr.ايران.ir	Internet Name   SpiderFoot UI   9   0   0   1 dvscopr.com
Similar Domain   Tool - DNSTwist   1   0   1   1   0 dv.scopr.com	Domain Name   SpiderFoot UI   7   0   0   1 dvscopr.com
Similar Domain   Tool - DNSTwist   1   0   1   1   0 dvscorp.com	Domain Name   SpiderFoot UI   7   0   0   1 dvscopr.com
Similar Domain   TLD Searcher   0   0   0   1   1   0 dvscopr.台湾	Internet Name   SpiderFoot UI   9   0   0   1 dvscopr.com
Similar Domain   TLD Searcher   0   0   0   1   1   0 dvscopr.fin.ci	Internet Name   SpiderFoot UI   9   0   0   1 dvscopr.com

The screenshot displays a list of domains and their associated metadata. The first entry is dsvcorp.com, with details including its registry ID (134773082\_DOMAIN\_COM-VRSN), registrar (bookmyname.com), and WHOIS server (whois.bookmyname.com). Below this, a section titled 'Similar Domain - Whois' shows a connection to the IRNIC WHOIS server (v1.6.2) for the domain dsvcorp.ایران.iran.iran. The subsequent entries are dvscopr.caa.li, dvscopr.hasura-app.io, dvscopr.rackmaze.com, dvscopr.devices.resinstaging.io, and dvscopr.cust.dev.thingdust.io, all of which are marked as 'Similar Domain' and linked to dsvcorp.com.

The above diagram shows how these domains also show the connection to Iran and other places, including the following Chinese domain, highlighted below:

This close-up screenshot highlights a specific domain entry: dvscopr.台湾, which is labeled as a 'Chinese Domain'. The domain name is enclosed in a green rectangular box. Above it, the tool's interface shows 'Similar Domain' and 'TLD Searcher' options. Below the highlighted entry, another domain, dvscopr.fin.ci, is partially visible.

15. The auto discovery feature allows programmers to access any system while it is connected to the internet once it's a part of the constellation of devices (see original Spiderfoot graph).
16. Dominion Voting Systems Corporation in 2019 sold a number of their patents to China (via HSBC Bank in Canada):

## Assignment details for assignee "HSBC BANK CANADA, AS COLLATERAL AGENT"

### Assignments (1 total)

Assignment 1

Reel/frame  050500/0236	Execution date  Sep 25, 2019	Date recorded  Sep 26, 2019	Pages  7
Conveyance  SECURITY AGREEMENT			
Assignors  DOMINION VOTING SYSTEMS CORPORATION	Correspondent  CHAPMAN & CUTLER LLP 1270 AVENUE OF THE AMERICAS, 30TH FLOOR ATTN: SOREN SCHWARTZ NEW YORK, NY 10020	Attorney docket	
Assignee  HSBC BANK CANADA, AS COLLATERAL AGENT  4TH FLOOR, 70 YORK STREET  TORONTO M5J 1S9  CANADA			

Properties (18)				
Patent	Publication	Application	PCT	International registration
8844813	20130306724	13476836		
8913787	20130301873	13470091		
9202113	20150071501	14539684		
8195505	20050247783	11121997		
9870666	20120232963	13463536		
9710988	20120259680	13525187		
9870667	20120259681	13525208		
7111782	20040238632	10811969		
7422151	20070012767	11526028		
D599131		29324281		

View all

**This searchable database contains all recorded Patent Assignment information from August 1980 to the present.**

When the USPTO receives relevant information for its assignment database, the USPTO puts the information in the public record and does not verify the validity of the information. Recordation is a ministerial function—the USPTO neither makes a determination of the legality of the transaction nor the right of the submitting party to take the action.

**Release 2.0.0** | [Release Notes](#) | [Send Feedback](#) | [Legacy Patent Assignment Search](#) | [Legacy Trademark Assignment Search](#)

Of particular interest is a section of the document showing aspects of the nature of the patents dealing with authentication:

**Patent assignment 050500/0236**

SECURITY AGREEMENT [📄](#)

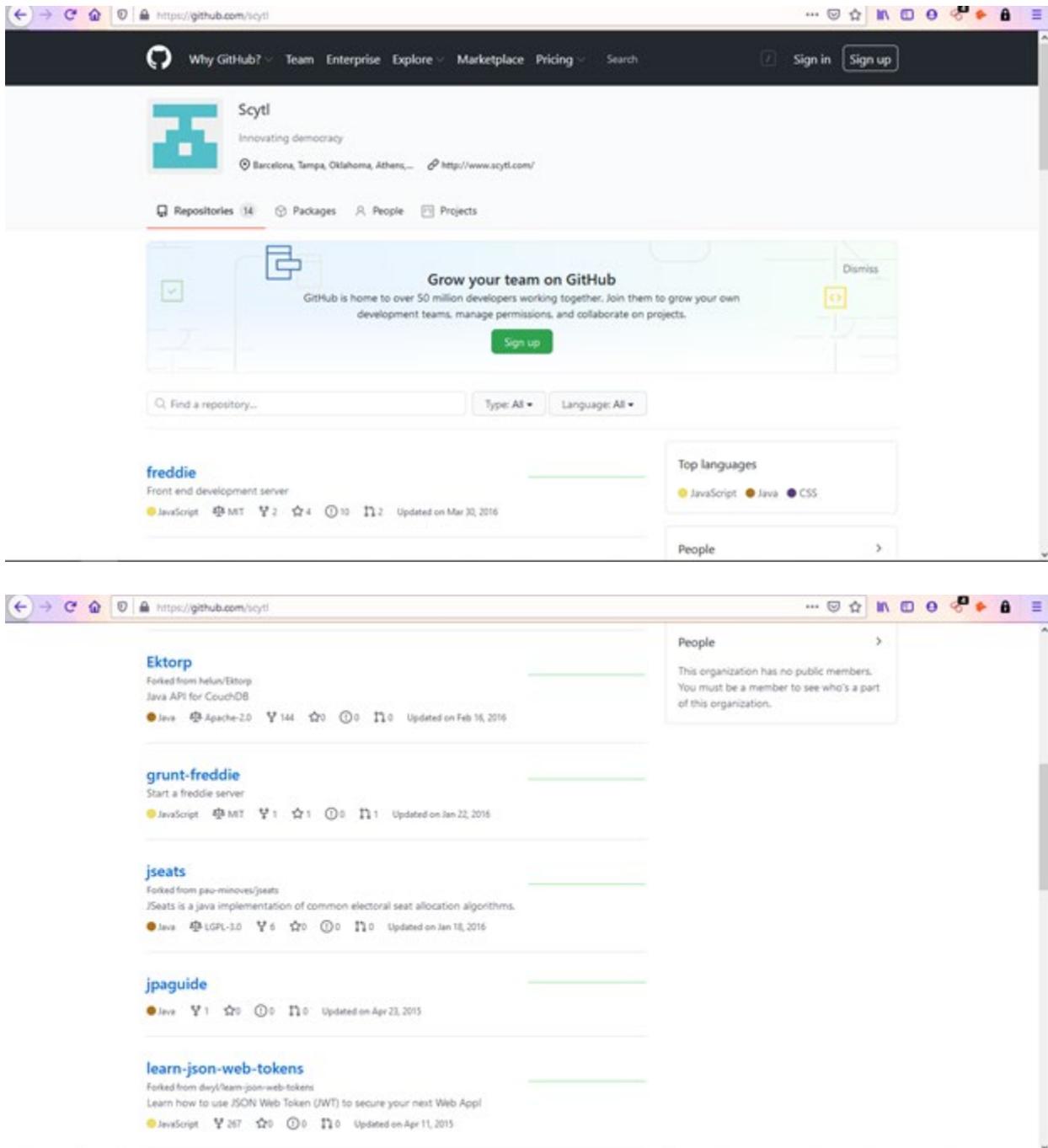
Date recorded Sep 26, 2019	Reel/frame 050500/0236	Pages 7
Assignors DOMINION VOTING SYSTEMS CORPORATION	Execution date Sep 25, 2019	
Assignee HSBC BANK CANADA, AS COLLATERAL AGENT 4TH FLOOR, 70 YORK STREET TORONTO M5J 1S9 CANADA	Correspondent CHAPMAN & CUTLER LLP 1270 AVENUE OF THE AMERICAS, 30TH FLOOR ATTN: SOREN SCHWARTZ NEW YORK, NY 10020	

**Properties (18 total)**

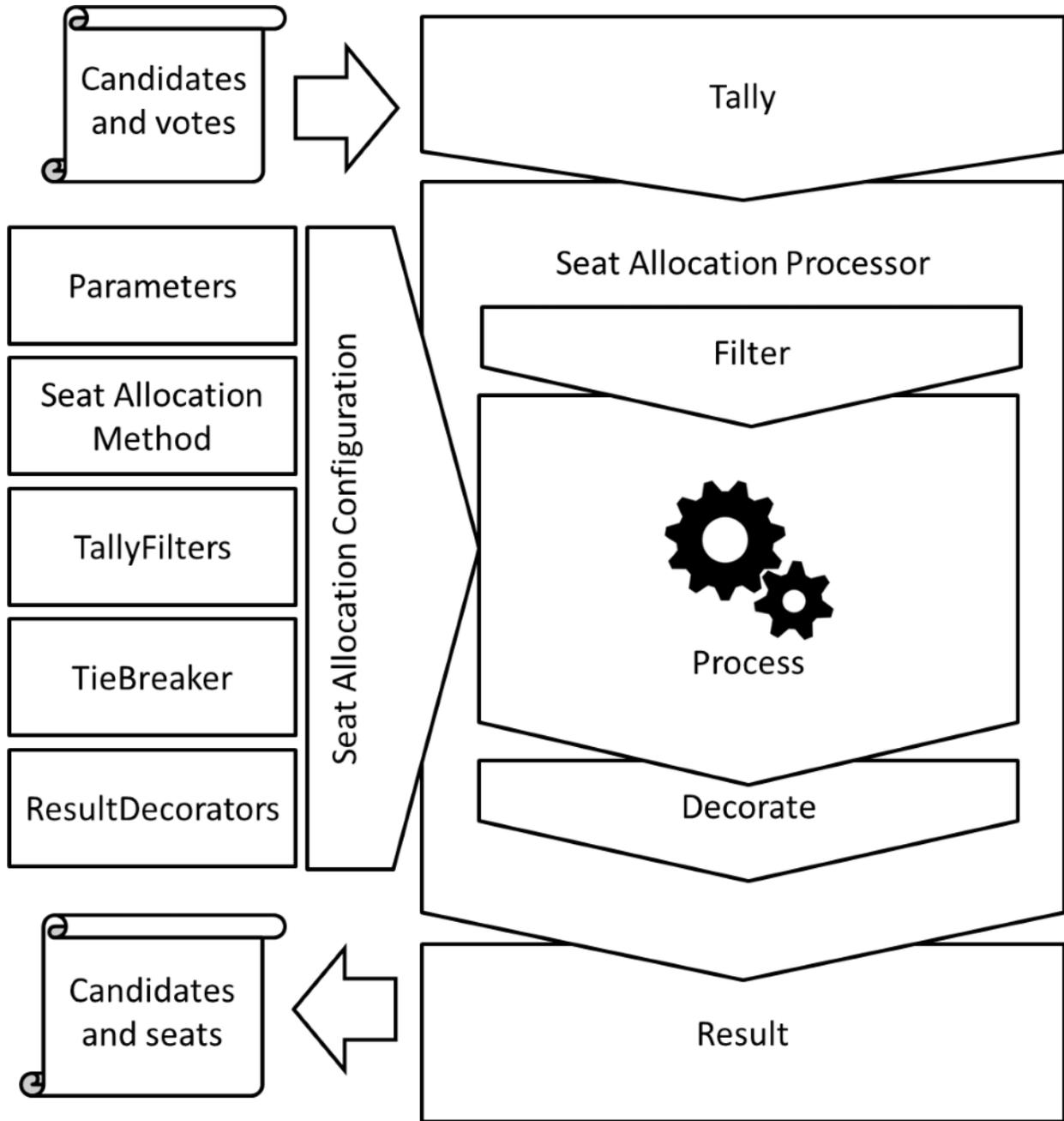
Patent	Publication	Application
<b>1. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE</b> Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7111782 Sep 26, 2006	20040238632 Dec 2, 2004	10811969 Mar 30, 2004
<b>2. SYSTEM, METHOD AND COMPUTER PROGRAM FOR VOTE TABULATION WITH AN ELECTRONIC AUDIT TRAIL</b> Inventors: JOHN POULOS, JAMES HOOVER, NICK IKONOMAKIS, GORAN OBRADOVIC		
8195505 Jun 5, 2012	20050247783 Nov 10, 2005	11121997 May 5, 2005
<b>3. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE</b> Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7422151 Sep 9, 2008	20070012767 Jan 18, 2007	11526028 Sep 25, 2006
<b>4. BALLOT LEVEL SECURITY FEATURES FOR OPTICAL SCAN VOTING MACHINE CAPABLE OF BALLOT IMAGE PROCESSING, SECURE BALLOT PRINTING, AND BALLOT LAYOUT AUTHENTICATION AND VERIFICATION</b> Inventors: ERIC COOMER, LARRY KORB, BRIAN GLENN LIERMAN		



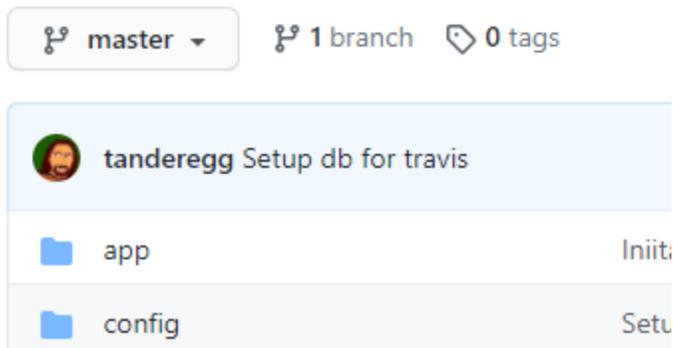
17. Smartmatic creates the backbone (like the cloud). SCYTL is responsible for the security within the election system.



18. In the GitHub account for Scytl, Scytl Jseats has some of the programming necessary to support a much broader set of election types, including a decorator process where the data is smoothed, see the following diagram provided in their source code:



19. Unrelated, but also a point of interest is CTCL or Center for Tech and Civic Life funded by Mark Zuckerberg. Within their github page (<https://github.com/ctcl>), one of the programmers holds a government position. The Bipcoop repo shows tanderegg as one of the developers, and he works at the Consumer Financial Protection Bureau:



## Tim Anderegg

tanderegg

Follow

...

38 followers · 23 following · 133

Consumer Financial Protection Bureau

Washington DC

20. As seen in included document titled

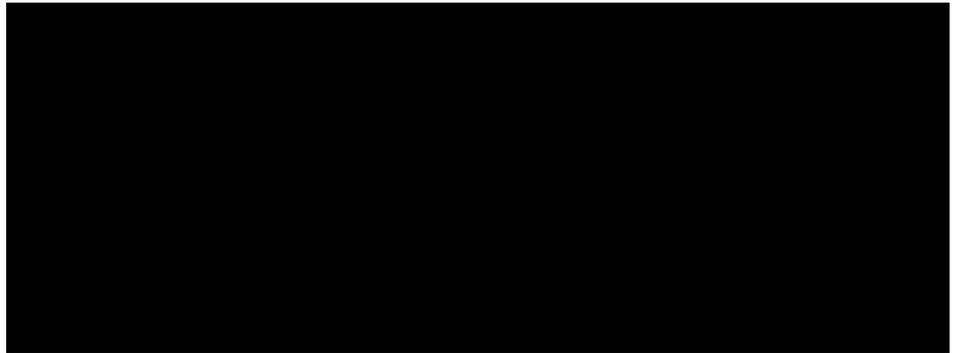
“AA20-304A-

Iranian\_Advanced\_Persistent\_Threat\_Actor\_Identified\_Obtaining\_Voter\_Registration\_Data” that was authored by the Cybersecurity & Infrastructure Security Agency (CISA) with a Product ID of AA20-304A on a specified date of October 30, 2020, CISA and the FBI reports that Iranian APT teams were seen using ACUTENIX, a website scanning software, to find vulnerabilities within Election company websites, confirmed to be used by the Iranian APT teams buy seized cloud storage that I had personally captured and reported to higher authorities. These scanning behaviors showed that foreign agents of aggressor nations had access to US voter lists, and had done so recently.

21. In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access data

and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue: if it is not corrected, future elections in the United States and beyond will not be secure and citizens will not have confidence in the results.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed this November 23<sup>th</sup>, 2020.



DECLARATION OF RONALD WATKINS

I, Ronald Watkins, hereby state the following:

1. I am a United States citizen currently residing in Japan.
2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct.
3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement.
4. I want to alert the public and let the world know the truth about actual voting tabulation software designed, whether with malicious intent or plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. The Dominion Democracy Suite may both enable voter fraud by unethical officials out to undermine the will of the people, and honest officials making simple, nearly untraceable, mistakes. Voting is a fundamental manifestation of our First Amendment right to free speech and under no circumstance shall we allow a conspiracy of people and companies to subvert and destroy one of our most sacred rights.
5. I am a network and information security expert with nine years of experience as a network and information defense analyst and a network security engineer. In my nine years of network and information security experience, I have successfully defended large websites and networks against major and powerful cyberattacks.
6. The ImageCast Central system is a software and hardware workstation system designed to work with just a common "Windows 10 Pro"[1][2] computer paired via data cable [3] to an off-the-shelf document scanner [4] "for high speed scanning and counting of paper ballots.[5]"
7. When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning

procedure within the software menu [6]. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application [7].

8. After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to "Accept Batch" on the scanning menu [8]. Accepting the batch saves the results into the local file system within the "Windows 10 Pro" machine [9]. Any "problem ballots" that may need to be examined or adjudicated at a later time can be found as ballot scans saved as image files into a standard Windows folder named "NotCastImages" [9]. These "problem ballots" are automatically detected during the scanning phase and digitally set aside for manual review based on exception criteria [10]. Examples of exceptions may include: overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks [11]. "Customizable outstack conditions and marginal mark detection lets [Dominion's Customers] decide which ballots are sent for Adjudication. [12]"

9. During the ballot scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter [13]. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote [14][15]. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages" [9]. "The ImageCast Central's advanced settings allow for adjustment of the scanning properties" to "[set] the clarity levels at which the ballot should be scanned at. Levels can be set as a combination of brightness and contrast values, or as a gamma value. [16]"

10. Through creatively tweaking the oval coverage threshold settings, and advanced settings on the ImageCast Central scanners, it may be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder.

11. The administrator of the ImageCast Central work station may view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots" [17][18]. It may be possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.

12. Adjudication is “the process of examining voted ballots to determine, and, in the judicial sense, adjudicate voter intent. [19]” A biased poll worker without sufficient honest oversight could abuse the adjudication system to fraudulently switch votes for a specific candidate.

13. After the tabulation process, the ImageCast Central software saves a copy of the tabulation results locally to the "Windows 10 Pro" machine's internal storage. The results data is located in an easy-to-find path which is designed to easily facilitate the uploading of tabulation results to flash memory cards. The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer" [20]. While a simple procedure, the report results process may be error prone and is very vulnerable to malicious administrators. Before delivering final tabulation results to the county, it is within the realm of possibility to mistakenly copy the wrong "Results" folder or even maliciously copy a false "Results" folder, which may contain a manipulated data set, to the flash memory card.

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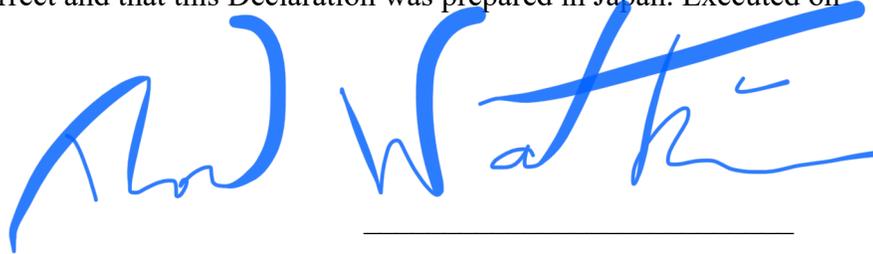
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was prepared in Japan. Executed on November 23, 2020.



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RONALD WATKINS

# **EXHIBIT 107**



3. I am also an expert in ballot scanning because of extensive background in digital imaging prior by work researching election systems. In addition, in 2005 I started an open source project for scanning and auditing paper ballots from images. As a result, I am familiar with different scanner types, how scanner settings and image processing features change the images, and how file format choices affect the quality and accuracy of the ballots.

4. I am engaged as an expert in this case by Coalition for Good Governance.

5. In developing this declaration and opinion, I visited Atlanta to observe certain operations of the June 9, 2020 statewide primary, and the August 11 runoff. During the June 9 election, I was an authorized poll watcher in some locations and was a public observer in others. On August 11, I was authorized as an expert inspecting and observing under the Coalition for Good Governance's Rule 34 Inspection request in certain polling places and the Fulton County Election Preparation Center. As I will explain below in this declaration, my extensive experience in the area of voting system security and my observations of these elections lead to additional conclusions beyond those in my December 16, 2019 declaration. Specifically:

- a) the scanner and tabulation software settings being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes not to be counted;
- b) the voting system is being operated in Fulton County in a manner that escalates the security risk to an extreme level; and
- c) voters are not reviewing their BMD printed ballots, which causes BMD generated results to be un-auditable due to the untrustworthy audit trail.

### **Polling Place Observations**

6. Election observation on Peachtree Christian Church. The ballot marking devices were installed so that 4 out of 8 touchscreen devices were clearly visible from the pollbook check in desk. Voter's selections could be effortlessly seen from over 50 ft away.

7. Over period of about 45 minutes, I only observed one voter who appeared to be studying the ballot after picking it up from the printer before casting it in the scanner. When voters do not fully verify their ballot prior to casting, the ballots cannot be considered a reliable auditable record.

8. The scanner would reject some ballots and then accept them after they were rotated to a different orientation. I noted that the scanner would vary in the amount of time that it took to accept or reject a ballot. The delay varied between 3

and 5 seconds from the moment the scanner takes the ballot until the scanner either accepts the ballot or rejects it. This kind of behavior is normal on general purpose operating systems multitasking between multiple applications, but a voting system component should be running only a single application without outside dependencies causing variable execution times.

9. Further research is necessary to determine the cause of the unexpected scanning delays. A system that is dedicated to performing one task repeatedly should not have unexplained variation in processing time. As security researcher, we are always suspicious about any unexpected variable delays, as those are common telltale signs of many issues, including a possibility of unauthorized code being executed. So, in my opinion changes of behaviors between supposedly identical machines performing identical tasks should always be investigated.

When ballots are the same and are produced by a ballot marking device, there should be no time difference whatsoever in processing the bar codes. Variations in time can be the result of many things - one of them is that the scanner encounters an error reading the bar code and needs to utilize error correcting algorithms to recover from that error. Further investigation is

necessary to determine the root cause of these delays, the potential impact of the error correcting algorithms if those are found to be the cause, and whether the delay has any impact upon the vote.

10. Election observation in Central Park Recreation Center. The Poll place manager told me that no Dominion trained technician had reported on location to help them that morning.

11. The ballot marking devices were originally installed in a way that voter privacy was not protected, as anyone could observe across the room how people are voting on about 2/3 devices.

12. The ballot scanner took between 4 and 6 seconds to accept the ballot. I observed only one ballot being rejected.

13. Generally, voters did not inspect the ballots after taking it from the printer and casting it into the scanner.

14. Election observation in Fanplex location. Samantha Whitley and Harrison Thweatt were poll watchers at the Fanplex polling location. They contacted me at approximately 9:10am about problems they were observing with the operation of the BMDs and Poll Pads and asked me to come to help them

understand the anomalies they were observing. I arrived at FanPlex at approximately 9:30am.

15. I observed that the ballot scanner located by a glass wall whereby standing outside of the building observe the scanning, would take between 6 and 7 seconds to either accept or reject the ballot.

16. For reasons unknown, on multiple machines, while voters were attempting to vote, the ballot marking devices sometimes printed “test” ballots. I was not able to take a picture of the ballot from the designated observation area, but I overheard the poll worker by the scanner explaining the issue to a voter which was sent back to the Ballot-Marking Device to pick up another ballot from the printer tray. Test ballots are intended to be used to test the system but without being counted by the system during an election. The ballot scanner in election settings rejects test ballots, as the scanners at FanPlex did. This caused confusion as the voters needed to return to the ballot-marking device to retrieve the actual ballot. Some voters returned the test ballot into the printer tray, potentially confusing the next voter. Had voters been reviewing the ballots at all before taking them to the scanner, they would have noticed the “Test Ballot” text on the ballot. I observed no voter really questioning a poll worker why a “Test” ballot was printed in the first place.

17. Obviously, during the election day, the ballot marking device should not be processing or printing any ballot other than the one the voter is voting. While the cause of the improper printing of ballots should be examined, the fact that this was happening at all is likely indicative of a wrong configuration given to the BMD, which in my professional opinion raises another question: Why didn't the device print only test ballots? And how can the device change its behavior in the middle of the election day? Is the incorrect configuration originating from the Electronic Pollbook System? What are the implications for the reliability of the printed ballot and the QR code being counted?

18. Election observation Park Tavern. The scanner acceptance delay did not vary as it had in previous locations and was consistently about 5 seconds from the moment the scanner takes the ballot, to the moment the scanner either accepts the ballot or rejects it. The variation between scanners at different locations is concerning because these are identical physical devices and should not behave differently while performing the identical task of scanning a ballot.

19. The vast majority of voters at Park Tavern did not inspect the ballots after taking them from the printer and before casting them in the scanner.

### **Fulton Tabulation Center Operation-Election Night, August 11, 2020**

20. In Fulton County Election Preparation Center (“EPC”) on election night I reviewed certain operations as authorized by Rule 34 inspection.

21. I was permitted to view the operations of the upload of the memory devices coming in from the precincts to the Dominion Election Management System (“EMS”) server. The agreement with Fulton County was that I could review only for a limited period of time; therefore, I did not review the entire evening’s process. Also, Dominion employees asked me to move away from the monitors containing the information and messages from the upload process and error messages, limiting my ability to give a more detailed report with documentation and photographs of the screens. However, my vantage point was more than adequate to observe that system problems were recurring and the Dominion technicians operating the system were struggling with the upload process.

22. It is my understanding the same EMS equipment and software had been used in Fulton County’s June 9, 2020 primary election.

23. It is my understanding that the Dominion technician (“Dominic”) charged with operating the EMS server for Fulton County had been performing

these duties at Fulton County for several months, including during the June 9 primary.

24. During my August 11 visit, and a follow-up visit on August 17, I observed that the EMS server was operated almost exclusively by Dominion personnel, with little interaction with EPC management, even when problems were encountered. In my conversations with Derrick Gilstrap and other Fulton County Elections Department EPC personnel, they professed to have limited knowledge of or control over the EMS server and its operations.

25. Outsourcing the operation of the voting system components directly to the voting system vendors' personnel is highly unusual in my experience and of grave concern from a security and conflict of interest perspective. Voting system vendors' personnel have a conflict of interest because they are not inclined to report on, or address, defects in the voting systems. The dangers this poses is aggravated by the absence of any trained County personnel to oversee and supervise the process.

26. In my professional opinion, the role played by Dominion personnel in Fulton County, and other counties with similar arrangements, should be considered an elevated risk factor when evaluating the security risks of Georgia's voting system.

27. Based on my observations on August 11 and August 17, Dell computers running the EMS that is used to process Fulton county votes appeared not to have been hardened.

28. In essence, hardening is the process of securing a system by reducing its surface of vulnerability, which is larger when a system performs more functions; in principle it is to reduce the general purpose system into a single-function system which is more secure than a multipurpose one. Reducing available ways of attack typically includes changing default passwords, the removal of unnecessary software, unnecessary usernames or logins, grant accounts and programs with the minimum level of privileges needed for the tasks and create separate accounts for privileged operations as needed, and the disabling or removal of unnecessary services.

29. Computers performing any sensitive and mission critical tasks such as elections should unquestionably be hardened. Voting system are designated by the Department of Homeland Security as part of the critical infrastructure and certainly fall into the category of devices which should be hardened as the most fundamental security measure. In my experience, it is unusual, and I find it unacceptable for an EMS server not to have been hardened prior to installation.

30. The Operating System version in the Dominion Election Management computer, which is positioned into the rack and by usage pattern appears to be the main computer, is Windows 10 Pro 10.0.14393. This version is also known as the Anniversary Update version 1607 and it was released August 2, 2016. Exhibit A is a true and correct copy of a photograph that I took of this computer.

31. When a voting system is certified by the EAC, the Operating System is specifically defined, as Windows 10 Pro was for the Dominion 5.5-A system. Unlike consumer computers, voting systems do not and should not receive automatic “upgrades” to newer versions of the Operating System. without undergoing tests for conflicts with the new operating system software.

32. That computer and other computers used in Georgia’s system for vote processing appear to have home/small business companion software packages included. Exhibits B and C are true and correct copies of photographs that I took of the computer located in the rack and the computer located closest to the rack on the table to the right. The Start Menu shows a large number of game and entertainment software icons. As stated before, one of the first procedures of hardening is removal of all unwanted software, and removal of those game icons and the associated games and installers alongside with all other software which is not absolutely needed in the computer for election processing purposes would be

one of the first and most basic steps in the hardening process. In my professional opinion, independent inquiry should be promptly made of all 159 counties to determine if the Dominion systems statewide share this major deficiency.

33. Furthermore, when I asked the Dominion employee Dominic assigned to the Fulton County election server operation about the origin of the Windows operating system, he answered that he believed that “it has been provided by the State.”

34. Since Georgia’s Dominion system is new, it is a reasonable assumption that all machines in the Fulton County election network had the same version of Windows installed. However, not only the two computers displayed different entertainment software icons, but additionally one of the machines in Fulton’s group of election servers had an icon of computer game called “*Homescapes*” which is made by Playrix Holding Ltd., founded by Dmitry and Igor Bukham in Vologda, Russia. Attached as Exhibit C is a true and correct copy of a photograph that I took of the Fulton voting system computer” Client 02”. The icon for *Homescapes* is shown by the arrow on Exhibit C.

35. The *Homescapes* game was released in August 2017, one year after Fulton County’s operating system release. If the *Homescapes* game came with the operating system it would be unusual, because at the time of the release of

Homescapes, Microsoft had already released 3 major Microsoft Windows 10 update releases after build 14393 and before the release of that game. This calls into question whether all Georgia Dominion system computers have the same operating system version, or how the game has come to be having a presence in Fulton's Dominion voting system.

36. Although this Dominion voting system is new to Georgia, the Windows 10 operating system of at least the 'main' computer in the rack has not been updated for 4 years and carries a wide range of well-known and publicly disclosed vulnerabilities. At the time of this writing, The National Vulnerability Database maintained by National Institute of Standards and Technology lists 3,177 vulnerabilities mentioning "Windows 10 Pro" and 203 vulnerabilities are specifically mentioning "Windows 10 Pro 1607" which is the specific version number of the build 14393 that Dominion uses.

37. Even without internet connectivity, unhardened computers are at risk when those are used to process removable media. It was clear that when Compact Flash storage media containing the ballot images, audit logs and results from the precinct scanners were connected to the server, the media was automounted by the operating system. When the operating system is automounting a storage media, the operating system starts automatically to interact with the device. The zero-day

vulnerabilities exploiting this process has been recurrently discovered from all operating systems, including Windows. Presence of automount calls also into question presence of another setting which is always disabled in hardening process. It is autorun, which automatically executes some content on the removable media. While this is convenient for consumers, it poses extreme security risk.

38. Based on my experience and mental impression observing the Dominion technician's activities, Fulton County's EMS server management seems to be an *ad hoc* operation with no formalized process. This was especially clear on the manual processing of the memory cards storage devices coming in from the precincts on election night and the repeated access of the operating system to directly access filesystem, format USB devices, etc. This kind of operation is naturally prone to human errors. I observed personnel calling on the floor asking if all vote carrying compact flash cards had been delivered from the early voting machines for processing, followed by later finding additional cards which had been overlooked in apparent human error. Later, I heard again one technician calling on the floor asking if all vote carrying compact flashes had been delivered. This clearly demonstrates lack of inventory management which should be in place to ensure, among other things, that no rogue storage devices would be inserted into the computer. In response, 3 more compact flash cards were hand-delivered. Less

than 5 minutes later, I heard one of the county workers say that additional card was found and was delivered for processing. All these devices were trusted by printed label only and no comparison to an inventory list of any kind was performed.

39. In addition, operations were repeatedly performed directly on the operating system. Election software has no visibility into the operations performed directly on the operating system, and therefore those are not included in election system event logging. Those activities can only be partially reconstructed from operating system logs – and as these activities included copying election data files, election software log may create false impression that the software is accessing the same file over a period of time, while in reality the file could had been replaced with another file with the same name by activities commanded to the operating system. Therefore, any attempt to audit the election system operated in this manner must include through analysis of all operating system logs, which complicates the auditing process. Unless the system is configured properly to collect file system auditing data is not complete. As the system appears not to be hardened, it is unlikely that the operating system has been configured to collect auditing data.

40. A human error when operating live election system from the operating system can result in a catastrophic event destroying election data or even rendering the system unusable. Human error is likely given the time pressure involved and,

at least in Fulton County, no formal check lists or operating procedures were followed to mitigate the human error risk. The best practice is to automate trivial tasks to reduce risk of human error, increase the quality assurance of overall operations and provide auditability and transparency by logging.

41. Uploading of memory cards had already started before I arrived at EPC. While one person was operating the upload process, the two other Dominion employees were troubleshooting issues which seemed to be related to ballot images uploads. I repeatedly observed error messages appearing on the screen of the EMS server. I was not able to get picture of the errors on August 11<sup>th</sup>, I believe the error was the same or similar that errors recurring August 17<sup>th</sup> as shown on Exhibit D and discussed later in this declaration. Dominion employees were troubleshooting the issue with ‘trial-and-error’ approach. As part of this effort they accessed “Computer Management” application of Windows 10 and experimented with trouble shooting the user account management feature. This demonstrates that they had complete access to the computer. This means there are no meaningful access separation and privileges and roles controls protecting the county’s primary election servers. This also greatly amplifies the risk of catastrophic human error and malicious program execution.

42. I overheard the Dominion technician's conversation that they had issues with file system structure and "need 5 files out of EMS server and paste. Delete everything out of there and put it there." To communicate the gravity of the situation to each other they added "Troubleshooting in the live environment". These conversations increased the mental image that they were not familiar the issue they were troubleshooting.

43. After about 45 minutes of trying to solve the issue by instructions received over the phone, the two Dominion employees' (who had been troubleshooting) behavior changed. The Dominion staff member walked behind the server rack and made manual manipulations which could not be observed from my vantage point. After that they moved with their personal laptops to a table physically farther away from the election system and stopped trying different ways to work around the issue in front of the server, and no longer talked continuously with their remote help over phone.

44. In the follow-up-calls I overheard them ask people on the other end of the call to check different things, and they only went to a computer and appeared to test something and subsequently take a picture of the computer screen with a mobile phone and apparently send it to a remote location.

45. Based on my extensive experience, this all created a strong mental impression that the troubleshooting effort was being done remotely over remote access to key parts of the system. Additionally, new wireless access point with a hidden SSID access point name appeared in the active Wi-Fi stations list that I was monitoring, but it may have been co-incidental. Hidden SSIDs are used to obscure presence of wireless networking from casual observers, although they do not provide any real additional security.

46. If in fact remote access was arranged and granted to the server, this has gravely serious implications for the security of the new Dominion system. Remote access, regardless how it is protected and organized is always a security risk, but furthermore it is transfer of control out of the physical perimeters and deny any ability to observe the activities.

47. I also observed USB drives marked with the Centon DataStick Pro Logo with no visible inventory control numbering system being taken repeatedly from the EMS server rack to the Fulton managers' offices and back. The Dominion employee told me that the USB drives were being taken to the Election Night Reporting Computer in another office. This action was repeated several times during the time of my observation. Carrying generic unmarked and therefore unidentifiable media out-of-view and back is a security risk – especially when the

exact same type of devices was piled on the desk near the computer. During the election night, the Dominion employees reached to storage box and introduced more unmarked storage devices into the ongoing election process. I saw no effort made to maintain a memory card inventory control document or chain of custody accounting for memory cards from the precincts.

48. I also visited the EPC on August 17. During that visit, the staff working on uploading ballots for adjudication experienced an error which appeared similar to the one on election night. This error was repeated with multitude of ballots and at the time we left the location, the error appeared to be ignored, rather than resolved. (EXHIBIT D - the error message and partial explanation of the error being read by the operator.).

49. The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access, are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system.

50. Such a risk could be overcome if the election were conducted using hand marked paper ballots, with proper chain of custody controls. For elections conducted with hand marked paper ballots, any malware or human error involved

in the server security deficiencies or malfunctions could be overcome with a robust audit of the hand marked paper ballots and in case of irregularities detected, remedied by a recount. However, given that BMD ballots are computer marked, and the ballots therefore unauditible for determining the result, no recovery from system security lapses is possible for providing any confidence in the reported outcomes.

### **Ballot Scanning and Tabulation of Vote Marks**

51. I have been asked to evaluate the performance and reliability of Georgia's Dominion precinct and central count scanners in the counting of votes on hand marked paper ballots.

52. On or about June 10th, Jeanne Dufort and Marilyn Marks called me to seek my perspective on what Ms. Dufort said she observed while serving as a Vote Review Panel member in Morgan County. Ms. Dufort told me that she observed votes that were not counted as votes nor flagged by the Dominion adjudication software.

53. Because of the ongoing questions this raised related to the reliability of the Dominion system tabulation of hand marked ballots, I was asked by Coalition Plaintiffs to conduct technical analysis of the scanner and tabulation accuracy. That analysis is still in its early stages.

54. Before addressing the particulars of my findings and research into the accuracy of Dominion's scanning and tabulation, I will address the basic process by which an image on a voted hand marked paper ballot is processed by scanner and tabulation software generally. It is important to understand that the Dominion scanners are Canon off the shelf scanners and their embedded software were designed for different applications than ballot scanning which is best conducted with scanners specifically designed for detecting hand markings on paper ballots.

55. Contrary of public belief, the scanner is not taking a picture of the paper. The scanner is illuminating the paper with a number of narrow spectrum color lights, typically 3, and then using software to produce an approximation what the human eye would be likely to see if there would had been a single white wide-spectrum light source. This process takes place in partially within the scanner and embedded software in the (commercial off the shelf) scanner and partially in the driver software in the host computer. It is guided by number of settings and configurations, some of which are stored in the scanner and some in the driver software. The scanner sensors gather more information than will be saved into the resulting file and another set of settings and configurations are used to drive that part of the process. The scanners also produce anomalies which are automatically removed from the images by the software. All these activities are performed

outside of the Dominion election software, which is relying on the end product of this process as the input.

56. I began reviewing Dominion user manuals in the public domain to further investigate the Dominion process.

57. On August 14, I received 2 sample Fulton County August 11 ballots of high-speed scanned ballot from Rhonda Martin, who stated that she obtained them from Fulton County during Coalition Plaintiff's discovery. The image characteristics matched the file details I had seen on the screen in EPC. The image is TIFF format, about 1700 by 2200 pixels with 1-bit color depth (= strictly black or white pixels only) with 200 by 200 dots per square inch ("dpi") resolution resulting in files that are typically about 64 or 73 kilo bytes in size for August 11 ballots. With this resolution, the outer dimension of the oval voting target is about 30 by 25 pixels. The oval itself (that is, the oval line that encircles the voting target) is about 2 pixels wide. The target area is about 450 pixels; the area of the target a tight bounding box would be 750 pixels and the oval line encircling the target is 165 pixels. In these images, the oval itself represented about 22% value in the bounding box around the vote target oval.

58. Important image processing decisions are done in scanner software and before election software threshold values are applied to the image. These

scanner settings are discussed in an excerpt Dominion's manual for ICC operations. My understanding is that the excerpt of the Manual was received from Marilyn Marks who stated that she obtained it from a Georgia election official in response to an Open Records request. Attached as Exhibit E is page 9 of the manual. Box number 2 on Exhibit E shows that the settings used are not neutral factory default settings.

59. Each pixel of the voters' marks on a hand marked paper ballot will be either in color or gray when the scanner originally measures the markings. The scanner settings affect how image processing turns each pixel from color or gray to either black or white in the image the voting software will later process. This processing step is responsible for major image manipulation and information reduction before the election software threshold values are calculated. This process has a high risk of having an impact upon how a voter mark is interpreted by the tabulation software when the information reduction erases markings from the scanned image before the election software processes it.

60. In my professional opinion, any decision by Georgia's election officials about adopting or changing election software threshold values is premature before the scanner settings are thoroughly tested, optimized and locked.

61. The impact of the scanner settings is minimal for markings made with a black felt pen but can be great for markings made with any color ballpoint pens. To illustrate this, I have used standard color scanning settings and applied then standard conversion from a scanned ballot vote target with widely used free and open source image processing software “GNU Image Manipulation Program version 2.10.18” EXHIBIT G shows the color image being converted with the software’s default settings from color image to Black-and-White only. The red color does not meet the internal conversion algorithm criteria for black, therefore it gets erased to white instead.

62. Dominion manual for ICC operations clearly show that the scanner settings are changed from neutral factory default settings. EXHIBIT H shows how these settings applied different ways alter how a blue marking is converted into Black-and-White only image.

63. The optimal scanner settings are different for each model of scanner and each type of paper used to print ballots. Furthermore, because scanners are inherently different, the manufacturers use hidden settings and algorithms to cause neutral factory settings to produce similar baseline results across different makes and models. This is well-studied topic; academic and image processing studies published as early as 1979 discuss the brittleness of black-or-white images in

conversion. Subsequently, significance for ballot counting has been discussed in academic USENIX conference peer-reviewed papers.

64. On the August 17<sup>th</sup> at Fulton County Election Preparation Center Professor Richard DeMillo and I participated in a scan test of August 11 test ballots using a Fulton County owned Dominion precinct scanner. Two different ballot styles were tested, one with 4 races and one with 5 races. Attached as Exhibits I and J show a sample ballots with test marks.

65. A batch of 50 test ballots had been marked by Rhonda Martin with varying types of marks and varying types of writing instruments that a voter might use at home to mark an absentee ballot. Professor DeMillo and I participated in marking a handful of ballots.

66. Everything said here concerning the August 17 test is based on a very preliminary analysis. The scanner took about 6 seconds to reject the ballots, and one ballot was only acceptable “headfirst” while another ballot only “tail first.” Ballot scanners are designed to read ballots “headfirst” or “tail first,” and front side and backside and therefore there should not be ballots which are accepted only in one orientation. I observed the ballots to make sure that both ballots had been cleanly separated from the stub and I could not identify any defects of any kind on the ballots.

67. There was a 15 second cycle from the time the precinct scanner accepted a ballot to the time it was ready for the next ballot. Therefore, the maximum theoretical capacity with the simple 5 race ballot is about 4 ballots per minute if the next ballot is ready to be fed into the scanner as soon as the scanner was ready to take it. In a real-world voting environment, it takes considerably longer because voters move away from the scanner, the next voter must move in and subsequently figure where to insert the ballot. The Dominion precinct scanner that I observed was considerably slower than the ballot scanners I have tested over the last 15 years. This was done with a simple ballot, and we did not test how increase of the number of races or vote targets on the ballot would affect the scanning speed and performance.

68. Though my analysis is preliminary, this test reveals that a significant percentage of filled ovals that would to a human clearly show voter's intent failed to register as a vote on the precinct count scanner.

69. The necessary testing effort has barely begun at the time of this writing, as only limited access to equipment has been made available. I have not had access to the high-volume mail ballot scanner that is expected to process millions of mail ballots in Georgia's upcoming elections. However, initial results suggest that significant revisions must be made in the scanning settings to avoid a

widespread failure to count certain valid votes that are not marked as filled in ovals. Without testing, it is impossible to know, if setting changes alone are sufficient to cure the issue.

### **Scanned Ballot Tabulation Software Threshold Settings**

70. Georgia is employing a Dominion tabulation software tool called “Dual Threshold Technology” for “marginal marks.” (See Exhibit M) The intent of the tool is to detect voter marks that could be misinterpreted by the software and flag them for review. While the goal is admirable, the method of achieving this goal is quite flawed.

71. While it is compelling from development cost point of view to use commercial off the shelf COTS scanners and software, it requires additional steps to ensure that the integration of the information flow is flawless. In this case, the software provided by the scanner manufacturer and with settings and configurations have great impact in how the images are created and what information is removed from the images before the election software processes it. In recent years, many defective scanner software packages have been found. These software flaws include ‘image enhancement’ features which have remained enabled even when the feature has been chosen to be disabled from the scanner software provided by the manufacturer. An example of dangerous feature to keep

enabled is ‘Punch Hole Removal’, intended to make images of documents removed from notebook binders to look more aesthetically pleasing. The software can and in many cases will misinterpret a voted oval as a punch hole and erase the vote from the image file and to make this worse, the punch holes are expected to be found only in certain places near the edge of the paper, and therefore it will erase only votes from candidates whose targets are in those target zones.

72. Decades ago, when computing and storage capacity were expensive black-and-white image commonly meant 1-bit black-or-white pixel images like used by Dominion system. As computer got faster and storage space cheaper during the last 2-3 decades black-and-white image has become by default meaning 255 shades of gray grayscale images. For the purposes of reliable digitalization of physical documents, grayscale image carries more information from the original document for reliable processing and especially when colored markings are being processed. With today’s technology, the difference in processing time and storage prices between grayscale and 1-bit images has become completely meaningless, and the benefits gained in accuracy are undeniable.

73. I am aware that the Georgia Secretary of State’s office has stated that Georgia threshold settings are national industry standards for ballot scanners (Exhibit K). This is simply untrue. If, there were an industry standard for that, it

would be part of EAC certification. There is no EAC standard for such threshold settings. As mentioned before, the optimal settings are products of many elements. The type of the scanner used, the scanner settings and configuration, the type of the paper used, the type of the ink printer has used in printing the ballots, color dropout settings, just to name few. Older scanner models, which were optical mark recognitions scanners, used to be calibrated using calibration sheet – similar process is needed to be established for digital imaging scanners used this way as the ballot scanners.

74. Furthermore, the software settings in Exhibit E box 2 show that the software is instructed to ignore all markings in red color (“Color drop-out: Red”), This clearly indicates that the software was expecting the oval to be printed in Red and therefore it will be automatically removed from the calculation. The software does not anticipate printed black ovals as used in Fulton County. Voters have likely not been properly warned that any pen they use which ink contains high concentration of red pigment particles is at risk of not counting, even if to the human eye the ink looks very dark.

75. I listened to the August 10 meeting of the State Board of Elections as they approved a draft rule related to what constitutes a vote, incorporating the following language:

*Ballot scanners that are used to tabulate optical scan ballots marked by hand shall be set so that:*

- 1. Detection of 20% or more fill-in of the target area surrounded by the oval shall be considered a vote for the selection;*
- 2. Detection of less than 10% fill-in of the target area surrounded by the oval shall not be considered a vote for that selection;*
- 3. Detection of at least 10% but less than 20% fill-in of the target area surrounded by the oval shall flag the ballot for adjudication by a vote review panel as set forth in O.C.G.A. 21-2-483(g). In reviewing any ballot flagged for adjudication, the votes shall be counted if, in the opinion of the vote review panel, the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.*

76. The settings discussed in the rule are completely subject to the scanner settings. How the physical marking is translated into the digital image is determined by those values and therefore setting the threshold values without at the same time setting the scanner settings carries no value or meaning. If the ballots will be continuing to be printed with black only, there is no logic in having any drop-out colors.

77. Before the State sets threshold standards for the Dominion system, extensive testing is needed to establish optimal configuration and settings for each step of the process. Also, the scanners are likely to have settings additional configuration and settings which are not visible menus shown in the manual excerpt. All those should be evaluated and tested for all types of scanners approved for use in Georgia, including the precinct scanners

78. As temporary solution, after initial testing, the scanner settings and configuration should be locked and then a low threshold values should be chosen. All drop-out colors should be disabled. This will increase the number of ballots chosen for human review and reduce the number of valid votes not being counted as cast.

### **Logic and Accuracy Testing**

79. Ballot-Marking Device systems inherits the same well-documented systemic security issues embedded in direct-recording electronic (DRE) voting machine design. Such design flaws eventually are causing the demise of DRE voting system across the country as it did in Georgia. In essence the Ballot Marking Device is a general-purpose computer running a general-purpose operating system with touchscreen that is utilized as a platform to run a software, very similar to DRE by displaying a ballot to the voter and recording the voter's intents. The main difference is that instead of recording those internally digitally, it prints out a ballot summary card of voter's choices.

80. Security properties of this approach would be positively different from DREs if the ballot contained only human-readable information and all voters are required to and were capable of verifying their choices from the paper ballot summary. That of course is unrealistic.

81. When voter fails to inspect the paper ballot and significant portion of the information is not in human readable from as a QR barcode, Ballot-Marking Device based voting effectively inherits most of the negative and undesirable security and reliability properties directly from DRE paradigm, and therefore should be subject to the same testing requirements and mitigation strategies as DREs.

82. In response to repeating myriad of issues with DREs, which have been attributed to causes from screen calibration issues to failures in ballot definition configuration distribution, a robust Logic & Accuracy testing regulation have been established. These root causes are present in BMDs and therefore should be evaluated in the same way as DREs have been.

I received the Georgia Secretary of State's manual "Logic and Accuracy Procedures" "Version 1.0 January 2020 from Rhonda Martin. Procedure described in section D "Testing the BMD and Printer" is taking significant shortcuts, presumably to cut the labor work required. (Section D is attached as Exhibit L) These shortcuts significantly weaken the security and reliability posture of the system and protections against already known systemic pitfalls, usability predicaments and security inadequacies.

## CONCLUSIONS

83. The scanner software and tabulation software settings and configurations being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes not to be counted as cast.

84. The method of using 1-bit images and calculated relative darkness values from such pre-reduced information to determine voter marks on ballots is severely outdated and obsolete. It artificially and unnecessarily increases the failure rates to recognize votes on hand-marked paper ballots. As a temporary mitigation, optimal configurations and settings for all steps of the process should be established after robust independent testing to mitigate the design flaw and augment it with human assisted processes, but that will not cure the root cause of the software deficiency which needs to be addressed.

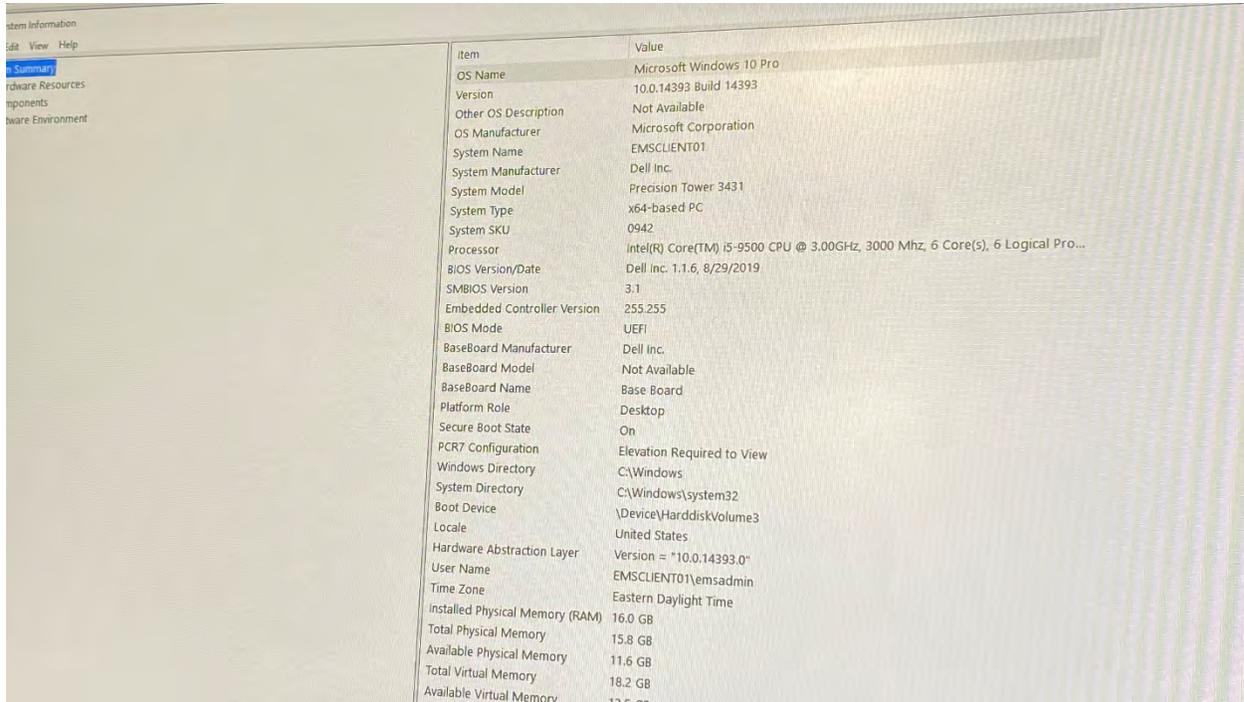
85. The voting system is being deployed, configured and operated in Fulton County in a manner that escalates the security risk to an extreme level and calls into question the accuracy of the election results. The lack of well-defined process and compliance testing should be addressed immediately using independent experts. The use and the supervision of the Dominion personnel operating Fulton County's Dominion Voting System should be evaluated.

86. Voters are not reviewing their BMD printed ballots before scanning and casting them, which causes BMD-generated results to be un-auditable due to the untrustworthy audit trail. Furthermore, because BMDs are inheriting known fundamental architectural deficiencies from DREs, no mitigation and assurance measures can be weakened, including but not limited to Logic and Accuracy Testing procedures.

This 24<sup>th</sup> day of August 2020.

  
\_\_\_\_\_  
Harri Hursti

### EXHIBIT A:



The image shows a screenshot of the Windows System Information utility. The window title is "System Information" and it has a menu bar with "File", "View", and "Help". On the left side, there is a navigation pane with the following items: "Summary" (highlighted in blue), "Hardware Resources", "Components", and "Software Environment". The main area displays a list of system information items and their corresponding values.

Item	Value
OS Name	Microsoft Windows 10 Pro
Version	10.0.14393 Build 14393
Other OS Description	Not Available
OS Manufacturer	Microsoft Corporation
System Name	EMSCIENT01
System Manufacturer	Dell Inc.
System Model	Precision Tower 3431
System Type	x64-based PC
System SKU	0942
Processor	Intel(R) Core(TM) i5-9500 CPU @ 3.00GHz, 3000 Mhz, 6 Core(s), 6 Logical Pro...
BIOS Version/Date	Dell Inc. 1.1.6, 8/29/2019
SMBIOS Version	3.1
Embedded Controller Version	255.255
BIOS Mode	UEFI
BaseBoard Manufacturer	Dell Inc.
BaseBoard Model	Not Available
BaseBoard Name	Base Board
Platform Role	Desktop
Secure Boot State	On
PCR7 Configuration	Elevation Required to View
Windows Directory	C:\Windows
System Directory	C:\Windows\system32
Boot Device	\Device\HarddiskVolume3
Locale	United States
Hardware Abstraction Layer	Version = "10.0.14393.0"
User Name	EMSCIENT01\emsadmin
Time Zone	Eastern Daylight Time
Installed Physical Memory (RAM)	16.0 GB
Total Physical Memory	15.8 GB
Available Physical Memory	11.6 GB
Total Virtual Memory	18.2 GB
Available Virtual Memory	12.2 GB

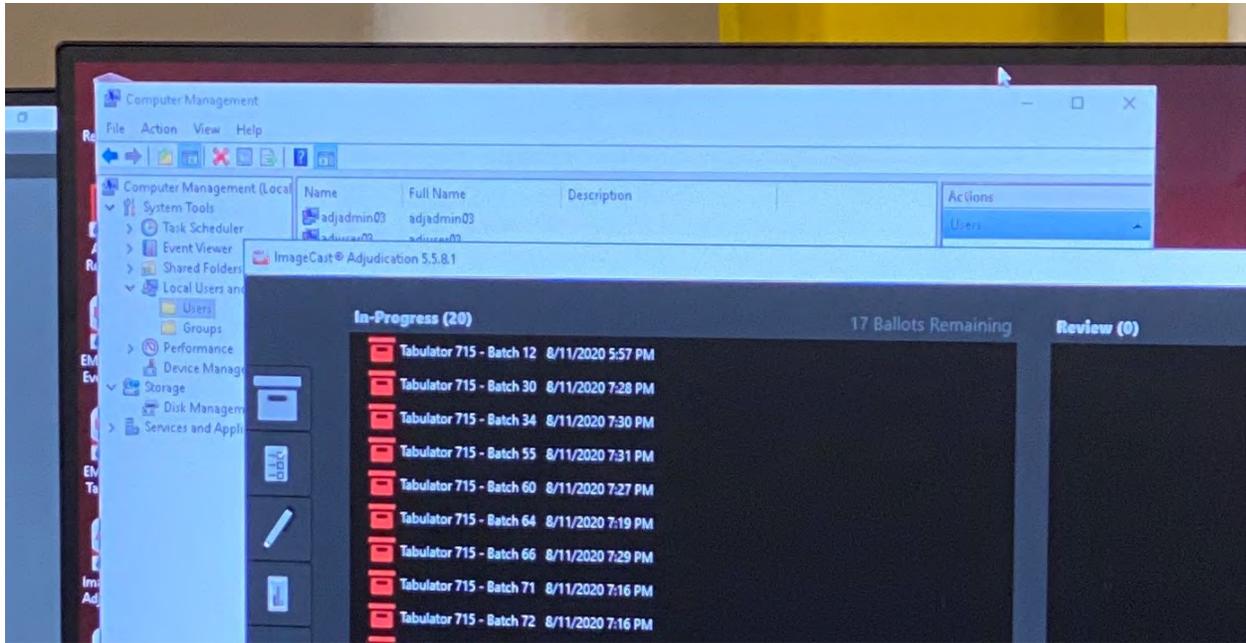
EXHIBIT B:



EXHIBIT C:



EXHIBIT D:



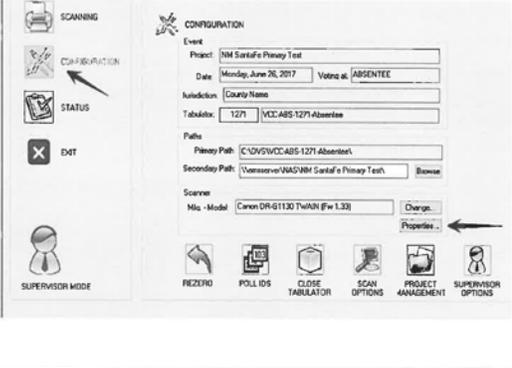
# EXHIBIT E:

## ICC SCANNER DRIVER SETTINGS

DOMINION VOTING

### 1

1. Click on the **ADMINISTRATOR MODE** icon in the lower left corner of the window. Enter the Supervisor password.
2. Click the **CONFIGURATION** button option on the left side of the window then click the **Properties** button located in the lower **Scanner** section.



### 2

Verify/select the following settings:

- a. **Color Drop-out:** Red
- b. **Detect by Length:** Not selected
- c. **Detect by Ultrasonic:** Selected
- d. **Deskew:** Selected
- e. **Edge Cleanup:** Selected
- f. **Doc Orientation:** Portrait
- g. **Brightness:** Set to 90
- h. **Contrast:** 4
- i. **Gamma:** Not selected
- j. **Moire Reduction:** Not selected
- k. **Imprinter:** Not selected

Click the **Apply** button then click the **OK** button.



EXHIBIT F:

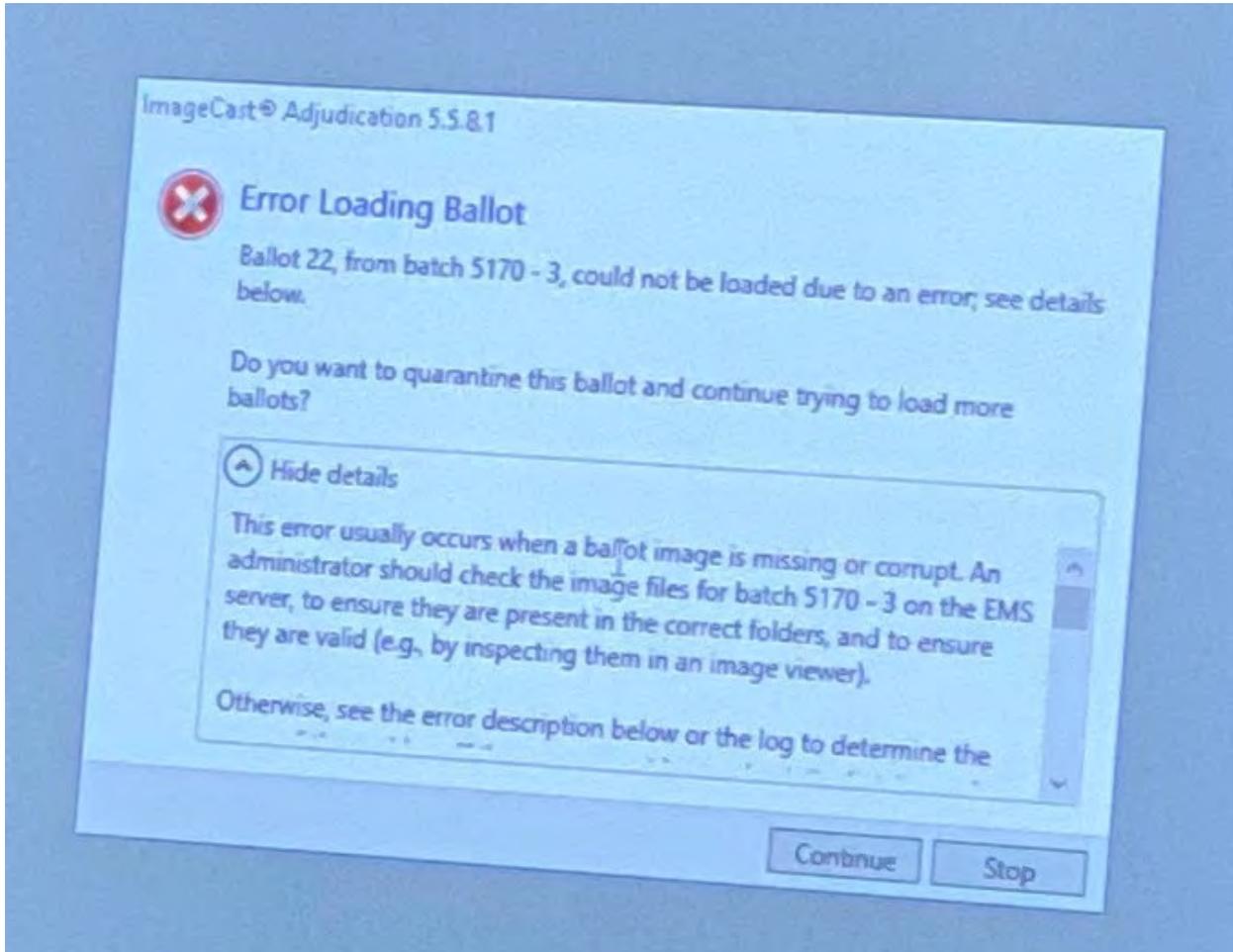


EXHIBIT G:



EXHIBIT H:



EXHIBIT I:

49

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**FULTON COUNTY**  
993-SC13

**OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT**

**OFFICIAL DEMOCRATIC PARTY PRIMARY AND  
NONPARTISAN GENERAL ELECTION RUNOFF BALLOT  
OF THE STATE OF GEORGIA  
AUGUST 11, 2020**

To vote, blacken the Oval (●) next to the candidate of your choice. To vote for a person whose name is not on the ballot, manually WRITE his or her name in the write-in section and blacken the Oval (●) next to the write-in section. If you desire to vote YES or NO for a PROPOSED QUESTION, blacken the corresponding Oval (●). Use only blue or black pen or pencil.

Do not vote for more candidates than the number allowed for each specific office. Do not cross out or erase. If you erase or make other marks on the ballot or tear the ballot, your vote may not count.

If you change your mind or make a mistake, you may return the ballot by writing "Spoiled" across the face of the ballot and return envelope. You may then mail the spoiled ballot back to your county board of registrars, and you will be issued another official absentee ballot. Alternatively, you may surrender the ballot to the poll manager of an early voting site within your county or the precinct to which you are assigned. You will then be permitted to vote a regular ballot.

*"I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law." [O.C.G.A. 21-2-284(e) and 21-2-383(e)]*

<p><b>For State Representative In the General Assembly From 65th District (Vote for One)</b></p> <p><input type="radio"/> Sharon Beasley-Teague (Incumbent)</p> <p><input checked="" type="radio"/> Mandisha A. Thomas</p>	<p><b>NONPARTISAN GENERAL ELECTION RUNOFF</b></p> <p><b>For Judge, Superior Court of the Atlanta Judicial Circuit (To Succeed Constance C. Russell) (Vote for One)</b></p> <p><input checked="" type="radio"/> Melynee Leftridge Harris</p> <p><input type="radio"/> Tamika Hrobowski-Houston</p>
<p><b>For District Attorney of the Atlanta Judicial Circuit (Vote for One)</b></p> <p><input type="radio"/> Paul Howard (Incumbent)</p> <p><input checked="" type="radio"/> Fani Willis</p>	<p><b>For Member, Fulton County School Board District 4 (Vote for One)</b></p> <p><input checked="" type="radio"/> Franchesca Warren</p> <p><input type="radio"/> Sandra C. Wright</p>
<p><b>For Sheriff (Vote for One)</b></p> <p><input checked="" type="radio"/> Theodore "Ted" Jackson (Incumbent)</p> <p><input type="radio"/> Patrick "Pat" Labat</p>	

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703

EXHIBIT J:

Copyright © 2020 Dominion Voting Inc. All Rights Reserved

FULTON COUNTY  
802-UC01A

OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT

OFFICIAL DEMOCRATIC PARTY PRIMARY AND  
NONPARTISAN GENERAL ELECTION RUNOFF BALLOT  
OF THE STATE OF GEORGIA  
AUGUST 11, 2020

To vote, blacken the Oval (●) next to the candidate of your choice. To vote for a person whose name is not on the ballot, manually WRITE his or her name in the write-in section and blacken the Oval (●) next to the write-in section. If you desire to vote YES or NO for a PROPOSED QUESTION, blacken the corresponding Oval (●). Use only blue or black pen or pencil.

Do not vote for more candidates than the number allowed for each specific office. Do not cross out or erase. If you erase or make other marks on the ballot or tear the ballot, your vote may not count.

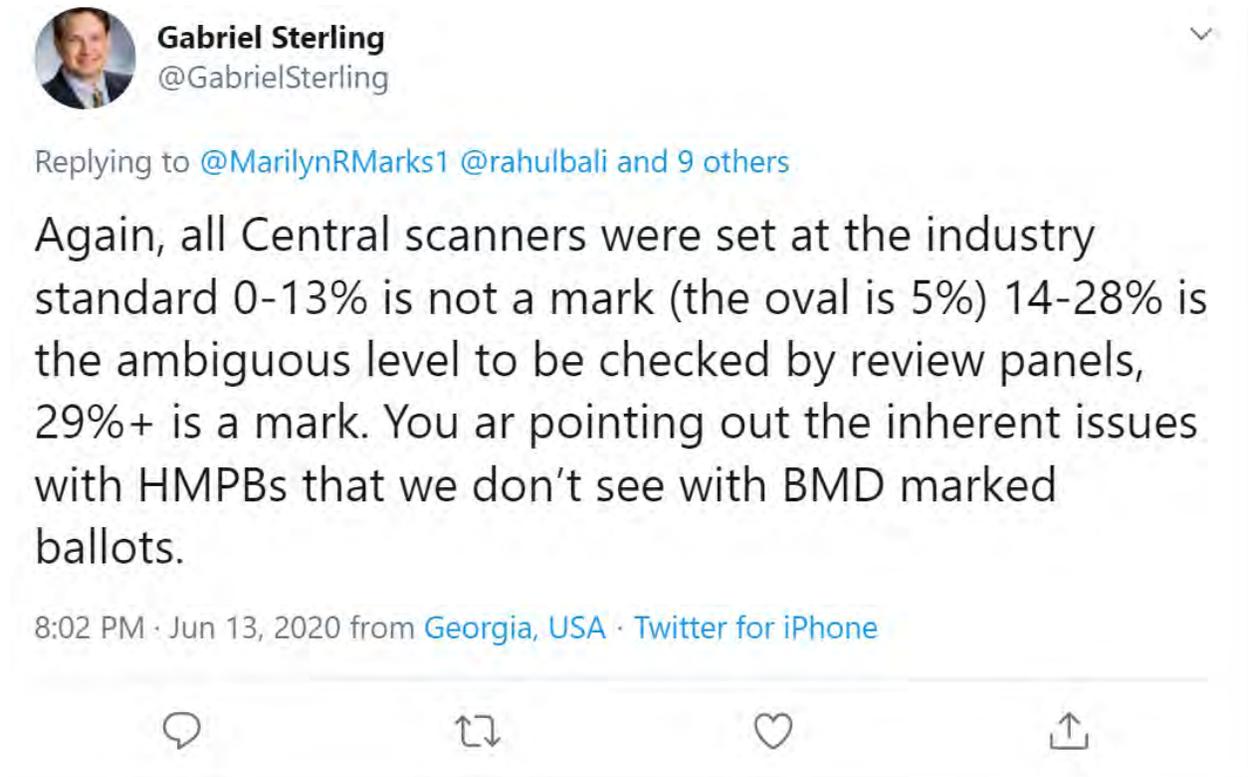
If you change your mind or make a mistake, you may return the ballot by writing "Spoiled" across the face of the ballot and return envelope. You may then mail the spoiled ballot back to your county board of registrars, and you will be issued another official absentee ballot. Alternatively, you may surrender the ballot to the poll manager of an early voting site within your county or the precinct to which you are assigned. You will then be permitted to vote a regular ballot.

*\*I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law. (O.C.G.A. 21-2-284(e) and 21-2-383(a))*

<p><b>For State Representative In the General Assembly From 65th District</b> (Vote for One)</p> <p><input checked="" type="checkbox"/> Sharon Beasley-Teague (Incumbent)</p> <p><input type="checkbox"/> Mandisha A. Thomas</p>	<p><b>NONPARTISAN GENERAL ELECTION RUNOFF</b></p> <p><b>For Judge, Superior Court of the Atlanta Judicial Circuit</b> (To Succeed Constance C. Russell) (Vote for One)</p> <p><input type="checkbox"/> Melynee Leftridge Harris</p> <p><input checked="" type="checkbox"/> Tamika Hrobowski-Houston</p>	<p><i>Outstacked on 2nd pass concluded rely Sarah couldn't first pass</i></p>
<p><b>For District Attorney of the Atlanta Judicial Circuit</b> (Vote for One)</p> <p><input type="checkbox"/> Paul Howard (Incumbent)</p> <p><input checked="" type="checkbox"/> Fani Willis</p>		
<p><b>For Sheriff</b> (Vote for One)</p> <p><input type="checkbox"/> Theodore "Ted" Jackson (Incumbent)</p> <p><input checked="" type="checkbox"/> Patrick "Pat" Labat</p>		

731

EXHIBIT K:



A screenshot of a Twitter post. At the top left is a circular profile picture of a man in a suit. To its right is the name "Gabriel Sterling" in bold, followed by the handle "@GabrielSterling". In the top right corner of the tweet area is a small downward-pointing chevron icon. Below the profile information is the text "Replying to @MarilynRMarks1 @rahulbali and 9 others". The main body of the tweet contains a paragraph of text: "Again, all Central scanners were set at the industry standard 0-13% is not a mark (the oval is 5%) 14-28% is the ambiguous level to be checked by review panels, 29%+ is a mark. You ar pointing out the inherent issues with HMPBs that we don't see with BMD marked ballots." Below the text is the timestamp "8:02 PM · Jun 13, 2020 from Georgia, USA · Twitter for iPhone". At the bottom of the tweet are four icons: a speech bubble, a retweet symbol, a heart, and a share symbol.

**Gabriel Sterling**  
@GabrielSterling

Replying to @MarilynRMarks1 @rahulbali and 9 others

Again, all Central scanners were set at the industry standard 0-13% is not a mark (the oval is 5%) 14-28% is the ambiguous level to be checked by review panels, 29%+ is a mark. You ar pointing out the inherent issues with HMPBs that we don't see with BMD marked ballots.

8:02 PM · Jun 13, 2020 from Georgia, USA · Twitter for iPhone

## EXHIBIT L:



- Create a voter card from Poll Pad for each unique ballot style within the designated Polling Location
  - Recommend labels be placed on card identifying what ballot style will be displayed by BMD once card is inserted
  - BMD removes the activation code from the Voter Card once used, therefore create the card again from Poll Pad after each use by a BMD

### D. Testing the BMD and Printer

Use a combination of Poll Worker Card with Ballot Activation Codes for the polling location, and Voter Cards created from a Poll Pad loaded with the LA/Advance Voting dataset to bring up ballots on the BMD

- Produce at least one printed ballot from each BMD assigned to the polling location
- Produce a test deck from the BMDs assigned to the polling location for each unique ballot style within the polling location. The test deck must contain at least one vote for each candidate listed in each race within the unique ballot style
  - **Example:** Ballot from BMD 1 contains a vote for only the first candidate in each race listed on Ballot Style 1, Ballot from BMD 2 contains a vote only for the second candidate in each race on Ballot Style 1, and continue through the line of devices until all candidates in all races within the unique ballot style have received a single vote
  - **If Number of BMDs outnumber the number of vote positions on the unique ballot style,** start the vote pattern over until all BMDs have produced one printed ballot
  - **If Number of unique ballot styles in the polling place is greater than 1,** once the vote pattern is complete for a unique ballot style, proceed to the next BMD in line to start the review of the next unique Ballot Style
  - **All unique ballot styles do not have to be tested on each BMD**
- Review BMD-generated Test Deck and confirm the vote content before placing in the designated Polling Place Scanner

### E. Testing the Polling Place Scanner

- Scan the BMD-generated Test Deck into the Polling Place Scanner
- Scan one blank optical scan ballot style(s) associated to the Polling Place to verify the Polling Place Scanner will recognize the ballot style in case of emergency
- Verify Scanner(s) shows a number of Ballot Cast equal to the number of ballots in the BMD-generated test deck plus the scanned blank Optical Scan ballot styles
- Firmly place the Security Key Tab in the Security Key Slot
- Touch Close Polls
- Enter the passcode
- Touch Enter
- Touch Yes
- Touch No for additional tapes (Scanner will automatically produce 3 copies of the closing tape)

EXHIBIT M:

**THE DOMINION DIFFERENCE**

### DUAL THRESHOLD TECHNOLOGY (MARGINAL MARKS)

From its early beginnings, Dominion Voting has emphasized the use of digital scanning, and continues to set the standard in digital image acquisition and analysis in the tabulation of digitally scanned ballots. When a ballot is fed into an ImageCast® tabulator - at the precinct level or centrally - a complete duplex image is created and then analyzed for tabulation by evaluating the pixel count of a voter mark. The pixel count of each mark is compared with two thresholds (which can be defined through the Election Management System) to determine what constitutes a vote. If a mark falls above the upper threshold, it's a valid vote. If a mark falls below the lower threshold, it will not be counted as a vote.

However, if a mark falls between the two thresholds (known as the "ambiguous zone"), it will be deemed as a marginal mark and the ballot will be returned to the voter for corrective action (please see diagram below). With this feature, the voter is given the ability to determine his or her intent, not an inspection or recount board after the fact, when it is too late. The chart below illustrates the Marginal Mark threshold interpretation.

Mark #	Mark Density (%)	Classification
Mark #1	~10	Not Counted
Mark #2	~25	Marginal
Mark #3	~55	Counted
Mark #4	~95	Counted

**THE DOMINION DIFFERENCE** DUAL THRESHOLD TECHNOLOGY

DOMINION VOTING

## **Exhibit 4**

**From:** Samantha Whitley <[cgganalyst2@gmail.com](mailto:cgganalyst2@gmail.com)>  
**Sent:** Wednesday, October 7, 2020 9:11 AM  
**To:** [elections@lowndescounty.com](mailto:elections@lowndescounty.com); [elections@lumpkincounty.gov](mailto:elections@lumpkincounty.gov); [tdean@mcelections.us](mailto:tdean@mcelections.us); Marion County Elections & Registrations <[marioncountyelect@gmail.com](mailto:marioncountyelect@gmail.com)>; Phyllis Wheeler <[Phyllis.Wheeler3@thomson-mcduffie.net](mailto:Phyllis.Wheeler3@thomson-mcduffie.net)>; Doll Gale <[egale@darientel.net](mailto:egale@darientel.net)>; Patty Threadgill <[p.threadgill@meriwethercountyga.gov](mailto:p.threadgill@meriwethercountyga.gov)>; Jerry C <[registrars@millercountyga.com](mailto:registrars@millercountyga.com)>; Terry Ross <[tross@mitchellcountyga.net](mailto:tross@mitchellcountyga.net)>; Kaye Warren <[kwarren@monroecoga.org](mailto:kwarren@monroecoga.org)>; [rmoxsand@hotmail.com](mailto:rmoxsand@hotmail.com); Jennifer Doran <[jdoran@morgancountyga.gov](mailto:jdoran@morgancountyga.gov)>; [vote@murraycountyga.gov](mailto:vote@murraycountyga.gov); Nancy Boren <[nboren@columbusga.org](mailto:nboren@columbusga.org)>; Angela Mantle <[amantle@co.newton.ga.us](mailto:amantle@co.newton.ga.us)>; Fran Leathers <[fleathers@oconee.ga.us](mailto:fleathers@oconee.ga.us)>; Steve McCannon <[smccannon@oglethorpecountyga.gov](mailto:smccannon@oglethorpecountyga.gov)>; Deidre Holden <[deidre.holden@paulding.gov](mailto:deidre.holden@paulding.gov)>; Adrienne Ray <[adrienne-ray@peachcounty.net](mailto:adrienne-ray@peachcounty.net)>; Julie Roberts <[jroberts@pickenscountyga.gov](mailto:jroberts@pickenscountyga.gov)>; Leah Williamson <[leah.williamson@piercecountyga.gov](mailto:leah.williamson@piercecountyga.gov)>; Sandi Chamblin <[schamblin@pikecoga.com](mailto:schamblin@pikecoga.com)>; Lee Ann George <[lgeorge@polkga.org](mailto:lgeorge@polkga.org)>; [quit.judge@gqc-ga.org](mailto:quit.judge@gqc-ga.org); [twhitmire@rabuncountyga.gov](mailto:twhitmire@rabuncountyga.gov); Todd Black <[rcc.boe@gmail.com](mailto:rcc.boe@gmail.com)>; Lynn Bailey <[lbailey@augustaga.gov](mailto:lbailey@augustaga.gov)>; [cynthia.welch@rockdalecountyga.gov](mailto:cynthia.welch@rockdalecountyga.gov); Schley Registrars <[registrars\\_schley@yahoo.com](mailto:registrars_schley@yahoo.com)>  
**Subject:** Followup - new unsealed documents and response to Harvey bulletin

## Providing the Facts—BMD Security Risks and Software Update

The events of the last 11 days have made it clearer than ever that county election officials have the duty to abandon the county-wide use of BMD touchscreen machines and adopt hand marked paper ballots because the BMD units cannot be used securely or legally---certainly making their deployment “impossible,” “impractical” or “unusable.” [Those are the conditions in the statute and new election rule that call for the superintendent’s decision to use hand marked paper ballots.] We offer more facts as your board makes this significant decision.

The 2020 General Election is underway, and last week the Secretary of State ordered election officials across the state to erase the original certified software from 34,000 Ballot Marking Devices and install new software, which was uncertified and untested.

Channel 11 in Atlanta featured the issue tonight. ([https://youtu.be/IMJU2p4\\_LDM](https://youtu.be/IMJU2p4_LDM)) We are aware that several other reporters are trying to get answers as well, without success.

Yesterday the Court unsealed critical information about the voting system changes, which is important for election officials to read. Meantime, the State is pressuring county officials to comply with their instructions, without considering the consequences.

On Monday Chris Harvey issued a bulletin titled, ***“Be Wary of False and Misleading Information re: ICX Update”***

The extra capitalization probably tipped you off to be wary of what was to follow.

If you’ve read many of the Court documents in our Curling v. Raffensperger case, you’ll be familiar with the pattern: Coalition for Good Governance presents testimony from the nation’s most respected expert witnesses, evidence, science, law, and facts. State responds with hyperbole and unsubstantiated claims, and sometimes name-calling.

The State is attempting to force you into a difficult choice –to follow their orders, and trust that nothing goes wrong, or to use your authority do follow what the statutes and election rules require, risking retribution from the State Election Board. It comes down to this - use the un-auditable BMDs with altered software, or use ballots marked by pen for in-person voting.

The experts confirm that installing hastily written software on the eve of in-person voting is akin to redesigning an aspect of an airplane as it is about to take off.

Here’s what’s wrong with assertions made in the Monday’s Bulletin from Chris Harvey:

**Fact:** EAC certification requires pre-approval of de minimis changes before they are implemented. The vendor declaring software error-correcting changes “de minimis” does not make it so. When you received the new software on Sept 30, with, instructions to immediately wipe your BMDs clean and install it, the test lab had NOT issued its report (dated Oct 2) and Dominion had not submitted the proposed “de minimis” change to the EAC. We can find no evidence that the proposed change has been submitted to the EAC for certification, despite the Secretary’s commitment to the Court that it had been done.

**Fact:** the lab that tested the software change did not test to be sure it did not “cause any other issues with the operation of the ICX.”

**Fact:** When you were asked to install the software on 9/30, the updated version of the ICX touchscreen software (version 5.5.10.32) was NOT certified by the Secretary of State. It was technically certified (but without conducting the mandated prerequisite tests) yesterday, October 5. This is risk for your voters and their candidates that the county boards simply cannot tolerate.

**Fact:** The Secretary made no mention that state law requires counties to conduct acceptance testing after installing modified software, and before installing the November programming and conducting LAT, leaving the counties to deal with the consequences of the failure to do so.

With regards to the shocking assertion that the Secretary of State helped draft an intended loophole in the law to make required EAC system certification meaningless – it boggles the imagination. He claims that while the General Assembly ordered that only EAC software be purchased, he can change it behind closed doors to do whatever he wants. The Secretary is shamelessly defending his “election security be damned” policies, despite the his disingenuous “Secure the Vote” logo.

Don’t take our word for any of this. The transcript of the October 1 court conference was just unsealed, along with new declarations from experts Alex Halderman, Kevin Skoglund, and Harri Hursti, plus the Pro V&V test lab letter. We attached them for you to read the grave concerns of the nationally respected experts along with the transcript from the sealed proceedings. The State has been unable to engage experts who support their use of BMDs or this software. Instead they only have (often inaccurate) testimony from vendors.

The SOS wants you to bet your voters’ ballots, and your counties’ candidates’ campaigns, on the high-risk notion that the software change solves the original problem, with no unintended consequences, including the introduction of more errors or malware. Also he wants you to bet that losing candidates won’t challenge the election on the basis of the host of BMD risks, problems and legal non-compliance from ballot secrecy to failing software that may well hide its defects.

The experts are clear: if you use the altered BMDs, your elections will not be defensible.

The only sound choice is to draw a line in the sand and strictly comply with the law. The law holds the County Superintendent responsible for the conduct of elections. And when things go wrong, and the lawsuits come, the Secretary of State **will** blame the counties.

The November 2020 election is consequential. All eyes are on election administrators. And on Georgia. We urge you to put voters first, set aside the problematic BMDs, and use ballots marked by pen for in-person voting as authorized by O.C.G.A 21-2-281 and SEB Rule 183-1-12-.11(2)(c)-(d)—the only legal path before you for conducting an accountable and constitutionally compliant election.

As always, we are happy to hear from you to discuss this further.

Marilyn Marks

Executive Director

Coalition for Good Governance

[Marilyn@USCGG.org](mailto:Marilyn@USCGG.org)

704 292 9802

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Samantha Whitley

Research Analyst

[Coalition for Good Governance](http://Coalition for Good Governance)

Cell: 704 763 8106

[cgganalyst2@gmail.com](mailto:cgganalyst2@gmail.com)

# Exhibit A



## OFFICIAL ELECTION BULLETIN

October 5, 2020

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**TO: County Election Officials and County Registrars**

**FROM: Chris Harvey, Elections Division Director**

**RE: Be Wary of False and Misleading Information re: ICX Update**

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You may have received correspondence today from activists for hand-marked paper ballots and their attorney. These activists have been suing the state and Georgia counties for years because they disagree with the decision of the Georgia General Assembly to use electronic ballot-marking devices instead of hand-marked paper ballots. Because their preferred policy was not enacted, they have tried to force their preferred policy on the state through litigation. The latest correspondence makes false and misleading allegations regarding the recent update to the ICX (touchscreen) component of Georgia's voting system.

As you know, an issue was discovered during Logic and Accuracy testing that, in certain rare circumstances, caused the second column of candidates in the U.S. Senate Special Election to not correctly display on the touchscreen. The issue was caught prior to any in-person voting due to excellent L&A testing by county election officials. Soon after the issue was brought to our attention, Dominion diagnosed the issue and began to work on a solution.

Dominion's solution required a *de minimis* software update to the touchscreen. That update was tested at Dominion, tested again at the state's EAC-certified test lab, and tested again at the Center for Election Systems to determine that it resolved the display issue and did not cause any other issues with the operation of the ICX. The state only distributed the update after verifying the test results with the EAC-certified test lab and acceptance testing the update at CES prior to distribution to counties. This is the normal process to follow for a state certification update. The updated version of the ICX touchscreen software (Version 5.5.10.32) has been certified by the Secretary of State as safe for use in Georgia's elections. You should continue to install the update as instructed

by CES. You should also confirm both the confidential hash value and the version number on each ICX BMD touchscreen during L&A testing.

The correspondence you may have received today also misstates Georgia law when it says that the update has to first be certified by the EAC. Georgia law required the *initial* system procured to be EAC certified, but it does not require that all updates first be certified by the EAC. The law was drafted that way intentionally, with input from our office, to ensure that the state did not have to wait on the EAC when important updates were needed.<sup>1</sup> Even with these provisions of Georgia law, Dominion advises that it has already submitted the update to the EAC for approval as a *de minimis* change, as recommended by the EAC-certified test lab.

Thank you to the counties whose diligent L&A testing allowed this issue to be identified and resolved quickly. And thank you to all county election officials for your continued hard work in this difficult year for election administration.

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<sup>1</sup> You probably remember that the EAC was without a quorum for two years, and therefore unable to take any action.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,  
Plaintiffs,**

**v.**

**BRAD RAFFENSPERGER, ET AL.,  
Defendants.**

**DECLARATION OF  
J. ALEX HALDERMAN**

**Civil Action No. 1:17-CV-2989-AT**

Pursuant to 28 U.S.C. § 1746, J. ALEX HALDERMAN declares under penalty of perjury that the following is true and correct:

1. I hereby incorporate my previous declarations as if fully stated herein. I have personal knowledge of the facts in this declaration and, if called to testify as a witness, I would testify under oath to these facts.

2. I have reviewed the “Letter Report” prepared by Pro V&V concerning version 5.5.10.32 of the Dominion BMD software (Dkt. No. 939). The report makes clear that Pro V&V performed only cursory testing of this new software. The company did not attempt to independently verify the cause of the ballot display problem, nor did it adequately verify that the changes are an effective solution. Pro

V&V also appears to have made no effort to test whether the changes create new problems that impact the reliability, accuracy, or security of the BMD system.

3. This superficial testing is deeply concerning, because Pro V&V’s characterization of the source code changes indicates that they are considerably more complicated than what Dr. Coomer previously testified was the threshold for considering a change to be “de minimis”: “literally a one-line configuration change in some config file that would have no material impact on the system” (Dkt. No. 905 at 102:18-103:14). Instead, Pro V&V states that Dominion made two kinds of changes and modified lines in five different source code files. In general, changes that affect more lines of source code or more source code files are riskier than smaller change, as there is a greater likelihood that they will have unintended side-effects. Changes to source code files, as Dominion made here, also tend to be riskier than changes to “config[uration] files.”

4. The nature of the changes gives me further reason for concern. According to Pro V&V, one change involved changing a “variable declaration” to modify the “type” of a variable. A variable’s type determines both what kind of data it holds and how operations on it function. Although changing a variable declaration often involves differences in only one line of source code, the effect is a change to how the program operates everywhere the variable is used, which could involve

many parts of the source code and span multiple files. For this reason, changing a variable's type frequently introduces new bugs that are difficult to detect. I have often experienced such problems while writing software myself.

5. It is not possible to evaluate the effects of such a change by analyzing only the lines of source code that have been modified. Yet Pro V&V's description of its "source code review" is consistent with having done nothing more. The company could have engaged an expert in the specific programming language to analyze the quality of the changes and look for subtle side-effects throughout the code, but it appears that they did not.

6. Instead, the report states that "Pro V&V conducted functional regression testing." Regression testing has a well-defined meaning in computer science: checking that a change to a system does not break its existing functionality. After a change to a voting system like this, rigorous regression testing is essential for ensuring that the system's reliability, accuracy, and security are not degraded. Yet the testing Pro V&V describes performing is not regression testing at all. Instead, the company focused entirely on checking whether the ballot display problem was fixed and makes no mention of testing any other functionality whatsoever.

7. Even for this limited purpose, Pro V&V’s testing methodology is inadequate. They first tried to observe the error while using the current version of the BMD software, 5.5.10.30. They managed to trigger it using an artificial test ballot but failed to reproduce it using the real ballot design from Douglas County (where the problem was observed during L&A testing) even after 400 attempts.<sup>1</sup> They then performed the same checks using the 5.5.10.32 software. Pro V&V’s basis for concluding that the new software corrects the problem is that they were unable to trigger the error with either ballot after 400 tries. Yet this ignores the obvious possibility that the error might simply be eluding them, as it did with the Douglas County ballot under version 5.5.10.30.

8. That is the full extent of the testing described in Pro V&V’s report. They did not test that the other functionalities of the machine are not impacted by the change. They did not test that the BMD selected and printed results accurately, nor did they test that security was unaffected. Tests only answer the questions you ask. Here—regardless of what Pro V&V intended—the only questions asked were: “Is the stated error observed when using the old software?” and “Is the stated error observed when using the new software?” They did not ask, “Is Dominion correct

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<sup>1</sup> It is curious that Pro V&V was unable to reproduce the problem experienced in Douglas County, but they appear not to have made any effort to investigate this.

about the cause of the problem?” They did not ask, “Does this change absolutely and completely fix the issue?” Most importantly, they never asked or answered the key question for determining whether the change is de minimis, “Will these modifications have any impact on the rest of the voting system’s functionality?”

9. Even if the change does correct the bug without introducing new problems, it still represents a significant security risk, because of the possibility that attackers could hijack the replacement software to spread malware to Georgia’s BMDs.

10. Defendants say they will guard against this using hash comparisons, but the hash comparison process they have described is inadequate in several ways.<sup>2</sup> As I have previously explained, examining the hash that the BMD displays on screen provides no security, because malware on the BMD could be programmed to calculate and display the expected hash. Although the State now says it will perform some acceptance testing at a central facility, such testing has limited value at best. Even if performed correctly—by securely computing the hash of the software using a device that is assuredly not affected by malware—acceptance testing can only

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<sup>2</sup> The Pro V&V report lists the hash of a file named ICX.iso, which presumably contains the APK as well as other files. Without access to the ICX.iso file, I cannot confirm whether that the software purportedly being installed on the BMDs is the same as the software Pro V&V built and tested.

confirm that the new software was not modified between Pro V&V and the test facility. It does not ensure that the new software actually matches Dominion’s source code or that it will not be modified during later distribution to counties or installation on the tens of thousands of BMDs statewide.

11. The report mentions that Pro V&V performed a “trusted build” of the new software. This refers to the process by which Pro V&V compiled the source code to produce the APK file for distribution and installation throughout Georgia. The result of compiling source code, often called a software “binary,” is in a non-human readable format, and it is not possible in general to confirm that a binary faithfully matches source code from which it was purportedly compiled. As a result, if Pro V&V were to modify the BMD software to introduce malicious functionality—or if attackers who infiltrated their systems were to do so<sup>3</sup>—there

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<sup>3</sup> Notably, Pro V&V’s website (<http://www.provandv.com/>) does not support HTTPS encryption, and modern web browsers warn users that it is not secure, as shown below. In my experience, organizations that fail to support HTTPS are likely to be ignoring other security best practices too, which increases the likelihood of attackers successfully infiltrating their systems.



would be no readily available way for the State or Dominion to detect the change. The State’s election security experts themselves have emphasized the risk of election manipulation by so-called “insiders.”

12. Defendants state that Pro V&V has submitted the report to the EAC to seek approval for a de minimis change. The EAC’s de minimis software change process was introduced less than a year ago, and, as far as I am aware, it has only been invoked on one or two occasions so far. In my opinion, the EAC cannot make an informed determination as to whether the new Dominion software meets the de minimis standard based on the information contained in Pro V&V’s report, and I sincerely hope the agency demands more rigorous testing before allowing the software to be used under its certification guidelines.

I declare under penalty of the perjury laws of the State of Georgia and the United States that the foregoing is true and correct and that this declaration was executed this 3rd day of October, 2020 in Ann Arbor, Michigan.

  
\_\_\_\_\_  
J. ALEX HALDERMAN

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<p><b>DONNA CURLING, et al.</b></p> <p><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>BRAD RAFFENSPERGER, et al.</b></p> <p><b>Defendant.</b></p>	<p>)</p>	<p><b>CIVIL ACTION FILE NO.: 1:17- cv-2989-AT</b></p>
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**SUPPLEMENTAL DECLARATION OF KEVIN SKOGLUND**

**KEVIN SKOGLUND** declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I hereby incorporate my previous declarations as if fully stated herein. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.
2. I have read the Letter Report regarding “Dominion Voting Systems ICX Version 5.5.10.32” from Pro V&V to Michael Barnes dated October 2, 2020 (“Letter Report”).
3. The Letter Report describes Pro V&V’s evaluation of a proposed code change by Dominion to address a flaw in the current ICX software related to reliably displaying two columns of candidates.

4. Pro V&V's evaluation is inadequate to verify Dominion's opinion of the root cause of the error, Dominion's proposed fix for the error, or whether the nature of the proposed change is considered "de minimis" as defined by the U.S. Election Assistance Commission ("EAC").

### **High Impact Changes**

5. The Letter Report describes changes that are potentially high impact.
6. I expected the change to be limited to one or two lines in a configuration file based its description in the hearings. A configuration file change would provide a new value for the existing code to use.
7. The impact of changing a value being *used* by code is far less than the impact of changing the code *itself*, in the same way that changing the furniture in a house has less impact than moving walls. The value may be different but it will travel the same pathways through the code during operation. The structure and governing rules are unchanged.
8. Instead, the Letter Report describes two sets of changes to the source code *itself* in a total of five files. It does not quantify the number of lines changed, but it must be at least five. These are not merely configuration changes. Variable and function definitions in the source code are changed.

9. The changes described may sound minor, for example changing a variable from an integer (e.g., 123) to a string (e.g., "123"), but I would give them no less consideration. I have broken plenty of code making similar changes.
10. One reason is that any code elsewhere in the program that uses a changed variable or function could be impacted. Another part of the code may act correctly when given 123 but act incorrectly when given "123". The first can have numbers added and subtracted, while the second can be searched for a specific character, but the reverse is often not true.
11. The Letter Report describes a source code review limited to the changed lines of source code. The code comparison performed is similar to reviewing the changed text in a legal blackline. It does not appear that Pro V&V looked throughout the source code for other interactions which could prove problematic.
12. The Letter Report states that Dominion believes the problem is a collision of resource identifiers between their software and the underlying operating system. I think it's a fair analogy to say that Dominion's software and the operating system sometimes try to park in the same parking space.
13. In my experience, an abundance of caution is necessary when the operating system and software running on it are working in a shared

space and not playing well together. A misstep could create additional problems in their interactions and any change should be carefully considered and well tested.

14. The Letter Report does not describe any review of the proposed software's interaction with the operating system. It does not mention the involvement of any expert on the operating system or an opinion regarding colliding resource identifiers—the reported cause and the target of the resolution. This is a concerning oversight.

#### **Inadequate Testing of the Root Cause of the Error**

15. Pro V&V was unable to reliably reproduce the error with the current version of the software, ICX 5.5.10.30. In fact, they reported producing the error only once out of 810 total attempts.
16. Pro V&V appears to have taken Dominion's word for the root cause of the error. The Letter Report does not mention any independent investigation to determine the cause.
17. The description of Pro V&V's first test, using a sample election database, begins with a procedure likely suggested by Dominion—toggling between font sizes to trigger the error. When the 10th toggle produced the error, Pro V&V considered the root cause to be confirmed. That is in itself not unreasonable.

18. However, the same test procedure was later performed using an actual election database, from Douglas County where logic and accuracy testing had revealed the error previously, and 400 toggles and several reboots could not produce the error. Of two test cases that should have both failed, one failed and one did not.
19. Despite these conflicting test results, Pro V&V did not investigate further. They did not consider what might be different between these two test cases to cause contradictory results. They did not consider if the sample election database at the center of their tests was a poor substitute for a real database. They did not consider that the root cause could be different, or that toggling the font size might not be a good trigger for the error.
20. Pro V&V wrote the Letter Report without having confirmed that Dominion's opinion of the root cause was correct.

### **Inadequate Testing of the Proposed Fix for the Error**

21. It is impossible to verify that a proposed change sufficiently addresses an error if the root cause is unconfirmed. A change may only appear to fix the error due to coincidence. Correlation is not causation. A change may incompletely fix the error or create subtle side effects.
22. I have learned this lesson many times while fixing software bugs during my 23 years as a programmer, and I teach that lesson in a course on

software testing. I have also had the practical experience of taking a car to the auto mechanic over and over as they try different solutions for an uncertain cause.

23. Pro V&V's basis for determining that the error was fully resolved by the proposed change, ICX 5.5.10.32, was that the error was not observed after 400 toggles and several reboots.

24. This is not an ideal test case because "absence of evidence is not evidence of absence." The conclusion requires an assumption that subsequent attempts would not surface the error. Given that the first test required only 10 toggles to trigger the error, after 400 toggles and several reboots I might have made a similar assumption.

25. However, when Pro V&V performed the subsequent test on the Douglas County database and also could not observe the anticipated error after 400 toggles and several reboots, they did not revisit their conclusion about ICX 5.5.10.32. They should have.

26. They did not consider that the error could be eluding them in ICX 5.5.10.32 as it was with ICX 5.5.10.30 using Douglas County's database. They did not consider that their assumption that 400 toggles was enough to surface the error was wrong. They did not consider that the proposed change might be an insufficient remedy for the problem.

27. To be clear, I am not suggesting that Dominion’s opinion of the root cause is incorrect or that Dominion’s proposed change does not fix it. I am saying that testing was insufficient to verify either one. Pro V&V showed no skepticism about their findings when the results created a logical fallacy.
28. Even more surprising, Pro V&V had a real election database from Douglas County in hand, yet they did not test it with ICX 5.5.10.32. The stated purpose of this eleventh-hour software change was to resolve this error for the current election database, rather than create and distribute a new one. The test lab hired to confirm that the new software will work with the current database in a matter of days did not even check.
29. Pro V&V wrote the Letter Report without having confirmed that Dominion’s proposed fix correctly addressed the error, neither on the sample election database nor on the election county database counties are planning to use.

### **Inadequate Testing of “De Minimis”**

30. The EAC defines a de minimis change as:

A de minimis change is a change to a certified voting system’s hardware, software, TDP, or data, the nature of which will not materially alter the system’s reliability, functionality, capability, or

operation. Under no circumstances shall a change be considered de minimis if it has reasonable and identifiable potential to impact the system’s performance and compliance with the applicable voting Standard.<sup>1</sup>

31. The Letter Report does not describe any testing to demonstrate that the nature of the proposed change does not “materially alter the system’s reliability, functionality, capability, or operation” and does not have a “reasonable and identifiable potential to impact the system’s performance and compliance with the applicable voting Standard.”

32. Pro V&V ignored these critical, foundational requirements in their testing.

33. Pro V&V did not test whether *any* other functionalities of the device are impacted. They did not test whether the new build of the software correctly selects candidates in a series of contests and accurately prints them on a ballot. They did not test other screens to ensure that a fix to the two-column layout did not break another. They did not check if it was still possible to change languages or screen contrast, or whether the audio ballot, used by voters with disabilities, was still working. They did not test whether the device’s security was impacted.

---

<sup>1</sup> “Testing and Certification Program Manual,” Section 3.4.2, available at: [https://www.eac.gov/sites/default/files/eac\\_assets/1/6/Cert\\_Manual\\_7\\_8\\_15\\_FINAL.pdf](https://www.eac.gov/sites/default/files/eac_assets/1/6/Cert_Manual_7_8_15_FINAL.pdf)

34. Pro V&V did not answer the litmus test for de minimis. Does the change materially alter the system's reliability, functionality, capability, or operation?

35. The Letter Report describes "functional regression testing," which might help answer this question, but it misuses the term.

36. Regression testing is a "re-running functional and non-functional tests to ensure that previously developed and tested software still performs after a change."<sup>2</sup> It is so named because a regression is a step backwards in the development of software, the proverbial "two steps forward, one step back."

37. Pro V&V examined the rendering of the two-column layout in their tests. Regression testing would validate that *other* parts of the software still perform correctly.

38. Regardless of Pro V&V's determination, this change is not a de minimis change until the EAC reviews it and approves in writing. "The EAC has sole authority to determine whether any VSTL endorsed change constitutes a de minimis change under this section. The EAC will inform the Manufacturer and VSTL of its determination in writing."<sup>3</sup>

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<sup>2</sup> "Regression Testing", Wikipedia, available at [https://en.wikipedia.org/wiki/Regression\\_testing](https://en.wikipedia.org/wiki/Regression_testing)

<sup>3</sup> "Testing and Certification Program Manual," Section 3.4.3

39. The EAC prohibited *any* software changes to be considered de minimis until recently out of concern that even small changes might alter the system functionality, due to potential ripple effects I described earlier.

40. Given that the process is new, I expect that the EAC will scrutinize any request for a software de minimis change carefully. I expect the EAC to ask for more rigorous testing and reporting than the Letter Report.

### **Concerns about the Time Remaining for Review and Testing**

41. In my previous declaration I expressed concern about a software change at this late date and fear that time pressures may result in less thorough review and testing of the proposed change.

42. The Letter Report is a wholly inadequate review. Its tests are incomplete.

43. The EAC has not yet begun to review this proposed software change.

Using the revised software without the EAC's approval will void the federal certification. EAC approval must be granted in the next five business days to allow early voting to commence on the following Monday.

44. Yet the uncertified software has been distributed and counties have been instructed to install it on over 30,000 ImageCast X devices and to begin testing them.

45. Last week, I heard Michael Barnes describe the current procedures for logic and accuracy testing. The procedures do not test every device, for every ballot style, for every candidate. The procedures do not include any additional testing related to this error. This problem and others could pass through logic and accuracy testing undetected.

Executed on this date, October 4, 2020.

  
\_\_\_\_\_  
Kevin Skoglund

## DECLARATION OF HARRI HURSTI

Pursuant to 28 U.S.C. § 1746, HARRI HURSTI declares under penalty of perjury that the following is true and correct:

1. This declaration supplements my prior declarations (Docs. 680-1, 800-2, 809-3, 860-1, 877, and 923-2) and I stand by the statements in those declarations.
2. I arrived at the Fulton County Election Preparation Center (“EPC”) on October 1, 2020 around 3:45pm. I was there in my capacity as an expert engaged by the Coalition Plaintiffs to conduct a Rule 34 inspection. (Exhibit 1) . I was accompanied during part of my visit by Marilyn Marks of Coalition for Good Governance.
3. My goal for this observation and inspection was to review the ongoing updating of the Dominion software for Fulton County ballot marking device (“BMD”) touchscreen units to ICX software version 5.5.10.32. It is my understanding that Fulton has an inventory of over 3,300 BMD touchscreens, all of which are to be updated with this software. A number of the machines were in the EPC warehouse and were staged to be updated or marked after the update had been completed.
4. Upon our arrival, Ms. Marks and I were informed by Derrick Gilstrap, the manager of EPC, that all of the people working to upgrade the devices were

Dominion technicians. Mr. Gilstrap stated that he did not feel comfortable installing a last-minute software change, and did not want Fulton County staff to be responsible for installing it. He told us that he told Dominion to conduct this operation, prior to having his staff install the November 2020 election programming and Logic and Accuracy testing (“LAT”).

5. Mr. Gilstrap told us that after the software update step that LAT would immediately begin, and made no mention of Acceptance Testing that should occur prior to LAT.

6. Acceptance Testing is an almost universally mandated basic test of the hardware and software when a change or repair to either has been made before counties are permitted to install election programming and deploy voting system components. Acceptance testing must be performed on each unit, and cannot be performed on a sample basis. Fulton’s failure to conduct such testing should be a serious warning sign of further recklessness in the installation of inadequately tested software.

7. Mr. Gilstrap stated that Dominion had started the software update project with four workers, but soon realized that the task would take extended periods of time. Mr. Gilstrap stated that Dominion had accordingly increased the workforce to 14 and expected the installation work to be completed on Monday, October 5.

8. The new software was contained on USB sticks. However, there was no inventory management present for the USB sticks. There also was no inventory control for the technician authorization smartcards, which provide access to the controls of the touchscreen. Workers did not sign or otherwise document when they took possession or returned the technician cards and software upgrade USB sticks. Those items were in an open plastic bag which was sometimes placed on table, and sometimes carried around the working area by the manager. Anyone was able to pick up a USB stick or drop them there freely, permitting the easy substitution of USB sticks containing malware or to leave the premises with copies of the software update.

9. Some workers worked one BMD touchscreen machine at the time, while others simultaneously worked on 2 or 3 machines. There was no accountability for how many sticks and technician smart-cards each worker had in their possession. Clearly, the USB sticks were not considered to be security sensitive items at all.

10. Some of the workers had instructions for software update visible in their pockets, while others did not seem to have the instructions readily available. One worker showed me the instructions, but it was different from the instructions I had seen that were sent to the counties. None of the technicians that I observed were following the instructions as they installed the new software.

11. Technicians were not following a common process, and they all made their own variations on the workflow. In my experience, this can negatively affect the quality and reliability of the software installation. Many workers were texting and making phone calls while working and not focusing on their work. As a result, I observed repeated human errors such as skipping steps of the process.

12. Some workers consistently took an extra step to destroy previous application data before uninstalling the old version of the software. Uninstalling software packages results in destroying application data, but that is known to be unreliable in old versions of Android. The step they took is ensuring, among other things, destruction of forensic evidence of Fulton's use of the equipment in prior elections.

13. To avoid destruction of all forensic evidence from the BMDs, a number of images of the electronic data contained on the BMDs should be taken from a sample of them before installation of the new software.

14. As part of the updating process, the workers are directed to enable the "Install from Unknown Sources" setting. This is an insecure mode because it turns off the operating system verification of trusted sources and therefore allows software from any source to be installed. During the 45 minutes of my observation, I observed that many units had been left in insecure mode. I estimate 15% of the units were already in the insecure mode when the work began on them, having

been left that way during the last software installations, or because of interim tampering.

15. As described before, most workers I observed were not focusing on the work they were tasked to do, and as result, they were accidentally skipping steps. I observed that, as result of these human errors, the units were erroneously left in the insecure mode either by the workers skipping the step to place the machine into the secure mode after upgrade, or doing the step at such a fast pace that the system did not register the touch to toggle the switch and the worker did not stop to verify the action.

16. The State Defendants and Dominion have repeatedly overstated the value of their hash test, but my observation showed that they themselves are not relying on such test as a control measure. Dominion workers are not even checking the hash value. I deliberately followed many workers when they processed the units. During over 45 minutes of observation, none of the workers took the step of verifying the hash value. Some workers did not realize that the upgrade had failed and the mistake was only caught by persons who were closing the cabinets when and if they looked at the software version numbers before closing the doors.

17. I also observed random errors that were not caused by humans. For example, software sometimes refused to uninstall because the uninstall button was

disabled, or the installation silently failed. The technicians treated devices with issues by simply rebooting them. Technicians made no effort to diagnose or document the cause of the issues. The casual nature of dealing with the irregularities caused me to conclude that these abnormal incidents are commonplace.

18. Based on my observations of the software update, I would anticipate that these machines are likely to behave inconsistently in the polling place, depending on a number of factors including the care taken in the software installation process.

19. The current abbreviated LAT protocol adopted by Fulton County and the State cannot be relied on to identify problems created by the new software or its installation (or other problems with programming and configuration unrelated to the new software). Even if counties were conducting the full LAT required, it is but one step that is needed, and is quite insufficient for ensuring the reliability of the BMD touchscreens—which at the end of the day, simply cannot be done.

20. In my professional opinion, the methods and processes of adopting and installing this software change is completely unacceptable. The methods and processes adopted by Dominion and Fulton County do not meet national standards for managing voting system technical problems and remedies, and should not be accepted for use in a public election under any circumstances.

21. It is important that full details of the software change made be available for analysis and testing to determine the potential impact of the changes. I concur with Dr. Halderman's opinion in Paragraph 8 of his September 28, 2020 declaration (Doc. 923-1), in which he states that if the problem is as limited as described by Dominion, it could have been addressed with far less risk by the State without making an uncertified, untested software change.

22. In my opinion, the installation of the last-minute software change adds intolerable risk to the upcoming election, and the simple solution of removing the BMD units from the process and adopting hand marked paper ballots is imperative.

23. I note that I wanted to document the upgrading process, but Mr. Gilstrap told me that I was prohibited from taking photographs or video. I showed him the Rule 34 inspection document and pointed out the paragraph permitting photographing. He read that carefully but told me that he needed to clear that with his superiors before I could start taking pictures. He never cleared this with his superiors while we were there.

I declare under penalty of the perjury laws of the State of Georgia and the United States that the foregoing is true and correct and that this declaration was executed this 4<sup>th</sup> day of October, 2020 in Atlanta, Georgia.

  
\_\_\_\_\_  
Harri Hursti

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DONNA CURLING, *et al.*

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:17-cv-2989-AT

**STATE DEFENDANTS' NOTICE OF FILING  
REDACTED VOTING SYSTEM TEST LABORATORY REPORT**

Pursuant to the Court's September 30, 2020 docket entry, and as discussed in Defendants' Notice of Filing Regarding the Court's Request for Documentation, [Doc. 929], State Defendants provide notice of filing a redacted copy of the Voting System Test Laboratory Report, attached hereto as **Exhibit 1**.

Respectfully submitted this 5th day of October 2020,

*/s/ Carey Miller*

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Telephone: 678-336-7249

*Counsel for State Defendants*

**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing **STATE DEFENDANTS' NOTICE OF FILING REDACTED VOTING SYSTEM TEST LABORATORY REPORT** has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Carey Miller  
Carey Miller

# Exhibit 1

# Letter Report



To: Michael Barnes  
From: Wendy Owens - Pro V&V, Inc.  
CC: Jack Cobb - Pro V&V, Inc.  
Date: October 02, 2020  
Subject: Dominion Voting Systems ICX Version 5.5.10.32

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Dear Mr. Barnes:

Pro V&V is providing this letter to report the results of the evaluation effort on the ICX version 5.5.10.32. An examination was performed to confirm that this version of the ICX software corrected the issue with displaying of two column contests found in ICX version 5.5.10.30.

## Background

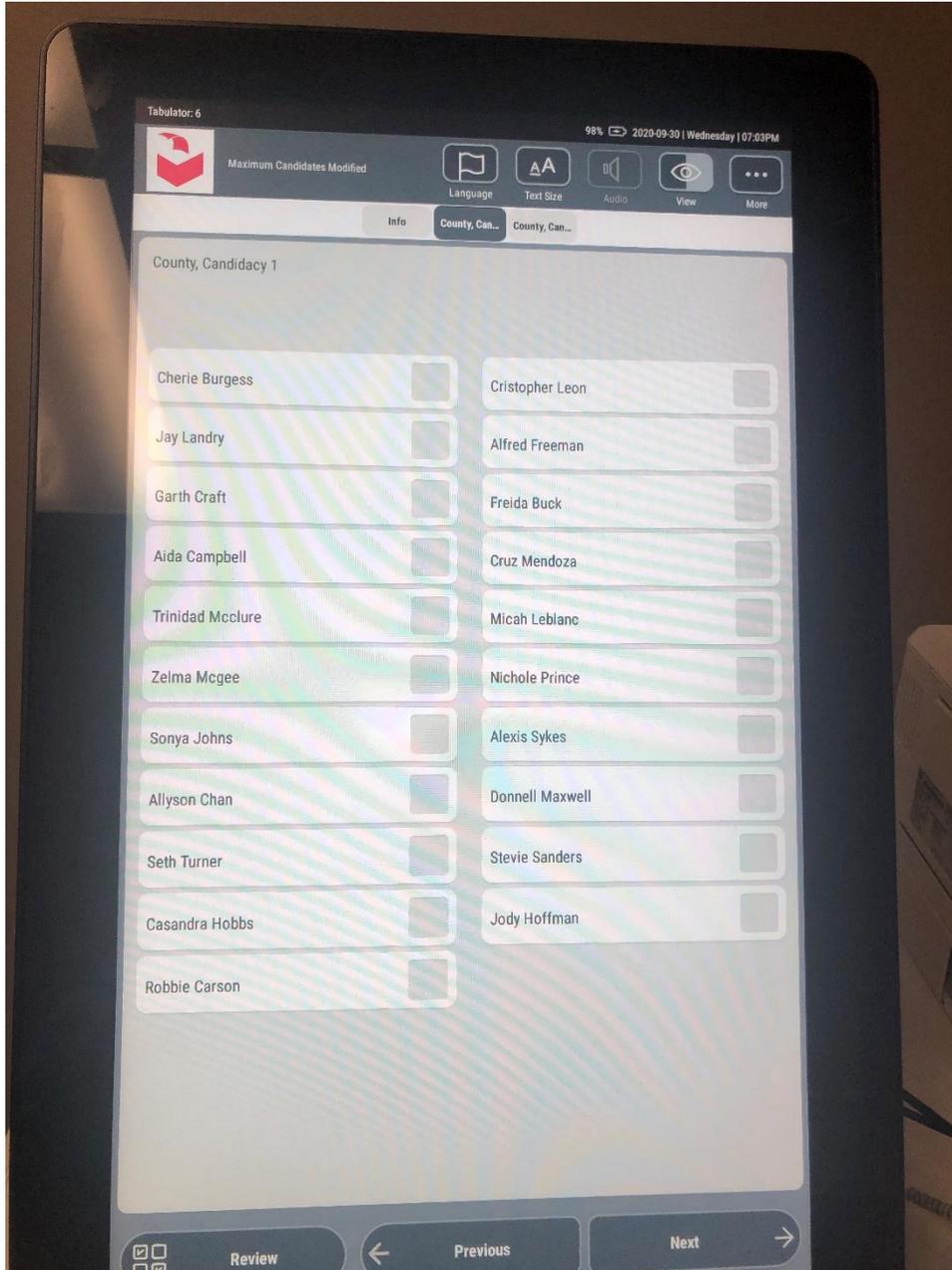
Pro V&V was contacted by Georgia Secretary of State Office and Dominion Voting System to analyze an issue that was discovered in Georgia's Election Logic and Accuracy Testing (L&A testing) for the 2020 General Election. It was discovered during L&A testing that a display error, under certain conditions, would occur where the second column of candidates would not be displayed properly. Dominion Voting Systems researched the issue and found that a static container identifier was causing a collision with an Android automated process for assigning container identifiers. This collision caused the display for the second column candidates not to be rendered on the screen properly and occurred so infrequently that it appeared intermittent.

## Test Summary

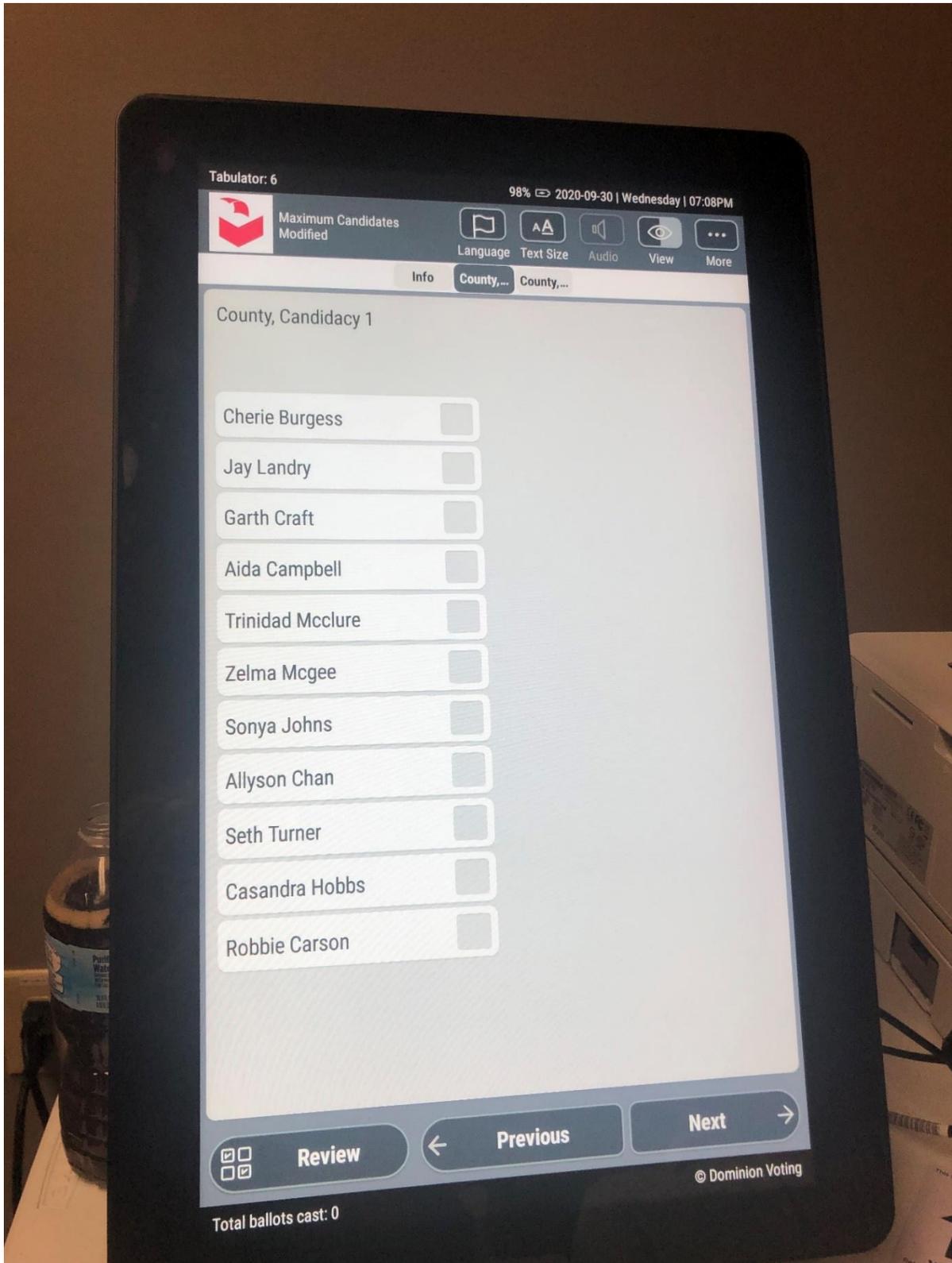
Dominion Voting Systems submitted source code for ICX version 5.5.10.32 to Pro V&V. Pro V&V then conducted a comparative source code review comparing ICX version 5.5.10.32 to the VSTL-provided previous ICX version 5.5.10.30. The source code review found two source code changes in a total of five files. One change was a variable declaration change the variable type to a string from an integer and changing the assignment from a static number to assigning another variable. The other update was to change a function call passing a "wrapper tag" instead of a "wrapper ID". All other source code remained constant. After conducting the source code review, a Trusted Build process was conducted. The Product from this build is the ICX.iso file. The SHA-256 hash for this file is as follows:

ICX.iso - [REDACTED]

Pro V&V conducted functional regression testing using version 5.5.10.30 and 5.5.10.32. An ICX machine was loaded with 5.5.10.30 and an election containing two 2 column contests. Pro V&V toggled between “Normal” and “Big” font sizes. Approximately on the 10<sup>th</sup> toggle the column disappeared as presented in Photograph 1.and 2 below:



Photograph 1: Max Candidate Election Contest One



Photograph 2: Second column was not rendered.

After reproducing the issue. The same device was load with the ICX version 5.5.10.32 and the same election. Pro V&V toggled 50 times then rebooted, 100 times then rebooted and finally 250 times. Pro V&V never observed the issue.

Pro V&V requested Douglas County Georgia's 2020 General Election database that had produced the issue, but could not reproduce the issue for the ICX software version 5.5.10.30. Even though Pro V&V could not reproduce the issue, Pro V&V ran the same test as the test election toggling 50 times then rebooted, 100 times then rebooted and finally 250 times. Pro V&V never observed the issue.

### Conclusion

Based on the review of the source code and nature of the change, Pro V&V recommends the change be deemed as de minimis. Based on the testing performed and the results obtained, it was verified through source code review and functional testing that the issue found in ICX version 5.5.10.30 can not be reproduced in ICX version 5.5.10.32.

Should you require additional information or would like to discuss this matter further, please contact me at 256-713-1111.

Sincerely,



Wendy Owens  
VSTL Program Manager  
[wendy.owens@provandv.com](mailto:wendy.owens@provandv.com)

SEALED TRANSCRIPT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DONNA CURLING, ET AL., :  
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 PLAINTIFFS, :  
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 vs. : DOCKET NUMBER  
 : 1:17-CV-2989-AT  
 BRAD RAFFENSPERGER, ET AL., :  
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 DEFENDANTS. :

TRANSCRIPT OF ZOOM VIDEO CONFERENCE PROCEEDINGS  
BEFORE THE HONORABLE AMY TOTENBERG  
UNITED STATES DISTRICT JUDGE  
OCTOBER 1, 2020

9:08 A.M.

**MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED**

**TRANSCRIPT PRODUCED BY:**

**OFFICIAL COURT REPORTER: SHANNON R. WELCH, RMR, CRR  
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75 TED TURNER DRIVE, SOUTHWEST  
ATLANTA, GEORGIA 30303  
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**A P P E A R A N C E S O F C O U N S E L**

**FOR THE PLAINTIFFS DONNA CURLING, DONNA PRICE, JEFFREY  
SCHOENBERG:**

DAVID D. CROSS  
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**FOR THE PLAINTIFFS COALITION FOR GOOD GOVERNANCE, LAURA DIGGES,  
WILLIAM DIGGES, III, AND RICARDO DAVIS:**

BRUCE BROWN  
BRUCE P. BROWN LAW

ROBERT ALEXANDER MCGUIRE, III (VIA VIDEO CONFERENCE)  
ROBERT MCGUIRE LAW FIRM

**FOR THE STATE OF GEORGIA DEFENDANTS:**

VINCENT ROBERT RUSSO, JR.  
CAREY A. MILLER  
ROBBINS ROSS ALLOY BELINFANTE LITTLEFIELD, LLC

**FOR THE FULTON COUNTY DEFENDANTS:**

CHERYL RINGER  
OFFICE OF THE FULTON COUNTY ATTORNEY

**P R O C E E D I N G S**

**(Atlanta, Fulton County, Georgia; October 1, 2020.)**

1 THE COURT: Good morning. Counsel, would you just  
2 check the extra numbers here -- anyone with an extra number  
3 here or person here to make sure everyone here is identified  
4 with you. I can see what they appear to be.

5 Mr. Martin, is this everybody that you have let in?

6 COURTROOM DEPUTY CLERK: Yes, ma'am, this is  
7 everybody.

8 THE COURT: All right. So if -- the two individuals  
9 who are just solely appearing by telephone, can you identify  
10 yourselves?  
11

12 MS. RINGER: Phone number ending in 8737 is Cheryl  
13 Ringer from Fulton County.

14 THE COURT: Okay. Very good. That is fine.

15 And the person whose number ends in 8993, would you  
16 identify yourself.

17 MR. FRONTERA: Your Honor, can you hear me? This is  
18 Mike Frontera, general counsel, with Dominion Voting Systems.

19 THE COURT: Very good. Thank you very much. All  
20 right. That is fine. Everyone is authorized to be on.

21 Thank you, everyone, for being here. I want to say  
22 from the start that we have this now on the platform -- a  
23 different Zoom platform, and we are -- I am -- I have  
24 authorized the videotaping of the hearing solely for the  
25

1 purpose of if I determine that some portion of this really  
2 should have been on the public record that it can be made  
3 available on the record.

4 Not knowing what was going to be discussed exactly  
5 and understanding that there might be some confidentiality  
6 issues, I decided that we should just proceed in this way,  
7 rather than by making it open and then trying to pull it back.  
8 So that is the purpose of videotaping it. I don't really --  
9 normally wouldn't do that.

10 But under the emergency circumstances here, I have  
11 proceeded this way. And I think it is the soundest way of  
12 proceeding in that way. And also I can make any portion of  
13 this that would be public be available to the public.

14 Additionally, I want to note though that the  
15 videotape is not -- will not be the transcript of record. The  
16 only transcript of record of that will be created by Ms. Welch  
17 as the court reporter in this matter. And you are not to refer  
18 to the videotape at any point as kind of the official record in  
19 this matter. And, of course, the transcript will be filed.

20 I am -- just was, frankly, perplexed by the response  
21 that the State filed last night. And I know everyone is busy.  
22 I'm not trying to in any way minimize how busy you are. And --  
23 and Mr. Russo already has told me from the start that he has to  
24 be out -- that he has to be complete by 10:00.

25 Are you starting the hearing in front of Judge Brown

1 at 10:00, Mr. Russo?

2 MR. RUSSO: Your Honor, that hearing is at 10:00.

3 But we have sent two of our colleagues there to do it so we  
4 could be here. So Mr. Belinfante and Mr. Tyson are there, and  
5 Mr. Miller and me are here. So you have got us today.

6 THE COURT: Okay. Very good. Wonderful.

7 MR. MILLER: And I think the 10:00 issue was specific  
8 to Dr. Coomer's availability.

9 THE COURT: All right. Very good. So please,  
10 everyone, bear that in mind as to Dr. Coomer's availability  
11 because if there is something that he needs to address early  
12 on, whether it is from the perspective of the Court or the  
13 State, let's be sure we just jump ahead and get his input.

14 MR. RUSSO: Your Honor, also, we have the staff from  
15 the Secretary's office on standby. We have Mr. Germany, the  
16 general counsel, on right now. But Mr. Sterling and Mr. Barnes  
17 are -- we told them to continue working since they have  
18 election stuff going on and that if you needed something from  
19 them we would patch them in accordingly.

20 THE COURT: That's fine. All right. Well, as I  
21 understand it, the -- from what you -- from what the State  
22 submitted last night -- and it wasn't on the record. That was  
23 just, I think, a letter from counsel. It was that you -- that  
24 basically the State defendants were proceeding, that you were  
25 sending the software out today -- the software to jurisdictions

1 across the state, and basically this is a distraction that I  
2 was causing, and it was none of my business. Well, that was  
3 the tonality of it. It was a quick letter.

4 But let me just say -- start from the start is that I  
5 think I have endeavored to work cooperatively with everyone. I  
6 have an order to issue. I need to -- whatever it says, whether  
7 it is just simply -- you know, doesn't do anything at all,  
8 which is certainly -- you know, given everything I have told  
9 you in the past that I am very reluctant to even consider in  
10 this election saying, oh, suddenly do a sudden change to the  
11 paper ballot.

12 But I still -- this is still a record. And I don't  
13 know what will happen in the days ahead. But I think that the  
14 Court is entitled to, with respect, be given the information  
15 needed to issue an intelligent decision. And this was a change  
16 of circumstances.

17 And I am -- I don't know who thought I wouldn't have  
18 issued a decision without full knowledge of the circumstances  
19 that have arisen. I don't mean this personally against anyone.  
20 I think everyone has generally been very professional with me.  
21 But this is not an acceptable response, and I know everyone is  
22 short on sleep and at their wits' end on some things. So I  
23 understand it that way. I sure am very short on sleep too.

24 And there is a lot of stress under these  
25 circumstances. So I humanly recognize all of that. And so I

1 just sort of had to breathe in and say, all right, where are we  
2 going from now, once I got the response and just say, all  
3 right, you know, without any drama, I want to understand what  
4 is going on.

5 And that -- the expectation I had was not the -- that  
6 things were just proceeding and that I wouldn't basically know  
7 what was happening.

8 So I think that is -- just as an initial matter, that  
9 is where we're at. I mean, I am, you know, at 95 percent on  
10 having an order ready to be timely issued. And I held it back  
11 while this is going on.

12 And, of course, that is why on Monday we issued the  
13 order on the one thing that was clearest that needed to be  
14 acted upon as soon as possible. But I was holding back as soon  
15 as I heard anything was going on.

16 So let's just talk about what has happened. My  
17 understanding from the letter on September 29th that is on the  
18 record that -- as opposed to the letter that I received  
19 yesterday from counsel that the acceptance testing -- there  
20 would be acceptance testing that would occur before there was  
21 going to be distribution.

22 I guess it is a filing now. I'm sorry. I didn't  
23 realize that counsel's letter was filed. So excuse me for  
24 that.

25 In any event, I thought there was going to be

1 acceptance testing before there was distribution. And maybe  
2 there was, and maybe I misunderstood what was instead stated in  
3 the brief letter.

4 So, first of all, let's just start off just as to  
5 that. Did that occur?

6 MR. RUSSO: Your Honor, yes. So, first, you know,  
7 let me say we filed the letter under seal because that is what  
8 was discussed on Monday. As a letter, you said to file it  
9 under seal. So that is why we filed it that way.

10 THE COURT: That is fine.

11 MR. RUSSO: We didn't necessarily think there was  
12 something in there that was attorneys' eyes only or anything to  
13 that extent.

14 THE COURT: All right. Then I will lift the seal.  
15 Okay. Fine.

16 MR. RUSSO: In terms of the acceptance testing, the  
17 Secretary of State's office did conduct acceptance testing  
18 prior to distribution of the update. That is correct.  
19 Mr. Barnes did that. And then the distribution proceeded.

20 THE COURT: And when did Mr. Barnes do that?

21 MR. RUSSO: I believe his acceptance testing was  
22 done -- conducted yesterday. Mr. Miller might -- might know if  
23 it was done yesterday or the day before. Frankly, my days are  
24 starting to run together right now.

25 THE COURT: Yeah.

1 MR. MILLER: Your Honor, I believe it was done Monday  
2 and Tuesday. And so the kind of process through that -- the  
3 acceptance testing was, you know, essentially receiving the  
4 application from Pro V&V and running through just a typical  
5 acceptance testing and, you know, primarily ensuring also that  
6 the rendering issue that was discovered in logic and accuracy  
7 testing was not recurring.

8 And, importantly, you know, there's -- acceptance  
9 testing was not the only thing being done. The voting system  
10 test laboratory was also doing its part.

11 And, frankly, Your Honor, as to the filing, we  
12 certainly didn't intend any disrespect. We do, you know, have  
13 to note our objections. And, of course, it becomes an awkward  
14 situation to do so. And we do appreciate your understanding  
15 throughout this thing.

16 But we also, frankly, understood that you may be  
17 seeking the Pro V&V evaluation, which the formal evaluation we  
18 just -- we don't have right now. They have completed the  
19 evaluation. The written report is not done yet.

20 MR. RUSSO: That's right, Your Honor. That was in  
21 our filing yesterday. And we didn't -- you know, we expect  
22 that report -- to have it by the end of the week.

23 To the extent there is any delay from Pro V&V getting  
24 us the report, we just didn't want, you know, there to be  
25 any -- any misunderstanding about a delay if we made that

1 representation. But we do expect it by the end of the week,  
2 and we will file it upon receipt.

3 In terms of the EAC issue, you know, the order said  
4 to file -- to file anything that is filed with the EAC,  
5 presuming a filing is made with the EAC. Dominion actually  
6 does -- Dominion would make the filing with the EAC, not the  
7 State. And Dr. Coomer can speak to that.

8 But there appeared to be some misunderstanding in  
9 counsel's email yesterday regarding the EAC filing. But to  
10 be -- to be clear, we -- since it has not been filed yet, we  
11 didn't have any update for you. But that is a Dominion issue,  
12 not a Secretary of State issue.

13 THE COURT: Well, it is obviously the responsibility  
14 under the state law still though for you to have an  
15 EAC-certified system.

16 MR. RUSSO: Well, Your Honor, I mean, the update is a  
17 de minimis update. So that is according to Dominion.

18 In terms of what state law requires and what state  
19 law doesn't require, I mean, there is not a claim in this case  
20 regarding our compliance with state -- with state law. The  
21 only state law claim that was in this case was abandoned by  
22 plaintiffs earlier and dismissed in Your Honor's order on the  
23 dismissal a couple of months ago.

24 THE COURT: All right. Let me just put it this way.  
25 I mean, it is an indicia of -- it is an important indicia of

1 what is going on and is this -- and from an evidentiary  
2 perspective certainly relevant.

3 So I would -- you know, I went back at least and  
4 looked at the most recent regulations issued by the EAC. And I  
5 didn't see it as not being a requisite step to -- even a  
6 software modification as being requisite. Maybe I will hear  
7 differently from Mr. Coomer or Dr. Coomer -- excuse me. And  
8 Dr. Coomer is welcome to address at this point where things  
9 stand.

10 DR. COOMER: Good morning, Your Honor. This is  
11 Dr. Coomer. Yeah. So I'll try to describe the process again.

12 So we identified this change. And it was our feeling  
13 that it was de minimis. But we do not make that determination  
14 ourselves as a company.

15 So the way the EAC process works is we submit that  
16 change to an accredited laboratory, in this case Pro V&V. They  
17 analyze the change. They look at the code. And they determine  
18 whether it is de minimis or not.

19 If it is de minimis, then they do whatever testing  
20 they need to do to prove the nature of the change and verify  
21 it. And then they label it a de minimis change. They write a  
22 report. And at that point, it is just submitted to the EAC as  
23 what is called an ECO, an engineering change order.

24 So there is no new EAC certification effort. It is  
25 simply updating the current certification for this ECO. And

1 that is what we --

2 THE COURT: I'm sorry. ECO? I'm sorry.

3 DR. COOMER: ECO, engineering change order. And this  
4 is a software ECO. And that is how the process works.

5 So once Pro V&V has the final report, we will submit  
6 that to the EAC, Election Assistance Commission, certification  
7 as an ECO, engineering change order, for the current  
8 EAC-certified system, the 5.5-A.

9 THE COURT: So the November 15 clarification --  
10 notice of clarification from the EAC that indicates that a  
11 proposed de minimis change may not be implemented as such until  
12 it has been approved in writing by the EAC, that is  
13 meaningless? That is Provision 3.4.3.

14 DR. COOMER: I have got to be honest. We might be a  
15 little bit out of my bounds of understanding of the exact rules  
16 and regs there.

17 THE COURT: And Mr. Maguire, as counsel for you -- it  
18 looks like he is present.

19 MR. MAGUIRE: Yes. That's correct, Your Honor.

20 THE COURT: Is that said at all?

21 MR. MAGUIRE: I'm sorry. I'm unprepared to address  
22 it, Your Honor.

23 THE COURT: All right. That is fine. I didn't ask  
24 you to be prepared. I just wanted to -- in case you wanted to,  
25 I wanted to give you that opportunity.

1 MR. CROSS: Your Honor, if it is helpful to you,  
2 Mr. Skoglund -- this is an area of expertise for him.

3 Your Honor has hit the nail on the head, which what  
4 Dr. Coomer's explanation left off was once that EAC paperwork  
5 goes in you still have to wait for approval from the EAC. The  
6 EAC has to agree that it is a de minimis change and that it can  
7 operate under the existing certification.

8 If they disagree, then you have got to get a new  
9 certification. But until that is approved, you do not have EAC  
10 approval to proceed. And Mr. Skoglund can explain that in more  
11 detail. So right now they would be proceeding without EAC  
12 approval. That is where we stand. That should be undisputed.

13 THE COURT: Maybe that is what they have determined  
14 they must do. But I'll let Mr. Skoglund briefly discuss it. I  
15 mean, I think it is sort of evident.

16 But, Mr. Skoglund, can we -- thank you.

17 MR. RUSSO: Your Honor, one quick point. O.C.G.A.  
18 21-2-300(a)(3) is clear that the equipment has to be  
19 EAC-certified prior to purchase, lease, or acquisition. The  
20 ongoing EAC certification that is now being raised, that is not  
21 in the statute. But Mr. Skoglund can go ahead and explain the  
22 rest of the process.

23 THE COURT: All right. And I'll get back to you,  
24 Mr. Russo.

25 MR. SKOGLUND: So I would just agree with what has

1 been represented already. That is correct. You void your  
2 certification if you don't have written approval before making  
3 this change.

4 So the correct process is to go to the VSTL, then go  
5 to the EAC, have them review it. They are the ones who make  
6 the determination of de minimis based on the recommendation of  
7 the VSTL. But it is really up to them to decide that. And  
8 then they are the ones who bless it as being part of the  
9 certification.

10 THE COURT: Either Mr. Russo or Dr. Coomer, is there  
11 any -- has there been any type of contact at this point with  
12 the EAC to say you are in emergency circumstances?

13 DR. COOMER: This is Dr. Coomer. I don't -- I don't  
14 believe so. But we were waiting for that final report from Pro  
15 V&V. And then that would be immediately submitted to the EAC.

16 MR. RUSSO: That's right. The Pro V&V report --

17 THE COURT: I'm sorry. Who is speaking right now?

18 MR. RUSSO: Vincent Russo.

19 THE COURT: All right. I'm sorry. We've got a lot  
20 of people here.

21 MR. RUSSO: No problem. The Pro V&V report or Pro  
22 V&V has indicated it is a de minimis change. So as  
23 Mr. Skoglund mentioned, the EAC will take that report and that  
24 recommendation and proceed from there.

25 But, again, we will file that report with you. And

1 Dominion will move forward with its piece in reliance on that  
2 report.

3 MR. MILLER: Your Honor, I do also just want to point  
4 out briefly that, you know, EAC certification is not  
5 necessarily across the board. There are other states that  
6 don't have EAC-certified systems. Of course, we're still  
7 seeking to -- Dominion is still seeking to obtain the  
8 certification. But I did just want to point that out for the  
9 Court as well.

10 THE COURT: This is a -- obviously, it is a provision  
11 the EAC has because it is -- no matter whether you call it de  
12 minimis or not, it always obviously raises issues when you  
13 change a piece of software and then you have to redo  
14 everything.

15 You are obviously all doing testing, and I am glad  
16 that you are doing the testing. But the fact that you could be  
17 in a place that doesn't require anything is one thing. But,  
18 you know, we are using a statewide system. So it has larger  
19 repercussions when you have a statewide system also.

20 All right. And so the software -- the new software  
21 is supposed to be distributed today. And what is the schedule  
22 from -- since you have said you are going forward even without  
23 the EAC approval or without seeing the actual testing  
24 documentation, what is your next plan? What is going to happen  
25 next?

1 MR. MILLER: Your Honor, it was distributed  
2 yesterday, I think, with the dropoff. And which also I do want  
3 to briefly mention, you know, we sent an email about the  
4 confidentiality of the dropoff process.

5 At this point, that is no longer confidential. It  
6 was the prior to -- you know, it is a schedule of secure  
7 transfer of files that was filed on the public docket. And so  
8 that is the issue. I did just want to make sure we don't have  
9 a loose thread there.

10 But in terms of the process next, the counties will  
11 begin engaging in that logic and accuracy testing that was put  
12 on pause after the last issue was discovered. And so we  
13 started that. The counties will also verify the hash value on  
14 the software that was given to them, which has already been  
15 verified by Pro V&V, the hash outside of the system at the  
16 Center for Election Systems, and additionally a hash again  
17 outside of the BMD system before those software was copied to  
18 the drives that were sent to the counties in sealed  
19 envelopes -- sealed, numbered envelopes via the post-certified  
20 investigators connected with the Secretary of State's office  
21 who met their county liaisons at Georgia State Patrol posts.  
22 That was --

23 THE COURT: What was verified at the Georgia State  
24 post?

25 MR. MILLER: That was where the transfer occurred.

1 So when the software was received -- you know, Pro V&V  
2 conducted their verification and validation, provided the  
3 trusted build hash to the Secretary's office. The Secretary's  
4 office then compared that trusted build hash to the hash of the  
5 actual software they had received outside of the BMD system.

6 You have heard here before the concept that the BMD  
7 can trick you into saying that the hash is verified. But,  
8 again, this is wholly outside of the system such that that  
9 is -- that is a separate issue entirely.

10 After that delivery to the counties, the counties  
11 will also verify the hash and will then conduct their logic and  
12 accuracy testing.

13 THE COURT: All right. All I was asking was when you  
14 said something was verified when they picked it up at the  
15 Georgia State Patrol.

16 That was just the sealing -- the seal of the  
17 envelope?

18 MR. MILLER: Your Honor, yes. So the envelope was  
19 sealed by -- right, was sealed by the Center for Election  
20 Systems. And then the investigators of the Secretary's office  
21 met county superintendents at Georgia State Patrol posts.

22 THE COURT: Okay. That's fine. Have you in any way  
23 expanded the scope of your logic and accuracy testing in light  
24 of these circumstances?

25 MR. MILLER: Your Honor, so I think -- I guess I

1 would separate it out briefly in that the Center for Election  
2 Systems conducted their own sort of modified logic and accuracy  
3 testing, which I referred to earlier as logic and accuracy  
4 testing within CES, on BMDs that they themselves had that have  
5 never been used in elections to verify that -- first of all,  
6 that that same issue was not recurring but also to continue the  
7 logic and accuracy testing such that -- to confirm that there  
8 were no ancillary issues brought in to do so.

9           At the time it is sent to the counties, the counties  
10 will then conduct their logic and accuracy testing, which now  
11 also includes before inserting anything into the BMD verifying  
12 that hash number, verifying it is the correct software. That  
13 is kind of the initial step, which I believe -- I don't have  
14 the letter in front of me. But we laid out kind of that first  
15 couple of steps of the logic and accuracy testing.

16           THE COURT: All right. But you haven't decided at  
17 this juncture -- to your knowledge that there have been no  
18 change in the logic and accuracy testing protocols or just  
19 going from one electoral race to the next in the machines so  
20 that you don't do the entire ballot on every -- on a larger  
21 number of machines in each of the counties?

22           And that is the process you-all described, one race  
23 for one and then round-robin.

24           MR. MILLER: And I'm not sure I can speak to any of  
25 the -- any detailed adjustments. What I will say is the

1 testing that was done within CES included five different ballot  
2 styles that were chosen from Dekalb County being a county that  
3 would have large ballot styles -- basically, you know, a number  
4 of races, number of different types of ballots on there. And  
5 then they were conducted on those different styles and also  
6 conducted on the four different machines and printing out  
7 basically hundreds of ballots to confirm the testing.

8 THE COURT: Well, as far as you know, there has been  
9 no -- no one has considered trying to test a larger range of  
10 the ballot -- the full ballot in a larger range of machines as  
11 testified to in -- at the hearing and which was the protocol  
12 that Mr. Harvey indicated was the protocol in his testimony?  
13 Is that right?

14 MR. MILLER: Your Honor, as I understand it, the full  
15 ballot is tested on all of the machines.

16 THE COURT: That wasn't his testimony. The testimony  
17 was -- is that one race -- you picked a race. You went to the  
18 next machine, and it would do the next race. And then you  
19 would -- if you exhaust the race, which in Georgia you probably  
20 wouldn't exhaust the race, you would start with the next one --  
21 if you had 12 machines, you did the 12 first races. Then you  
22 would go back to Number 1 machine, and you would go -- and it  
23 would do the 13th race. Then it would go to Number 2 machine,  
24 and it would do the 14th race.

25 That is what I'm getting at. So that, really, you

1 have a fraction of the machines that are actually doing the  
2 race at issue. But it might screw up other races. So that is  
3 really what I'm trying to get at.

4 But it doesn't sound like there have been any change  
5 in the process, in any event, from what you know.

6 MR. MILLER: Your Honor, I would defer to the  
7 testimony and the written instructions on logic and accuracy  
8 testing. But yes. To answer your question, I couldn't comment  
9 as to any sort of very specific minutia within that.

10 THE COURT: All right. I'm really not asking you to  
11 testify yourself as to it.

12 As far as you know, no one has indicated to you that  
13 they changed any of the --

14 MR. RUSSO: That's correct, Your Honor. As far as we  
15 know, the process is the same as Mr. Harvey has discussed  
16 previously.

17 THE COURT: That's all I'm trying to get at.

18 MR. RUSSO: You know, with respect to printing the  
19 ballots and each race that we discussed at the hearing, that  
20 hasn't changed. The only change is with the logic and accuracy  
21 testing are to ensure that the hash value -- check the hash  
22 value of the new software and the version on the front end.

23 THE COURT: And does Dr. Coomer know what was -- what  
24 type of testing was done on the software at PV&V?

25 DR. COOMER: Your Honor, I'm not sure of the complete

1 test plan that they completed. Again, Pro V&V themselves  
2 determine what test plan is necessary based on their analysis  
3 of the code itself.

4 THE COURT: They didn't tell you?

5 DR. COOMER: I don't have the details. I would  
6 just -- I could probably get that. But I don't have the  
7 details.

8 THE COURT: When did they complete it?

9 DR. COOMER: I believe they completed that either  
10 late Monday or Tuesday.

11 THE COURT: Do you know who was performing the  
12 testing there?

13 DR. COOMER: The individual employees' names, no, I  
14 do not.

15 THE COURT: I mean, is there a head of the unit that  
16 deals with security or not at this point? Because we had very  
17 vague testimony of that at the hearing.

18 DR. COOMER: I don't know the makeup of Pro V&V's  
19 employees.

20 THE COURT: And do you have a backup plan in case, in  
21 fact, there are issues that are arising in connection with  
22 this? I mean, you are hoping for the best. You are thinking  
23 the best will occur. But what -- if there are issues again,  
24 what is the plan?

25 DR. COOMER: We'll work with our -- we'll work with

1 our partners at the State to do whatever is necessary.

2 MR. RUSSO: Your Honor, this issue, as you recall,  
3 came up as a result of this U.S. Senate special election having  
4 too long of a -- too many candidates and the Secretary of State  
5 not wanting to have any candidates claim that they were  
6 unfairly treated by being on the second page because surely  
7 someone would say that by being on the second page they lost  
8 votes.

9 We are not aware of any other issues with the BMDs  
10 that would change, you know, the processes going forward. I  
11 mean, Mr. Barnes conducted logic and accuracy -- his logic and  
12 accuracy testing -- his acceptance testing I should say -- on  
13 the machines.

14 The machines will go through acceptance testing. If  
15 anything new is discovered in that process, we'll, of course,  
16 have to address that. But we have no reason to believe at this  
17 juncture there is anything new since this issue with the  
18 ballot -- the number of candidates being on one screen has been  
19 resolved.

20 THE COURT: Dr. Coomer, did you get an opportunity to  
21 read Dr. Halderman's affidavit that was filed that if it really  
22 was just simply only the first time ran on a machine why  
23 wouldn't it have been adequate essentially to address this by  
24 just basically running it the first time?

25 DR. COOMER: Well, so there is a

1 mischaracterization -- I'm not sure where that came from. So I  
2 did not have a chance to --

3 THE COURT: Uh-oh. Everyone put themselves on mute,  
4 and we'll try to --

5 DR. COOMER: So I didn't read -- I didn't have time  
6 to read the entire declaration. But I will say that -- and not  
7 to disparage Dr. Halderman whatsoever. But he is making  
8 assumptions when he does not have an understanding of the  
9 actual issue.

10 If I had time and charts and I could work on a  
11 whiteboard, I could explain exactly what the issue is. But it  
12 is not that it happens the first time. I said that it only  
13 happens once -- can -- not that it always does -- but can  
14 happen only once during a voting cycle. And that is a power  
15 cycle of the machine. It is a rare occurrence that based on --  
16 not just the ballot layout but, you know, the sequence of how  
17 the voters have gone through the ballot.

18 There are essentially some indexes that are created  
19 by Android operating systems. And we have an index that we are  
20 referencing. And if there is a collision between those two,  
21 the issue happens. And it can only happen once because Android  
22 keeps incrementing these indexes.

23 So it can only collide once. And there is a very  
24 specific set of circumstances that leads to this collision.  
25 And it doesn't happen every time.

1           Our analysis showed us how to actually reproduce that  
2           deterministically. So I have seen some other things -- I'm not  
3           sure if it was in Dr. Halderman's declaration or not -- that we  
4           didn't understand the root cause of this and it was  
5           undetermined how and when this could happen. And those  
6           statements are not correct either.

7           So this is why we felt very confident in this change  
8           because it is very minimal. Instead of referencing this  
9           particular ID, we reference it now as what is called a tag.  
10          There is no collision possible between our tag and these  
11          Android IDs.

12          And then just to hit on this point, you know, asking  
13          what if something else happens, well, this version -- you know,  
14          the certified version that is being used in Georgia has been --  
15          has been used by millions of voters across the U.S.

16          This is the first time we have seen this issue. And,  
17          again, it is due to the unique layout to handle the special  
18          Senate contest with the two columns of candidates.

19          So I just wanted to sort of make that known. You are  
20          still on mute, Your Honor.

21          THE COURT: Can you explain to me what the -- to make  
22          sure I don't misunderstand what you mean by power cycle, is  
23          it -- basically it could happen every time that -- is it when  
24          you turn the power on and then the next time when you turn the  
25          power on?

1 DR. COOMER: Correct. Yeah. When you turn the power  
2 off and you turn it back on, Android starts those indexes back  
3 over.

4 THE COURT: All right. Then does it happen each time  
5 just in the beginning or any time in the cycle? That was the  
6 other part that was a little confusing to me because I had  
7 thought you indicated before or somebody had indicated it was  
8 right at the start of the cycle.

9 DR. COOMER: No, it is not right at the start.  
10 Again, it depends on a variety of factors. So, you know, it  
11 depends on the number of -- the number of display elements that  
12 are on the ballot itself and how the voters walk through.

13 So it could be -- it could be several voters. And,  
14 again, it doesn't happen all the time because you have to have  
15 this unique overlap, you know. And that is wholly dependent  
16 on, you know, the sort of behavior of the voters going through  
17 the ballot of whether they just happened to hit on this unique  
18 circumstance. But it is not -- it is not necessarily within,  
19 you know, X number of voters.

20 THE COURT: Okay. And it is not -- so if you -- it  
21 is not dependent on the fact that this is the first time  
22 you've -- it is not the first ballot in any event?

23 DR. COOMER: Correct.

24 THE COURT: It is not the voter who gets -- who is  
25 the first one in line who gets it necessarily?

1 DR. COOMER: Correct.

2 MR. CROSS: Your Honor, could I ask a quick  
3 clarifying question?

4 THE COURT: Yes.

5 MR. CROSS: I just want to make sure I understand.  
6 On Monday, Dr. Coomer said -- he said this happens only once  
7 for one voter during a complete machine cycle. That was where  
8 Dr. Halderman's understanding was coming from.

9 So is it right that it is not just once for one voter  
10 during a machine cycle? It could happen more than once?

11 DR. COOMER: No, not during the machine cycle. When  
12 I say machine cycle, I was referring to power cycle. So it can  
13 only happen once.

14 MR. CROSS: So then why is Dr. Halderman wrong? Why  
15 couldn't you just power it on?

16 DR. COOMER: Because once is not the same as first.

17 **(Unintelligible cross-talk)**

18 MR. RUSSO: We are here to answer your questions,  
19 frankly. Plaintiffs can go do discovery if they would like to.  
20 We are in discovery. So you can continue to answer for now.  
21 But I did want to raise that before we --

22 THE COURT: I think -- Mr. Russo, I appreciate that.  
23 But it was -- I certainly had the impression that Mr. Cross did  
24 too. So I'm very happy that Dr. Coomer is explaining it.

25 So if Mr. Cross had a misunderstanding too, then I

1 think he is entitled to try to --

2 MR. RUSSO: And that is fine. I just wanted to make  
3 sure before we got too far down this road that I raised this.

4 THE COURT: All right.

5 MR. CROSS: So, Dr. Coomer, all I was asking you: It  
6 will happen only once in a power cycle, but you don't know when  
7 it will happen, meaning you couldn't just do a single test  
8 ballot? You would have to do test ballots until it happened  
9 the one time and then you --

10 DR. COOMER: Right. And, again, to be clear, it  
11 doesn't always happen. Right? It is this unique way of going  
12 through the ballot. So you could -- you could say, oh, I'm  
13 going to wait until this happens and it never happens because  
14 you have passed those conditions.

15 MR. CROSS: Got it. Okay. Thank you. That is  
16 really helpful, Dr. Coomer.

17 DR. COOMER: Sure.

18 THE COURT: So -- and maybe one has to have  
19 Mr. Barnes here or someone else from the department present.  
20 So I'm just trying to understand how the logic and accuracy  
21 testing that is being performed at this juncture mirrors  
22 that -- those conditions since it is not necessarily the first  
23 time it has been done.

24 What were -- what are the instructions to make sure  
25 that it doesn't happen, partially because, you know, the point

1 really is the size -- the vote should be counted properly is  
2 you just don't -- it could -- there are repercussions if it  
3 does in terms of people getting confused at the polls and other  
4 sorts of problems that can happen there that it triggers -- the  
5 people are worried about their votes and one comes to a halt,  
6 et cetera.

7 MR. CROSS: Your Honor, could I ask one more  
8 question?

9 Dr. Coomer, you mentioned that you could do -- you  
10 figured out a way to do it deterministically, which means you  
11 could trigger it. Would that work to -- rather than doing new  
12 software, could the counties trigger it using this  
13 deterministic approach? Then you could trust it wouldn't  
14 happen again with the existing software. Would that be a fix?

15 DR. COOMER: I mean, that is -- theoretically, that  
16 is possible because it depends on, again, a lot of variables.  
17 So each -- you know, obviously each county and each machine  
18 has -- may have a different set of ballots on there.

19 So like -- so what we did is -- obviously, this was  
20 identified in two counties. And we know the ballot styles that  
21 they were testing in those counties. So we zeroed in on that  
22 and found a way using those two projects how to make it happen.

23 We would have to do that for every machine in every  
24 location because it is dependent on the ballots that are in  
25 that machine to then want to determine whether you could make

1 those IDs collide.

2 Does that -- does that clarify? That would be,  
3 again, theoretically possible. A nightmare. And then that  
4 whole process would have to be done every time the machine is  
5 turned on.

6 THE COURT: Let me start this way simply: You-all  
7 did some logic and accuracy testing yourself when you were  
8 trying to do the software modification?

9 DR. COOMER: Oh, extensive testing. Extensive.

10 THE COURT: All right. How did you modify -- how did  
11 you do it so that -- in light of these circumstances in terms  
12 of the protocol so that you would -- it would be at least  
13 randomly captured?

14 DR. COOMER: Right. So -- well, the first thing we  
15 did is obviously analyze the projects where it was -- where the  
16 issue arose. And that led us to figuring out what the root  
17 problem was.

18 Then our initial testing was we actually set up a  
19 quick project where -- knowing how the code behaved we knew  
20 exactly the steps to take within a few clicks to make this  
21 issue happen. Right? And so we set that up, verified on  
22 multiple machines that we could make it happen according to  
23 step A, B, C.

24 So then we applied the change and then redid those  
25 steps, verified that that issue no longer arose, and then we

1 took that back to, you know, the actual -- some of the actual  
2 real Georgia elections that would be tested and ran full  
3 regression tests over several days to verify that nothing else  
4 was impacted.

5 THE COURT: You ran full regression tests to  
6 determine what? I didn't hear the last part of your sentence.

7 DR. COOMER: That no other functionality was  
8 impacted.

9 THE COURT: So have you made any recommendation to  
10 the State regarding any additional measures that should be  
11 taken in order to test the functionality of both the fix as  
12 well as that it didn't impact anything else?

13 DR. COOMER: So I don't -- I don't know all of the  
14 information that was communicated to the State. But I believe  
15 we did -- again, as I mentioned, we had those two counties  
16 where we -- you know, where the issue was experienced. We know  
17 how to make it happen in those two counties. I believe we  
18 provided those steps to the State for verification. But,  
19 again, I'm not the one that is actually communicating the  
20 operational aspects directly with the State.

21 And then as far as the other functionality again, the  
22 pre-logic and accuracy testing process we feel is enough to  
23 verify that the system as a whole is still functioning as it  
24 should.

25 THE COURT: Let me just say that in your testimony

1 before this Court you indicated that you had not been aware  
2 that -- that the full ballot had been tested in each machine.

3 So I guess would it be wise to have more of the full  
4 ballot tested in every machine? I mean, for instance, among  
5 other things, this particular race?

6 DR. COOMER: I'm not sure -- I'm not sure I'm  
7 following. But, again, you know, the logic and accuracy  
8 testing that I'm aware of from the State I believe is adequate.

9 THE COURT: I don't want to get into a  
10 cross-examination with you myself about that. But you do  
11 understand that there is only a small fraction of the machines  
12 each that are tested for -- for instance, as to this particular  
13 race that are going to be out in the field?

14 DR. COOMER: Again, I don't -- I don't know every  
15 single detail of the L&A that they are doing.

16 THE COURT: All right. That is fine. Then we'll  
17 just -- we'll stop at that then.

18 Mr. Russo and Mr. Miller, is there anyone who is  
19 familiar with the -- what the instructions have been to the  
20 field with the State available just to talk for -- speak for a  
21 minute or two?

22 I know Dr. Coomer has to leave in four minutes. So  
23 before we do that, I want to make sure that there is not  
24 anything else that counsel wish for Dr. Coomer to address.

25 MR. BROWN: Your Honor, this is Bruce Brown. I have

1 one question for Dr. Coomer.

2 Our information is that the version of the software  
3 that was certified was .30 and the current version is .32.

4 What was .31, and what is .32? And have the  
5 incremental changes from the various versions been tested,  
6 certified, or approved?

7 MR. MILLER: Your Honor, we're just going to raise  
8 the same objection earlier as far as cross-examination of the  
9 witness right now.

10 THE COURT: Well, I think it is --

11 DR. COOMER: Version numbers change for a variety of  
12 reasons. I'm not even sure what that question is trying to get  
13 at.

14 THE COURT: Well, it is trying to understand if there  
15 have been software change or some other change between the  
16 5.5-A, I guess, .30 and 5.5-A.32, which this is. In other  
17 words, what happened -- do you know what was .31?

18 DR. COOMER: There is absolutely no other change than  
19 the one we supplied that we alluded to.

20 MR. BROWN: So why are there two version numbers?

21 DR. COOMER: There is not two version numbers. There  
22 are a variety of reasons why when you do a build a version  
23 number turns out the way it does.

24 I don't know what you are digging at. But I can tell  
25 you -- I can state as fact -- and I just did -- that the

1 only --

2 MR. MILLER: Your Honor --

3 DR. COOMER: -- between those two builds is this  
4 change that we submitted.

5 THE COURT: All right.

6 MR. BROWN: So there is not a version 31?

7 **(Unintelligible cross-talk)**

8 MR. MILLER: Your Honor, we just reraise the same  
9 objection. Dr. Coomer is here voluntarily right now. Dominion  
10 is not a party to this. He is trying to be helpful to the  
11 Court. And we are going down a path of cross-examination  
12 again.

13 MR. CROSS: Why are they scared to answer questions?

14 THE COURT: All right. No more commentary, let me  
15 just say. My understanding --

16 DR. COOMER: I'm not scared to answer your questions.

17 THE COURT: All right.

18 MR. CROSS: I wasn't talking to you, Dr. Coomer.

19 THE COURT: My understanding just from what  
20 Dr. Coomer said was very -- there were a lot of people  
21 speaking -- is that Dr. Coomer said that there was no separate  
22 change from the 5.5-A that has been made so that there is -- to  
23 the extent the other one had a .30, there was no .31 separate  
24 change.

25 DR. COOMER: That's correct.

1 THE COURT: Is that correct?

2 DR. COOMER: That's correct.

3 THE COURT: All right. Fine. Thank you. Is there  
4 anything else?

5 All right. Doctor, you are welcome to stay as long  
6 as you want to stay. But I understood that you had a hard  
7 deadline.

8 DR. COOMER: Yeah. I do have a hard stop, and I do  
9 appreciate that.

10 THE COURT: All right. Thank you very much.

11 MR. CROSS: Thank you, Dr. Coomer.

12 THE COURT: Is it Mr. Barnes who is giving directions  
13 to people in the field about the L&A testing at this point?

14 MR. RUSSO: I think Mr. Barnes would be the best  
15 person to try to answer your questions. He is involved with  
16 the development of logic and accuracy testing.

17 THE COURT: All right. Is he --

18 MR. RUSSO: We're going to -- if you can give us one  
19 minute here to get in touch with him.

20 THE COURT: That is fine.

21 **(There was a brief pause in the proceedings.)**

22 THE COURT: Good afternoon, again, or good morning.  
23 Morning, Mr. Barnes, also.

24 I just -- we were discussing the circumstances around  
25 the software being distributed and subject to logic and

1 accuracy testing again. And I wanted to find out whether there  
2 were -- to your knowledge, whether there were any additional  
3 instructions about conducting logic and accuracy testing that  
4 was given to any -- all or any of the counties relative to the  
5 software.

6 MR. BARNES: The one additional instruction was for  
7 the counties to verify the new hash signature for the new  
8 version number of the ICX application.

9 THE COURT: And therefore am I to assume that there  
10 were no -- there was no other modification and in particular  
11 there was no expansion as to the number of the ICX machines  
12 that were going to be tested for purposes of looking at that  
13 race in particular or any other races?

14 MR. BARNES: Again, we did not give them another list  
15 of instructions to follow for their L&A testing. Part of their  
16 normal L&A testing is to check every vote position on every  
17 ballot as they go through the ballot style. And that is how  
18 the occurrence was found with the old version. So we were just  
19 going to have counties follow the same protocols with the new  
20 version.

21 THE COURT: Mr. Harvey had confirmed before though  
22 that the instructions were that you would run the ballot --  
23 let's say -- let's -- just consider that there were ten  
24 machines, let's say, that were being tested. That you would  
25 run race Number 1, which would presumably be the presidential

1 race, on Number 1 machine. Then you would run race Number 2 in  
2 priority on machine Number 2. And when you had finished the  
3 ten, then you would go back -- the 11th race would be tested  
4 again -- would be tested on the machine Number 1 again.

5 Is that something different than you know of?

6 MR. BARNES: No. What my understanding of the L&A  
7 procedure is is the ballot is loaded on to the L&A -- on to the  
8 test screen ballot. And then the first race of the ballot is  
9 displayed. And then on that race, they will mark each -- they  
10 will touch the first candidate, validate that the mark is  
11 there; proceed to the next race on the ballot; mark the  
12 candidate, make sure it is there; and proceed all the way  
13 through the ballot until they arrive to the summary screen.  
14 And they validate that they see those selections on the summary  
15 screen.

16 They then backtrack. Go back to the first race in  
17 the ballot, remove the mark from the first candidate, and then  
18 mark the second candidate in that race and proceed through the  
19 ballot again all the way through the summary screen.

20 And this is done to make sure that every vote  
21 position is responsive and that the system shows that summary  
22 selection at the end. They will produce one printed ballot  
23 through that exercise with at least one of those candidates per  
24 contest marked. But they won't produce a ballot for every  
25 instance, for every candidate in every race on every machine.

1 They will just produce one printed ballot at the end of that  
2 test of that particular BMD.

3 THE COURT: And have you looked at the instructions  
4 that were given in January via Mr. Harvey's office?

5 MR. BARNES: Yes, ma'am.

6 THE COURT: And that is what you think is consistent  
7 with what -- what you have described is consistent with the  
8 protocol described?

9 MR. BARNES: Yes, ma'am.

10 THE COURT: Well, let me walk through it again.  
11 Because that certainly was not my understanding from the  
12 testimony provided or from the observations that were provided  
13 by people at the -- observers at the polling.

14 So I'm not -- so you are saying basically the member  
15 of the staff who was testing it will go in and vote on the  
16 presidential race? And just walk me through it again so I can  
17 stop you now that I have heard the whole -- what you think is  
18 supposed to happen.

19 MR. BARNES: Okay. So we'll take it as a single  
20 race, single -- single ballot, single race. And we will say  
21 the presidential race, which has four candidate options.

22 On the testing, they would load the ballot, bring up  
23 the contest that shows the four -- the four contestants. They  
24 will mark the first contestant and then leave that screen and  
25 go to the summary screen to validate that that mark is showing.

1           They would then go back to the race itself, remove  
2 the mark, and then put a mark for the second candidate and then  
3 proceed back to the summary screen, confirm that that is  
4 showing. Go back again to the ballot, remove the mark, mark  
5 the third candidate in the race, proceed to the summary screen,  
6 confirm that is showing. And then go back to the race, remove  
7 the mark of the third candidate, put a mark for the fourth  
8 candidate, which is the write-in, type in some form of a name,  
9 proceed to the summary screen, verify again that that is  
10 showing.

11           Then they would backtrack, go back to the race  
12 itself, remove the mark, go to the summary screen, verify that  
13 that mark again is not showing. Then go back to the race. And  
14 now they are going to put a mark on the ballot so that they can  
15 produce a printed ballot from the machine.

16           And they may select the first candidate or second  
17 candidate or third candidate depending on what they are needing  
18 to produce for their test deck. So they may do the first  
19 candidate and then proceed back to the summary screen and then  
20 print the ballot.

21           THE COURT: So is the printed ballot the one with all  
22 of the choices?

23           MR. BARNES: The printed ballot will only have the  
24 one selection made at that last operation. The ballot can only  
25 have one mark for the race.

1 THE COURT: I don't -- because I don't know  
2 whether -- is anyone with you from -- are you able to receive  
3 an email if I send counsel the L&A procedure -- January  
4 procedure and they sent it to you at this point?

5 MR. BARNES: Yes, ma'am. I have access to email.

6 THE COURT: I don't want to be the person directly  
7 sending it to you. But -- all right. But if counsel doesn't  
8 have it directly offhand, Ms. Cole can send it to one of you  
9 right away so you can send it on.

10 Send it both to Mr. Miller and Mr. Russo.

11 LAW CLERK COLE: Okay. I can also send it to Harry,  
12 and he can share it on the screen.

13 THE COURT: Okay. Why don't we do both? Why don't  
14 we send it because it is harder for -- let's do both and give  
15 Mr. Barnes an opportunity to look at it. All right?

16 **(There was a brief pause in the proceedings.)**

17 MR. BARNES: I haven't received anything as of yet.

18 LAW CLERK COLE: Mr. Martin has it now if you want  
19 him to share his screen.

20 THE COURT: I want Mr. Barnes to be able to review it  
21 without having to see it on the screen first.

22 MR. RUSSO: My email might be running a little slow.  
23 So I emailed it. So it is just a matter of --

24 THE COURT: That is fine.

25 Ms. Cole, can you pull up Mr. Harvey's affidavit

1 also?

2 LAW CLERK COLE: Yes.

3 MR. RUSSO: Do you know what docket number that is?

4 THE COURT: Well, the affidavit?

5 MR. RUSSO: Yes, ma'am.

6 LAW CLERK COLE: My recollection is it is 834-3.

7 MR. RUSSO: Thank you. I was just trying to look  
8 through the transcript for that explanation. I was not finding  
9 it. I appreciate that.

10 MR. CROSS: Do you mind forwarding that document that  
11 Ms. Cole sent you so that I can pull it up too?

12 MR. RUSSO: Yes.

13 MR. CROSS: Thank you.

14 THE COURT: Does everyone have the procedure?

15 Mr. Barnes, you don't have it still?

16 MR. BARNES: No, Your Honor, I do not.

17 THE COURT: Mr. Russo, did you send it?

18 MR. RUSSO: I did. Let me try again.

19 THE COURT: Okay. Very good.

20 MR. MILLER: I think we both actually sent it.

21 THE COURT: All right.

22 **(There was a brief pause in the proceedings.)**

23 THE COURT: All right. Mr. Barnes, did you get it  
24 yet?

25 MR. BARNES: Yes, Your Honor. I just received it.

1 THE COURT: Very good. Let me give you an  
2 opportunity -- I'll give you the opportunity to read the  
3 portion that deals with the process for looking -- testing the  
4 polling place scanner, that one -- I'm sorry -- right above it,  
5 testing the BMD and printer.

6 And have you had an opportunity to look at that, that  
7 Section D?

8 MR. BARNES: Yes, ma'am. I'm reviewing that.

9 **(There was a brief pause in the proceedings.)**

10 MR. BARNES: Your Honor, I've read it.

11 THE COURT: Thank you very much. So my understanding  
12 both from Mr. Harvey's testimony on this particular procedure  
13 and what the witnesses to the L&A testing observed when they  
14 were able to observe this in a -- because it was public was  
15 that the description provided in the text under -- in  
16 connection with the word example was what was occurring, that  
17 there was not -- every race was not in a particular ballot --  
18 ballot machine -- every race that was listed on the ballot was  
19 not, in fact, tested on that one machine. That, in fact, it  
20 was -- you went from machine to machine as described under the  
21 word example.

22 MR. BARNES: My -- excuse me.

23 THE COURT: Yes. Go ahead.

24 MR. BARNES: My reading of the document outlines that  
25 the ballot style will be displayed on, we'll say, machine one

1 and that the process of creating the ballot that is going to be  
2 used for the test deck for machine one would be that the --  
3 that the operator would select the first candidate not for just  
4 one race but the first candidate in every race on that ballot,  
5 proceed through the whole ballot, and then at the end would  
6 then print that one ballot that had the first candidate  
7 selected.

8           So that the machine one would have ballot style one  
9 and then it would have the selection of the first candidate in  
10 every race selected and print it.

11           On the second machine, the ballot would be loaded.  
12 And then from that machine, the ballot that would be printed  
13 for the test deck would be the second candidate in each race.  
14 And then that ballot would be printed for the test deck.

15           And then they would go to machine three, load the  
16 ballot. And on this one, the ballot that would be produced for  
17 the test deck would be the third candidate in each race within  
18 that ballot and so forth and so on.

19           THE COURT: Well, that certainly is somewhat  
20 different than my understanding the testimony and evidence.  
21 And -- but I understand what you are saying.

22           What is the -- so just to summarize again is that you  
23 understood that if I -- whoever was Number 3 in each race would  
24 have been picked -- if you were on the third machine, you would  
25 have picked Number 3 -- the candidate in the third position for

1 every single race?

2 MR. BARNES: Yes, Your Honor.

3 THE COURT: And what if there wasn't a candidate?

4 MR. BARNES: If there is not a third -- if one race  
5 has four candidates but the second race only has two  
6 candidates, then you do not make a selection at all. You would  
7 skip. There is not a third option to choose. So you would  
8 leave that race blank.

9 THE COURT: Then you would continue down the ballot?

10 MR. BARNES: Yes, Your Honor.

11 THE COURT: I think this is sufficiently a material  
12 change in the way that perhaps it has been presented. I'm not  
13 saying anything -- that you are wrong in any way or -- but I  
14 just think that I would like to make sure there is nothing that  
15 the plaintiffs want to ask in light of that testimony.

16 And have you observed this yourself or not?

17 MR. BARNES: I have not been in the field to observe  
18 the L&A testing with the new system, Your Honor.

19 THE COURT: All right. So you haven't been in the  
20 field to observe their application of this procedure?

21 MR. BARNES: That's correct.

22 THE COURT: All right.

23 MR. RUSSO: Your Honor, I pulled up Mr. Harvey's  
24 declaration, and I'm looking at that. And he seems to indicate  
25 that all -- that testing the ballots -- a test deck where you

1 use every permutation would be overly burdensome and  
2 unnecessary, as the Coalition plaintiffs urge, in other words,  
3 to generate test ballots so that all candidates in all races  
4 within the unique style have received a single vote.

5 I think maybe that is where some confusion is coming  
6 into play. And I think Mr. Harvey was under the impression --  
7 and his declaration seems clear to me. But to the extent there  
8 is some confusion that maybe you thought every permutation on  
9 the ballot maybe had to run a test deck with every combination,  
10 is that -- and I'm just maybe trying to understand it also  
11 myself -- where the disconnect is here, frankly.

12 THE COURT: Mr. Skoglund was, I think, the  
13 Coalition's witness or -- is that right? Or was he Mr. Cross'  
14 witness?

15 MR. CROSS: Mr. Skoglund was a witness for the  
16 Coalition.

17 THE COURT: Okay.

18 MR. BROWN: I'm sorry, Your Honor.

19 THE COURT: So I'm assuming that you spent some more  
20 time -- particular time on this, Mr. Brown.

21 So are there any -- anything you want to point out or  
22 ask Mr. Barnes about?

23 MR. BROWN: Thank you, Your Honor. My question would  
24 be, sort of to cut to the chase -- and that is: On the logic  
25 and accuracy testing as described by Mr. Barnes, all of the way

1 through tabulation, there is only one ballot that is actually  
2 tested and that the other testing that Mr. Barnes described was  
3 testing the accuracy of the summary screen rather than the  
4 accuracy of the final output.

5 Is that correct, Mr. Barnes?

6 MR. BARNES: What I was describing was the generation  
7 of the test deck that has to be generated at the end of the L&A  
8 testing.

9 THE COURT: Wait a second. I think we should put  
10 ourselves on -- everyone but you on mute so that we make sure  
11 that we --

12 Go ahead.

13 MR. BARNES: Again, what I was describing was the  
14 generation of -- it is two parts. It is the L&A test to  
15 validate display of ballot operation of the touchscreen being  
16 receptive to touch and then the generation of the record from  
17 each device that is used to organize the test deck that is then  
18 scanned by the scanner.

19 So the tester wants to go through and look at each  
20 race on the ballot, make sure that all the candidates are  
21 displayed, make sure that all candidates are receptive to  
22 touch, and take that all the way to the end of the summary  
23 screen. And then they back out and continue that through all  
24 positions.

25 But when they have completed that, they have to

1 produce a record. But they are only required to produce one  
2 printed record from that BMD. And then they accomplish to get  
3 all positions voted and a vote registered by doing the machine  
4 one, the machine two, the machine three through the ballot  
5 style.

6 MR. BROWN: Thanks.

7 MR. CROSS: Your Honor, could I ask a follow-up  
8 question?

9 Mr. Barnes, did I understand you right so if you've  
10 got -- well, let's just take a concrete example. There is a  
11 Senate race this year that has, as we understand it, it sounds  
12 like 20 or so candidates.

13 So that means you would generate a test ballot that  
14 has -- you would generate a separate test ballot for each of  
15 those candidates on however many machines correspond. Right?

16 So let's say there are 20 candidates. You would  
17 generate 20 separate test ballots on 20 consecutive machines  
18 selecting each candidate in turn.

19 Do I have that right?

20 MR. BARNES: What you would do -- let's say that  
21 there are -- let's say that there are 20 machines. We'll make  
22 a balanced number. Let's say -- actually we'll say there are  
23 10 machines and there's 20 candidates.

24 Then you will start with machine one, check all the  
25 races, check all of the candidates, make sure they are

1 responsive. But when you are done with that machine, at the  
2 end of that machine, you would select the first candidate in  
3 that Senate race and produce a ballot printout.

4 Then you would go to the second machine. The second  
5 machine, again, you would check the full race, check all  
6 positions, check responses. But when you are done with that,  
7 you would produce one ballot from the second machine and that  
8 would have the second candidate.

9 And you would repeat that process through those ten  
10 machines. When you got to the 11th candidate, you would be  
11 returning back to machine Number 1. And on machine Number 1,  
12 you would now select -- again, you have already looked at all  
13 of the candidates again already. So on that machine, you are  
14 going to produce a second ballot. And that second ballot is  
15 going to have the 11th candidate selected.

16 And then you will continue to proceed in that manner  
17 until you have produced a record that -- a vote record that has  
18 every candidate in that race voted one time.

19 MR. CROSS: And if you have got -- if the other  
20 elections have fewer candidates -- right? So let's say you are  
21 at candidate 6 out of the 20 and all of the other races have  
22 fewer than 6 candidates, at that point forward, you would not  
23 have any candidates selected on those races for the test  
24 ballots?

25 MR. BARNES: That's correct.

1 MR. CROSS: So that would mean if we have got a race  
2 this year of, say, 20 or so candidates, you would have a pretty  
3 large number of test ballots coming out of machines that have  
4 no candidate selected for some of those races?

5 MR. BARNES: That would be correct.

6 MR. CROSS: Thank you.

7 THE COURT: Just state that again, what you were  
8 saying, Mr. Cross.

9 MR. CROSS: Because this year we've got a Senate race  
10 that has a large number of candidates -- it sounds like 20 or  
11 more -- and because once you get over -- say the next highest  
12 number of votes is -- I'm trying to think of the easiest way to  
13 say what I just said.

14 Once you get over the next highest number of -- say  
15 every other race had two -- only two selections. Right? Once  
16 you get to the race that has three or more candidates, you stop  
17 selecting any candidates in all of those other races. You  
18 don't go back and just select one that you have already  
19 selected.

20 So that means once you get to 3, 4, 5, 6, on up  
21 through 20-something candidates when you are testing it, all  
22 the other races on the ballot would have no selections on any  
23 of those test ballots for all of those machines. So you would  
24 be going machine to machine to machine.

25 THE COURT: You are only going by position number. I

1 see.

2 MR. CROSS: So with this particular year with a race  
3 with that many selections -- you are talking a pretty large  
4 number of BMDs that would have test ballots with only a single  
5 candidate selected, which then gets printed and tabulated.  
6 Those BMDs would not have test ballots for candidates for all  
7 but one race.

8 MR. RUSSO: I mean, there's always going to be  
9 elections where you only have maybe one person in a race. So,  
10 Mr. Barnes, that is what you would do, for example, if you had  
11 a county commission race also on the ballot and you've got one  
12 person in that race. Right. You would put that -- you could  
13 check that person off the first -- on the first test ballot.  
14 But going forward -- I mean, there is going to be other  
15 contested races, of course. You know, maybe you have a house  
16 race, a state house race with three candidates. So you have  
17 got to go through those three times. But the county commission  
18 race with only one candidate would only have -- be selected the  
19 first time through.

20 MR. BARNES: Correct. Correct. And if --

21 MR. RUSSO: We have had this happen in every  
22 election.

23 THE COURT: Well, I'm not sure that really helps  
24 because, of course, when you have only a single -- a single  
25 individual then they are in position one. So they are going to

1 be tested -- those races are all going to be counted as  
2 position one.

3 The problem here we have is position -- the fact that  
4 there might not be any others races that have Position 10 and  
5 so -- or Position 8. So that basically in the very race that  
6 sort of seemed to have -- on the ballot that had created a  
7 quirk, you are going to have the least amount of L&A testing --  
8 that's all -- in terms of output.

9 MR. CROSS: Well, yeah. I'm not sure that is quite  
10 right, Your Honor. Let me back up.

11 They will test every candidate in that Senate race.  
12 So that particular race that has a large number of  
13 candidates -- right? -- that will get tested.

14 What it means is that for all of those ballots  
15 beyond, say, the first three or four candidates, depending on  
16 what else you have there, there will be no L&A testing for any  
17 of those other races.

18 THE COURT: Right.

19 MR. RUSSO: Well, they are tested the first time. I  
20 mean, I think we are saying the same thing.

21 MR. CROSS: No. No, they are not. What Mr. Barnes  
22 is saying is there is no ballot that will be printed at all  
23 from those BMDs that gets printed and scanned and tabulated  
24 that has any candidate selected from any race other than the  
25 Senate race once you get beyond the max number of candidates in

1 those other races.

2 And given a lot of those races are only going to have  
3 maybe 2 or 3 candidates but we have got a race with 20 or more,  
4 you are talking about maybe 50 to 20 machines each time that  
5 are not having a single candidate tested to get printed and  
6 scanned and tabulated.

7 MR. RUSSO: I understand what you are saying. But  
8 you would have had -- that person who is -- you know, if it is  
9 a race of three people, you would have had a test ballot that  
10 would have had that person -- the third ballot would have been,  
11 you know, in this example that you gave a race of three people.

12 Now, when you get to person four -- Mr. Barnes can  
13 explain it. And if I'm wrong, I'm wrong. Mr. -- I'll let  
14 Mr. Barnes explain it.

15 MR. CROSS: Because once you get to selection --  
16 again, Mr. Barnes, I thought I -- let me just try my question  
17 again. I thought we had it straight.

18 Let's say the maximum number of candidates on a  
19 ballot was 4. That is the most you have in any race is 4,  
20 except for you have got the Senate race, let's say, that has 20  
21 candidates.

22 Are you with me?

23 MR. BARNES: Yes.

24 MR. CROSS: Once you get to selection five to test  
25 that, meaning printing a ballot and scanning it, in the Senate

1 race, you are going to do that and that ballot is not going to  
2 have any other candidate selected for the test ballot; right?

3 MR. BARNES: On that ballot style. But when there  
4 are multiple ballot styles within the polling location, once  
5 you complete ballot style one, you then have to do the same  
6 thing for the next unique ballot style within that -- within  
7 that polling location. So there is opportunity for more  
8 ballots to be generated with more selections.

9 MR. CROSS: Right. But most -- particularly on  
10 election day -- putting aside early voting, on election day,  
11 most of your ballots -- most of your polls are going to have a  
12 single ballot style; right? Otherwise, you are talking about a  
13 polling site that has multiple precincts.

14 MR. BARNES: There is -- every precinct in the state  
15 is different. Some only have one ballot style. Some have  
16 many. It is a potpourri out there.

17 MR. CROSS: But with my example, you would have --  
18 unless you are printing multiple ballot styles on that BMD, you  
19 are going to have selections -- you are going to have machines  
20 five through -- you are going to have 15 machines -- remaining  
21 5 to 20, you are going to have 15 machines for which your test  
22 ballot has only a single selected candidate just in that Senate  
23 race; right?

24 MR. BARNES: The ballot that is printed for the test  
25 deck, yes. But every position would have been looked at on

1 that ballot during the examination.

2 MR. CROSS: On the screen?

3 MR. BARNES: Correct.

4 MR. CROSS: And looking at the screen does not tell  
5 you what actually gets tabulated; right?

6 MR. BARNES: The screen is the interaction and the  
7 intent of the voter. The ballot is what will be the official  
8 record.

9 MR. CROSS: Right. So --

10 THE COURT: And the next step is, of course, the  
11 scanner tabulator?

12 MR. BARNES: Correct.

13 THE COURT: And you can't really test that just from  
14 looking at the screen?

15 MR. BARNES: Again, that is why we produce the record  
16 from the machine so that the scanner can also be used to  
17 validate that what is coming from the system is what the  
18 scanner then tabulates.

19 THE COURT: I think that the -- I mean, I'm not sure  
20 that what is happening in the field is what you are describing.  
21 But, you know, I'm just -- based on what the evidence is and  
22 the way that Mr. Harvey described it but -- and why he thought  
23 everything else was too burdensome.

24 But that is -- you know, I understand what you are  
25 saying at this juncture. I mean, I'm looking at my -- at a

1 sample ballot here. And -- and basically when we get down to  
2 number -- where we were actually thinking of four candidates,  
3 we get down to the fifth one, only one of the major leaders  
4 here who is in that first top four is Doug Collins.

5 So all the testing that would relate to other --  
6 identified at least by the polls leaders in this race are after  
7 Number 4. So testing of their -- any ballot, including them,  
8 would be -- it would be fewer. But that is if it is, in fact,  
9 the way it is indicated.

10 I'm just looking at Paragraph 6 of Mr. Harvey's  
11 affidavit and also testimony. And I can't really know at this  
12 point that what Mr. Barnes describes based on the testimony and  
13 the evidence presented is exactly what is happening.

14 But, Mr. Skoglund, did you get an opportunity to be  
15 present during any of the L&A testing? Remind me.

16 MR. SKOGLUND: No, Your Honor, I have not been  
17 present for any of it.

18 Can I offer a thought about this?

19 THE COURT: Yes.

20 MR. SKOGLUND: So I think that, as I testified  
21 before, you know, logic and accuracy testing depends on what  
22 questions you are asking. Right? And the quality of the  
23 question you ask depends on the quality of the test. So it  
24 really makes sense to think about what questions you are  
25 asking, what are you trying to find out.

1           And I think, you know, this is -- this is more logic  
2 and accuracy testing that some jurisdictions do. But I think  
3 that is not the standard. I think the question is: Does it  
4 meet Georgia statute, which I think is quite good and quite  
5 strong? I would go further, if it were me.

6           I think that the way I would do -- conduct a logic  
7 and accuracy test and the way I have seen other people do it is  
8 you create a spreadsheet essentially ahead of time with the  
9 test pattern for votes for what you plan to do. And in that,  
10 you try overvotes and undervotes and races where you vote for  
11 two and the audio ballot and trying it in Spanish language.  
12 And, you know, you try a variety of scenarios.

13           And then, you know, knowing that you have good  
14 coverage in that spreadsheet, then you go to the machine and  
15 ask each machine to accomplish that set of tests. That is  
16 closer to what I think the Georgia statute requires.

17           THE COURT: Well, I just would like to know what is  
18 actually going to be -- and whether everyone is going to be  
19 doing something different actually. That is my concern at this  
20 juncture but -- based on the evidence introduced.

21           But the other thing was simply because this was the  
22 -- the alleged tweak that involving this particular ballot one  
23 would really want to know it was -- all permutations of that.

24           It is hard for me to know without -- what I do know  
25 is what -- the issue that Mr. Cross elicited. And it might

1 behoove the State to consider whether to modify at least this  
2 in a way -- whatever the process is, if it is, in fact, like  
3 what Mr. Barnes describes as opposed to the inference that was  
4 given from the procedure as I identified and witnessed by  
5 others who were watching the L&A testing in the last election,  
6 it really behooves everyone to think about is there something  
7 you want to beef up under the circumstances since you have a  
8 software change particularly affecting that race.

9 I can't really say more at this juncture. I'm going  
10 to go back and look. But there's really some material  
11 differences between the way Mr. Barnes described it and the way  
12 it was otherwise described.

13 MR. MILLER: Your Honor, I don't have the transcript  
14 in front of me from the hearing, so I can't speak exactly of  
15 Mr. Harvey's testimony.

16 But as far as the declaration and as I recall the  
17 hearing, I think the concept was the concept that Mr. Barnes  
18 described of the difference between printed ballots versus the  
19 test on the screen. And so I don't think there is --

20 **(Unintelligible cross-talk)**

21 MR. MILLER: -- necessarily inconsistence there but  
22 different topics.

23 THE COURT: Yeah. I mean, there is no question that  
24 it was supposed to be getting at the difference as to whether  
25 there was a difference between the way it tabulated and the way

1 it printed and the ballot.

2 But it was -- but it was much more helter-skelter  
3 because -- as opposed to just testing one office per machine  
4 and sometimes more depending on how large the ballot was. So  
5 that -- I mean, that is exactly what -- not just through  
6 Mr. Harvey's testimony but through the affidavit of people who  
7 were witnessing it.

8 So, Mr. Harvey, are you -- is Mr. Harvey in charge of  
9 giving you instructions or -- I gather? Are his folks out in  
10 the field at all, or is it -- I'm not -- or is it your folks  
11 who are doing the L&A testing? I mean Mr. Barnes.

12 I mean, it is somebody from the county. But who is  
13 the technical adviser, if there is anyone?

14 MR. BARNES: Logic and accuracy testing is a county  
15 responsibility. So it is in the hands of the county.

16 THE COURT: And do they -- are they relying then on  
17 that 2000 -- January 2020 procedures manual in determining how  
18 to proceed?

19 MR. BARNES: To my understanding, yes, Your Honor.

20 THE COURT: And this is not something that you have  
21 given directions to anyone about in the field, I gather?

22 MR. BARNES: That would be correct.

23 THE COURT: And do you have any idea whatsoever why  
24 there was an impression that it was a database that is going to  
25 be distributed rather than software in the communication?

1 MR. BARNES: Your Honor, I do not know why they chose  
2 the word database for distribution. It was always that  
3 application install -- an application upgrade installation.

4 MR. MILLER: Your Honor, I believe we can speak to a  
5 little bit of clarity on that in that the form that you saw  
6 attached to the email that, I believe, Mr. Brown filed is a  
7 standard form that is used when databases are delivered to say,  
8 here is the schedule, here is where we're coming through.

9 And so that form didn't change because it was the  
10 same type of run. So it is the same type of thing that the  
11 counties are used to doing and that the investigators and  
12 liaisons sent out. And, you know, frankly, I think it may have  
13 been a bit of a misunderstanding amongst the county liaisons  
14 who were the direct contact as to what was being delivered but  
15 they knew something was being delivered on this schedule.

16 THE COURT: I would like to just take a short break  
17 so I can talk to Ms. Cole privately, and then -- then we'll  
18 resume.

19 MR. RUSSO: Your Honor, could we let Mr. Barnes go  
20 or --

21 THE COURT: Let him stay for just a minute. I won't  
22 keep him much more. Thank you.

23 **(A brief break was taken at 11:00 A.M.)**

24 THE COURT: Mr. Brown, Mr. Miller? Let me just say  
25 to counsel -- and I realize this is not Mr. Barnes' direct

1 responsibility. But he also described the process as he  
2 envisioned it at least and testified. So that has some value.

3 At the very least -- and I would say perhaps more  
4 than that -- the procedure that was identified on the January  
5 memo is susceptible to a very different interpretation or  
6 multiple interpretations.

7 And given the importance of the software -- the L&A  
8 testing, I can't tell you that you are mandated, but I think  
9 you would be really behooved -- it would strongly behoove the  
10 State in the interest of everyone involved here that there be  
11 clarification of what the process is.

12 You are using -- even though it has been identified  
13 as a de minimis change, even if it hadn't been a change, it  
14 would have been important for there to be -- in this first use  
15 statewide in a major election to have this strong L&A testing.

16 And even if it is construed the way Mr. Barnes says  
17 with the effect of it after you get to position four you are  
18 going to have fewer tests, you will still have a lot of tests.  
19 But, you know, it would have been -- it would be a better thing  
20 to have a different process for dealing with this wrinkle.

21 But even so, I don't think that -- from what the  
22 evidence was in the record that it is -- that the L&A testing  
23 is being pursued in the way that -- the more pristine manner  
24 described by Mr. Barnes. And maybe it is in some places, but  
25 in many places it is not.

1           So, you know, to the extent that, you know, it is  
2 still in process, which it definitely is -- it is just  
3 beginning -- I would really encourage the State to think about  
4 providing clearer directions, you know, thinking about  
5 having -- not just relying on a written one but having some  
6 sort of video conference to discuss it. And maybe you-all feel  
7 like it is not necessary and that is -- but I think the  
8 evidence might point to the contrary and --

9           MR. MILLER: Your Honor, I would want to say that,  
10 you know, the memorandum that Mr. Barnes drafted that was  
11 distributed by the elections director, that is not in a vacuum.  
12 They conduct monthly webinars. They send various instructions  
13 through Firefly. And those kind of things just haven't come  
14 into evidence in this case because it, frankly, wasn't at that  
15 point as much of a disputed issue.

16           We, frankly, thought we were talking about malware on  
17 ballot-marking devices. But suffice it to say, Your Honor,  
18 that there is a significant amount of additional kind of  
19 guidance and instructive material to the county superintendents  
20 throughout the election process through webinars and things of  
21 that nature.

22           THE COURT: Well --

23           MR. MILLER: And it touches on this and other issues.  
24 And, again, I could go into things that, frankly, are  
25 definitely not an issue in this case as to candidate

1 qualification challenges, things of that nature.

2 THE COURT: I think that this case deals with a  
3 variety of things that relate to the machine translating the  
4 vote cast by the citizen that walks into the booth or cast in a  
5 different way. So I'm just -- that is -- I'm just making these  
6 comments.

7 I encourage you because of the way the evidence came  
8 in and what it shows. I'm not saying -- I'm not in any way  
9 obviously in a position to say that you -- Mr. Miller, that the  
10 individual messages haven't gone out.

11 But the -- I still have the testimony in front of me.  
12 I have the January procedures, which are the official  
13 procedures from the Secretary of State about doing this --  
14 preparing for an election that were in front of me. And then I  
15 have voters as well as others who were on the board -- on the  
16 boards' affidavits. So that is what I'm relying on in just  
17 mentioning it to you. But, you know --

18 MR. MILLER: I understand, Your Honor. I'm not  
19 trying to add additional evidence now.

20 THE COURT: I'm talking about the long run here. My  
21 interest is not -- you know, even though it is described as I'm  
22 interfering, my interest is in seeing that the voting system  
23 works and the voters' votes are counted and that there are no  
24 screwups on elections that end up having you back in court.  
25 That is -- and to deal with the case in front of me and to deal

1 with it in an honest and straightforward way.

2 And I wouldn't be having this conference otherwise so  
3 I can really understand what is going on. And --

4 MR. MILLER: We understand.

5 THE COURT: So this is a change. So that is what I'm  
6 dealing with.

7 I still would -- as soon as you do have the --  
8 whatever the submission is from Pro V&V, I would like it to be  
9 submitted on the record so that we have it. And the same  
10 thing -- and what the submission is to the EAC.

11 And if there is any further clarification that is  
12 provided on L&A testing, I would like to be notified of that.  
13 Because right now I have -- I mean, this is exactly what I'm  
14 dealing with. I have to issue an order, and I don't want my  
15 order to be inaccurate in any respect factually.

16 You may contest the conclusions. But I don't want it  
17 to be inaccurate. And we have all worked really long enough to  
18 know that is a concern always.

19 All right. Now --

20 MR. MILLER: Yes, Your Honor. I apologize. And I do  
21 just to -- as we started off today, I do just want to reiterate  
22 that we are appreciative of that and your attention to this.  
23 And, frankly, the Secretary has the same goal of ensuring that  
24 the election can go forward in the most efficient and effective  
25 manner.

1           And, Your Honor, we are appreciative and will remain  
2 responsive to the Court's requests. But it is truly a -- you  
3 know, we are at crunch time. And our local election officials  
4 are trying to administer elections while they are performing  
5 inspections for the Coalition plaintiffs. Our State election  
6 officials are trying to help out. And in practical  
7 realities -- and I understand the Court did not intend -- and  
8 we did not intend to have a negative tone towards the Court.

9           THE COURT: All right. We'll look at -- when  
10 Ms. Welch gets her transcript out, I'll determine if there are  
11 any -- what portions of the video could be made available on  
12 the public docket.

13           I don't want to get myself in another problem with  
14 not having a hearing being in public that should be. And  
15 that's really again -- and there might be nothing here that is  
16 confidential.

17           But you are welcome to send me, just having  
18 participated in this, any of your position about this and about  
19 what portion should be in the public or if all of it can be in  
20 the public.

21           If you are going to do that, just simply so I can  
22 proceed on a timely basis, I would appreciate your letting me  
23 know -- let's see. It is 11:00 today. If you could let us  
24 know by 4:00.

25           MR. RUSSO: Your Honor, are we going to get a copy --

1 how do we go about doing that? Do we get a copy of the video?

2 I mean, I do think probably Dr. Coomer's testimony is  
3 something that may not need to be public. However, I just want  
4 to make sure we understand the process here. We review the  
5 video and send something to you or just --

6 THE COURT: Well, I think at this point I'm not sure  
7 we're going to be able to -- I have to find out from IT. If we  
8 have the video, we'll give it to you. And if not, you're going  
9 to have to just simply go by your recollection -- your joint  
10 recollection --

11 MR. RUSSO: Okay.

12 THE COURT: -- of counsel there.

13 MR. RUSSO: You say by 4:00 today?

14 THE COURT: By 4:00. But I'll let you -- we'll let  
15 you know right away whether we can get you a video.

16 MR. RUSSO: Okay. I didn't know how that -- I have  
17 never had a recording.

18 THE COURT: It is either yes or no that we can do it.  
19 All right.

20 MR. CROSS: Your Honor, could I ask just -- because  
21 it is something that may be breaking, we have heard a lot of  
22 new information today. Could we just have Dr. Halderman just  
23 briefly respond to a couple of points? Because it sounds like  
24 this is stuff you are considering for Your Honor's order.

25 THE COURT: All right. But I would like to release

1 Mr. Barnes so that he can go back to work, unless you have an  
2 objection.

3 MR. CROSS: No.

4 MR. BROWN: No objection.

5 THE COURT: All right. Mr. Barnes, you are -- you  
6 can go on with life.

7 MR. BARNES: Thank you, Your Honor.

8 THE COURT: All right. Thank you very much.

9 Go ahead.

10 MR. MILLER: Your Honor, before Dr. Halderman begins,  
11 because I don't want to interrupt, we just do want to state our  
12 objection on the record to the continued expansion of the  
13 evidence at issue.

14 THE COURT: Well, I think that to the extent that he  
15 has something useful that helps me understand what has been  
16 said, I think the plaintiffs have an opportunity to --

17 MR. RUSSO: It may be -- you know, to the extent that  
18 Dr. Coomer needs to listen to this -- and I don't know --

19 THE COURT: You can show -- you are welcome to try to  
20 reach Dr. Coomer. But it seemed like he had a conflict.

21 MR. RUSSO: I guess I could show him the video maybe.

22 THE COURT: Or you could get Ms. Welch --

23 MR. RUSSO: And he could respond to any --

24 THE COURT: You could see if you could get her to  
25 give you just his portion of the testimony.

1 MR. RUSSO: Okay. I just want to make sure we get to  
2 respond since there was a disputed issue earlier between the  
3 two.

4 THE COURT: Ms. Welch, are you able just to -- just  
5 produce Mr. Halderman's -- we don't know how long it is. But  
6 let's say it is 20 minutes. Are you able to do that -- turn  
7 that around fairly quickly?

8 COURT REPORTER: I can turn it all around very  
9 quickly, Judge. Whatever they ask of me, I do.

10 **(There was a brief pause in the proceedings.)**

11 THE COURT: All right. We'll get it to you one way  
12 or the other. Very good.

13 Can we unmute Dr. Halderman?

14 DR. HALDERMAN: Hello. Can you hear me, Your Honor?

15 THE COURT: Yes.

16 Mr. Cross, did you want to structure this and give  
17 him some questions?

18 MR. CROSS: Yeah. I mean, I think he's been  
19 listening.

20 Probably the easiest way is: Dr. Halderman, it  
21 sounds like there are a few points that you had to respond to.  
22 Go ahead.

23 DR. HALDERMAN: Yes, of course. And however I can be  
24 helpful to the Court in this manner.

25 First, just to respond to the point that Dr. Coomer

1 made about my suggestion in my most recent affidavit that  
2 procedural remedies could cure this problem, I think his  
3 response seems to indicate that the problem that we're  
4 attempting to or the State is attempting to fix here is a  
5 complex one, that it is possible to reproduce it but  
6 reproducing it reliably, he testified, requires operating with  
7 a simpler version of the ballot.

8           And that just gives me further concern about whether  
9 the software fix can be adequately tested given the time that  
10 is available.

11           Now, beyond that, I would like to reiterate the  
12 substance of the security concerns that I have. We have to be  
13 clear that even if the change to the source code is a small  
14 one, as Dominion says it is, the process of updating this  
15 software requires replacing completely the core of the Dominion  
16 software on every BMD.

17           We know that because the update instructions are to  
18 uninstall the APK, that is, the package that contains almost  
19 all of the Dominion software that runs on the ballot-marking  
20 device, and install a new APK, a new copy of all of that  
21 software.

22           So this is, frankly, quite alarming from a security  
23 perspective. Replacing the BMD software at this juncture so  
24 close to the election is an ideal opportunity for attackers who  
25 might want to infiltrate the machines.

1           If attackers have gained access to Dominion's  
2 systems, to Pro V&V's systems, to the CES systems, or to the  
3 county systems that are going to be creating and distributing  
4 this software change, that would be an opportunity for the  
5 attackers to subvert the software that runs on election day.  
6 And, frankly, none of the procedures I have heard described  
7 here today would be adequate to stop that.

8           So beyond the security questions, the change at this  
9 point seriously concerns me from an accuracy and correctness  
10 standpoint. As I said, the software change is fixing a problem  
11 that is complex to reproduce. It is difficult to test to  
12 ensure that the fix actually does correct that problem and  
13 that -- and it is virtually impossible at this last minute to  
14 thoroughly test that it doesn't create new problems.

15           So quite often last-minute changes to complex systems  
16 do create other unknown consequences. And while the previous  
17 version of the BMD software at least had been tested through  
18 use in elections, as Dr. Coomer testified millions of voters in  
19 aggregate, this new software has only existed for a matter of  
20 days.

21           I myself personally have spent more time testing the  
22 old version of the software than anyone has spent testing the  
23 new version of the software because it has only existed for  
24 such a short time.

25           Pro V&V hasn't even had an opportunity to write up

1 its findings. Those finding have not been reviewed by EAC,  
2 which has introduced this de minimis testing categorization for  
3 emergency fixes in small -- that are small in nature. But the  
4 State isn't even following that -- that special case process  
5 that has been put in place by EAC. It seems that that process  
6 itself is being circumvented. It just seems quite extreme  
7 in -- under these circumstances to forgo even that level of  
8 compliance.

9 I wanted to just briefly address the L&A procedures  
10 that we heard described. I think two key points about that are  
11 that the L&A testing we have heard about would be trivial for  
12 malware to detect and bypass. It has a very clear signature  
13 that the BMD can see, that ballots are being printed, that are  
14 being marked in the same position across every race.

15 It would be absolutely simple if you were programming  
16 malware for the BMDs to have it avoid cheating on ballots that  
17 are marked in the same position across each race.

18 So the security value of this L&A testing is minimal.  
19 And we have also heard -- and I think this point came out  
20 clearly for the first time today -- that the L&A testing isn't  
21 even checking to make sure that each BMD correctly produces a  
22 ballot for each -- for the entire set of candidates in every  
23 race.

24 You don't have to test necessarily every permutation  
25 of candidates in order to check that. But the least that I

1 would expect from an L&A procedure would be that it checks that  
2 each BMD can correctly mark a ballot for each candidate.

3 And as we have heard today, because of the length of  
4 the Senate race, many BMDs apparently will not even be tested  
5 to make sure that they can print a ballot that is marked for  
6 each candidate in the presidential race. And that concerns me  
7 because a particular BMD might have a corrupted somehow copy of  
8 the database -- of the programming that goes into it.

9 And the L&A procedures, as described, because they  
10 don't involve printing a ballot from each BMD that has been  
11 marked for every candidate, wouldn't be able to pick up that  
12 problem. You have to actually test that each candidate has  
13 been marked and can be tabulated correctly.

14 THE COURT: Wait a second.

15 DR. HALDERMAN: Apparently someone is sawing on the  
16 outside of my building, and I may have to quickly move to  
17 another room.

18 But I think I have addressed the points that I had in  
19 mind. But I'm very happy to answer any questions.

20 MR. CROSS: Dr. Halderman, just a couple of follow-up  
21 questions. And the Court may have questions or Mr. Russo.

22 In your experience looking at elections over the  
23 years, is there any election that comes to mind where a state  
24 was replacing the software with new software less than two  
25 weeks before the --

1 DR. HALDERMAN: No, nothing comes to mind. This  
2 is -- this is not a typical procedure to be going through. In  
3 an emergency, perhaps you would need to. But even then, it  
4 would be an extremely risky thing to be doing both from a  
5 correctness standpoint and from a security standpoint.

6 MR. CROSS: And just two final questions. Are there  
7 real world examples you have seen where a software change that  
8 even had been fully vetted and was intended to fix one discrete  
9 problem that that then had unintended consequences that were  
10 quite significant?

11 DR. HALDERMAN: Well, the most significant recent  
12 example, of course, is the 737 MAX aircraft where after most of  
13 the testing had been completed Boeing introduced what they  
14 believed was a relatively small design change to the control  
15 system that they didn't believe needed to be rigorously tested  
16 because it was the equivalent of de minimis.

17 But that unfortunately reportedly had fatal  
18 consequences and has been tied to crashes that have killed  
19 several hundred people. But I think that is an illustration.  
20 I think it is a good parallel because both the Georgia election  
21 system and the aircraft are examples of complex software  
22 systems.

23 Georgia's election system is millions of lines of  
24 source code that are in the Dominion products. And for that  
25 reason, small, even seemingly trivial changes can have

1 consequences that are difficult to understand.

2           It is just -- it is why we normally in the voting  
3 system testing and certification process demand such extended  
4 testing for accuracy. That kind of testing can't necessarily  
5 rule out security problems. But it does a lot to help ensure  
6 that votes are going to be counted correctly in the absence of  
7 an attacker.

8           And it is those processes that are being bypassed  
9 here and substituted with apparently less than a week of -- of  
10 very rapid-fire testing of some sort. Nothing like the testing  
11 that goes into a voting system in the course of a normal  
12 software change.

13           MR. CROSS: Last question, Dr. Halderman. You  
14 mentioned that the LAT, the logic and accuracy testing --

15                           **(There was a brief pause in the proceedings.)**

16           MR. CROSS: Dr. Halderman, you said that there is a  
17 clear signature of testing under this L&A process. For  
18 example, the candidates are selected in the same position.

19           DR. HALDERMAN: Yes.

20           THE COURT: Does anyone have somebody speaking in the  
21 background?

22                           **(There was a brief pause in the proceedings.)**

23           MR. CROSS: It seems like it got quieter. Is this  
24 better?

25           Okay. Let me try it again.

1 Dr. Halderman, the question was: You said that there  
2 is a clear signature for the machine to see that it is being  
3 tested during the logic and accuracy testing. One example, of  
4 course, is all the candidates are in the same position; right?  
5 They are all selected in Position 3.

6 Just to show the Court this is not a hypothetical  
7 concern, that the malware can trick the machine during testing,  
8 is there a real world example of where that has happened?

9 DR. HALDERMAN: Of where malware would -- of malware  
10 detecting such a thing?

11 MR. CROSS: Yes. Testing and then --

12 DR. HALDERMAN: Detecting testing. Well, of course,  
13 the prominent example of that is the BMW -- excuse me -- the  
14 Volkswagen emissions testing scandal, Dieselgate scandal, where  
15 Volkswagen programmed its emission systems to detect -- they  
16 were going through EPA testing and emit less pollutants under  
17 those circumstances.

18 So the parallel here is detect that the ballot has  
19 been marked in the same position across all races and in that  
20 case don't cheat; otherwise, cheat with some probability. That  
21 would be -- for malware running on a BMD, that would be  
22 absolutely a simple thing to program.

23 MR. CROSS: Thank you, Your Honor.

24 THE COURT: Let me just make sure I understand from  
25 your perspective what this meant in terms of the testing

1 that -- in terms of the printing of ballots. Any time -- any  
2 ballots -- let's say that there were -- because we were using  
3 the example previously of four, that there would not be ballots  
4 printed with -- that would reflect any other ballot choices as  
5 you -- as they -- for any of the -- any of the times where  
6 people had cast ballots for candidates five and onward.

7 DR. HALDERMAN: Yes, Your Honor. My understanding of  
8 the testimony we heard today is that one BMD would be used to  
9 print a ballot marked in the first position across every race,  
10 another the second position, another the third position, et  
11 cetera and that races that had fewer than that number of  
12 positions the race would just be left blank on the BMD that was  
13 being tested.

14 So each BMD produces one printout that is marked in  
15 one equivalent position across every race. And that, of  
16 course, has the problem that for a given BMD most of the  
17 possible positions that could be marked are not going to be  
18 exercised all the way through being printed and being  
19 tabulated.

20 So if a particular BMD has a database that is somehow  
21 corrupted and programmed differently from the other BMDs under  
22 testing, the problem would not be discovered.

23 THE COURT: All right. Anything else, Counsel?

24 MR. CROSS: Not for us, Your Honor. This is David  
25 Cross. If they want to ask questions, they are welcome to.

1 MR. RUSSO: Your Honor, I don't think we have any  
2 questions.

3 THE COURT: All right. Well, thank you-all very  
4 much.

5 MR. CROSS: Your Honor, I'm sorry. There was one  
6 final thing that we wanted to clear up if we could. Mr. Brown  
7 sent an email in this morning. I don't know if you saw it.

8 THE COURT: No, I did not.

9 MR. CROSS: We're just trying to confirm -- Mr. Tyson  
10 sent in an email indicating that there was a message that went  
11 out from Mr. Harvey clarifying that there were no new databases  
12 coming out as opposed to a software change. He indicated that  
13 message went to the counties on Tuesday. The copies that we  
14 have -- we have multiple copies from the counties -- indicated  
15 it went yesterday around the same time of Mr. Tyson's email.

16 Vincent or Carey, do you know when that actually went  
17 out to the counties?

18 MR. RUSSO: I mean, I believe that it is -- so we  
19 looked at it earlier -- what Bruce sent. Buzz is a webface.  
20 It is a web portal. So I think Mr. Harvey posted it on Buzz in  
21 accordance with what Mr. Tyson represented. And the email went  
22 out the following day due to however Buzz, the program,  
23 populates the email that automatically goes out.

24 MR. CROSS: Okay. Thank you.

25 That is all, Your Honor. Thank you.

1 THE COURT: All right. Thank you very much. And  
2 we'll be -- we'll be in touch. I mean, I'm trying to get an  
3 order out this week. So I appreciate everyone scurrying to get  
4 this in front of me.

5 MR. CROSS: Thank you, Your Honor.

6 MR. RUSSO: Thank you, Your Honor.

7 (The proceedings were thereby concluded at  
8 11:32 A.M.)

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C E R T I F I C A T E

UNITED STATES OF AMERICA  
NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 76 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 1st day of October, 2020.

*Shannon R. Welch*

SHANNON R. WELCH, RMR, CRR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT

# MICHIGAN 2020 VOTING ANALYSIS REPORT

**11-27-20** (rev 11-29-20)



# — DRAFT —

Due to the fluidity of the election information available, this report is a living document. The authors of this report (all unpaid volunteers) generated a statistical analysis based on limited data and even more restricted time constraints. As relevant new data becomes available, an update will be issued, and the revision date changed. If any readers have data to share, comments, or corrections, please email them [here](#).

## Table of Contents

**Executive Overview .....3**

**1 - Analysis of Michigan County Vote Counts .....5**

**2 - Wayne & Oakland Counties: Finding Excessive Votes .....8**

**3 - Exploring Michigan Mail-in Ballots Data .....14**

**4 - Irrational Michigan Absentee Ballot Findings .....16**

**5 - Absentee Ballots Compared in Select MI Counties .....20**

**6 - Analysis of a Survey of Absentee Ballot Recipients .....23**

**7 - Statistical Analysis of Michigan 2020 Election .....26**

**Summary .....31**

## Executive Overview

This scientific analysis of the reported Michigan (MI) 2020 Presidential voting results is a non-partisan effort by unpaid citizens and volunteer experts (several un-named). Our only objective is to play a small roll in helping assure that all legal MI votes are counted, *and* that only legal MI votes are counted.

Whether Donald Trump or Joseph Biden wins is not of concern in this analysis — the scientists involved with this report just want the election results to truly reflect the wishes of Michigan voting citizens.

Since there are multiple reports of voting chicanery circulating the Internet, a collection of statisticians and other scientists volunteered to examine the reported MI results from a scientific statistical perspective.

We feel that the best way to do this is to start by putting ourselves in the shoes of bad actors — and then considering how they might go about changing the wishes of MI citizens, into a different result. Some of the actions they might take are:

- 1 - Keep ineligible people (e.g. deceased, moved, etc.) on the voting roles.  
*(This would disguise actual voter participation rates, allow fabricated votes to be submitted in their names, etc.)*
- 2 - Get legislation passed that does not require in-person voter identification.  
*(This would make it easier for non-citizens, felons, etc. to vote.)*
- 3 - Encourage a much higher percentage of voting by mail.  
*(This would make it much easier to manipulate, as in-person checking is a more secure way to keep track of actual registered citizens, etc.)*
- 4 - Discard envelopes and other identifying materials from mail-in votes.  
*(This makes it very hard to check for duplications, etc.)*
- 5 - Count mail-in votes without careful signature or registration verification.  
*(This makes mail-in an easier choice for manipulators.)*
- 6 - Allow votes to count that are received after Election Day.  
*(This can direct where mail-in votes are needed to go.)*
- 7 - Stop vote counting for several hours before the final tabulations.  
*(This allows for an assessment of how many votes are “needed” etc.)*
- 8 - Do not allow for independent oversight of voting tabulation.  
*(This would make it easier to lose or miscalculate actual votes.)*
- 9 - Connect voting machines or precincts to the Internet.  
*(This makes it quite easy for third parties to access and change votes.)*
- 10-Distribute vote manipulations over multiple precincts and/or counties.  
*(This makes the adjustments more difficult to find.)*
- 11-Make most of the manipulations in unexpected districts.  
*(In other words, don’t do as much manipulation where it’s expected.)*
- 12-Use multiple methodologies to change vote results.  
*(It requires a much longer investigation to find all the adjustments.)*

There are undoubtedly more strategies those who are trying to control our politics would employ — but this is a representative sample. It should also be clear that many of these are difficult and time-consuming to find.

Frequently there is documented proof of some of these voting actions (e.g. leaving non-eligible voters on the rolls). However, these are usually dismissed with cursory responses such as: *we're doing the best that we can*, or *these deviations are not statistically significant*, or *our rolls are as accurate as other states*, or *there are some benefits for doing this (e.g. #3 & #6 above)*, etc.

However, studies like [this](#) and reports like [this](#) do not instill confidence that election results actually reflect the wishes of actual citizens.

So what can we do as scientists? Clearly we can't verify the legitimacy of every Michigan vote submitted. On the other hand, we can (from a scientific perspective along with with sufficient data) provide a statistically strong assessment that reported votes in certain locations are statistically unusual. Such a determination should be treated as an indication that some type of accidental or purposeful manipulation almost certainly occurred.

Such a science-based statistical analysis can not identify exactly what happened — or prove that fraud was involved. Honest mistakes, unintentional computer glitches, etc. can and do happen.

We approached this project assigning different experts to look at the Michigan data from different perspectives. By-and-large the experts worked mostly independently of each other. As a result, there may be some overlaps in the analyses in the following “chapters.”

All of the experts agreed that there were major statistical aberrations in some of the Michigan results that are extremely unlikely to occur naturally.

Using more conventional statistical analyses, we identified nine counties with abnormal results (see Chapter 1). Due to time, data and manpower limitations, for this Report we focused on the statistical analysis for the worst two counties. As scientists (not attorneys) our non-legal recommendation is that both of those Michigan counties have proper recounts

If the results of an accurate recount are that there is **no** significant change in voting results for those two counties (very unlikely), then the authors of this report recommend that we write off those county deviations as an extreme statistical fluke, and that the Michigan voting results be certified.

On the other hand, if the results of an accurate recount are that there **are** significant changes in voting results for either of these two counties, then the authors of this Report recommend that (as a minimum) that the next seven statistically suspicious counties also have an accurate recount, prior to any certifying of the Michigan voting results.

See **Summary** on the final page, for more conclusions. (Note: we did a report with similar analyses for Pennsylvania. Contact the undersigned for a copy.)

— Editor, physicist John Droz, jr. 11-28-20

# 1 - Analysis of Michigan County Vote Counts

S. Stanley Young, PhD, FASA, FAAAS, 11-25-20

## Summary:

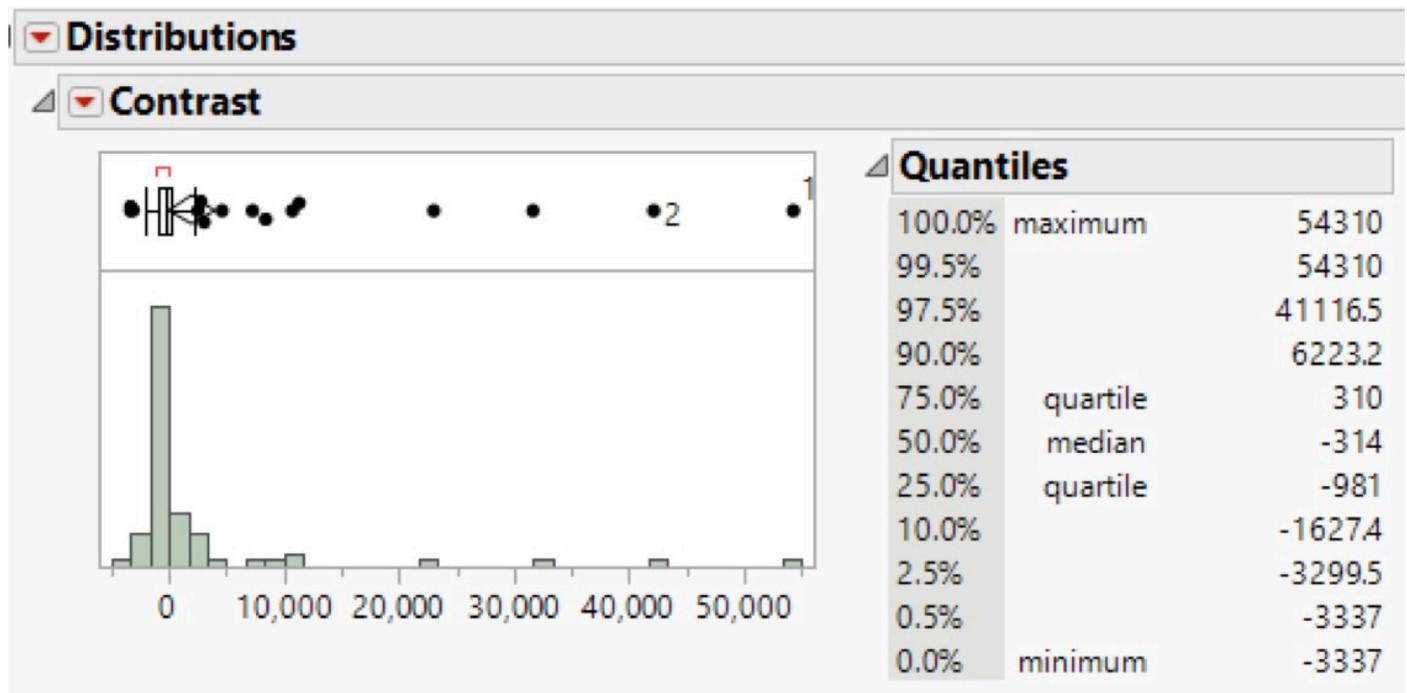
People today generally vote as they have done in the past. If a voting pattern changes, is it a slight shift, or are large changes occurring in a small number of locations? Our idea is to look at relative vote changes in counties within Michigan. How does Biden *vs* Trump2020 compare to Clinton *vs* Trump2016? There could be slight shifts that accumulate across the state, or there could be major changes in a relatively few counties. We use contrasts to examine voting results. We find vote changes are modest for the bulk of MI counties: less than 3,000± votes. However, there are nine counties with much larger changes in votes, up to 54,000±.

## Item 1 —

Consider Biden *vs* Trump2020 compared to Clinton *vs* Trump2016.

$$\text{Contrast} = (\text{Biden} - \text{Trump2020}) - (\text{Clinton} - \text{Trump2016})$$

Here is the distribution of Contrast:



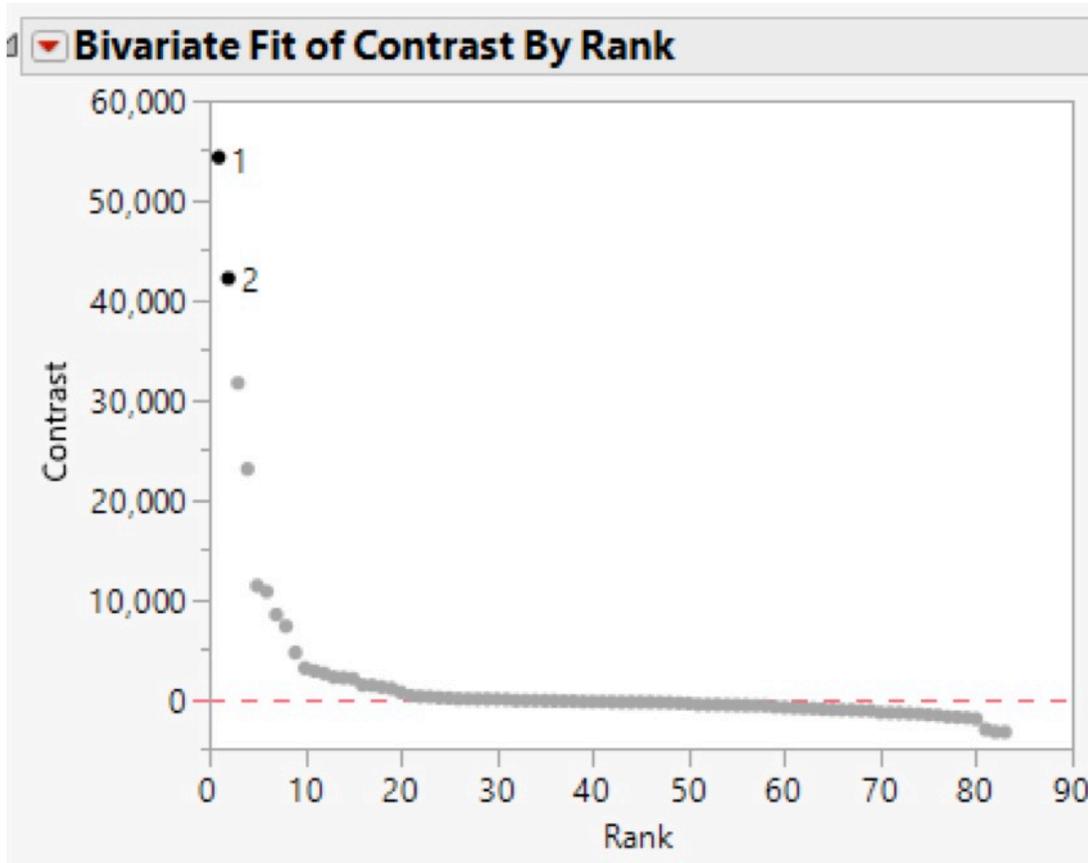
Examine the left side of the above chart. There we see an approximate bell-shaped distribution, which is normally what would be expected. The Contrast (change in votes for Biden *vs* Trump relative to Clinton *vs* Trump) for almost all counties is within the range of plus or minus 3000± votes.

The outliers (numbers unusual relative to the rest of the data) are on the right of the chart, where Biden bested Trump *much* more than Clinton bested Trump.

000919

**Item 2 —**

Here we rank contrasts from largest to smallest for all Michigan counties.



In the above histogram, each dot is one MI county. In 74 of 83 MI counties, the differential is small (near zero) implying that for the vast majority of counties, voters considered Biden *vs* Trump2020 much like they considered Clinton *vs* Trump2016. On the left side of the histogram are the nine (9) outliers — i.e. counties with numbers that substantially deviate from the main distribution.

RowID	County	Biden 2020	Trump 2020	Clinton 2016	Trump 2016	Contrast	Rank
63	OAKLAND	434,148	325,971	343,070	289,203	54,310	1
82	WAYNE	597,170	264,553	519,444	228,993	42,166	2
41	KENT	187,915	165,741	138,683	148,180	31,671	3
81	WASHTENAW	157,136	56,241	128,483	50,631	23,043	4
33	INGHAM	94,212	47,639	79,110	43,868	11,331	5
39	KALAMAZOO	83,686	56,823	67,148	51,034	10,749	6
50	MACOMB	223,952	263,863	176,317	224,665	8,437	7
70	OTTAWA	64,705	100,913	44,973	88,467	7,286	8
28	GD. TRAVERSE	28,683	30,502	20,965	27,413	4,629	9

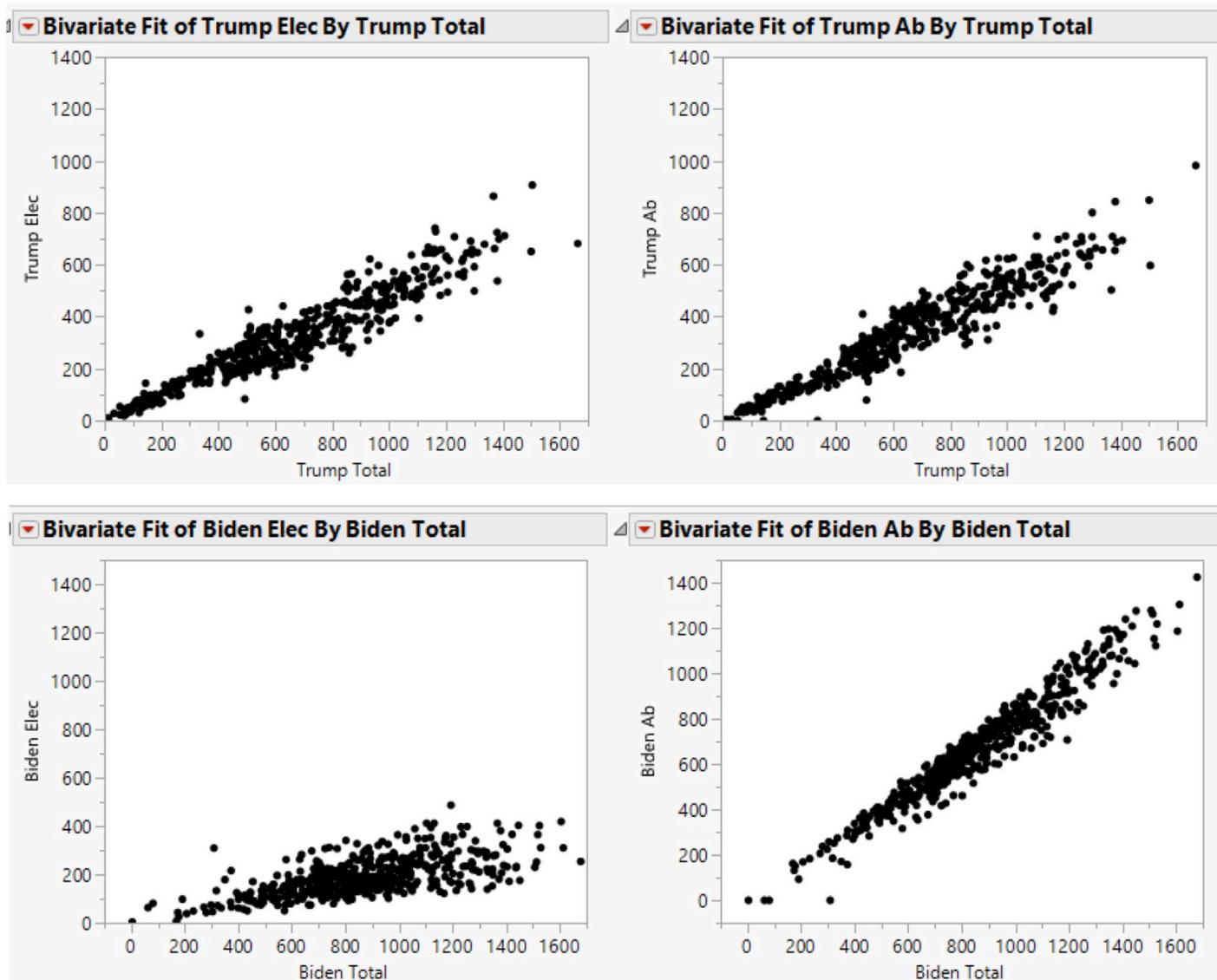
These nine counties together substantially increase the vote count for Biden. For instance, in the first two of these counties (Wayne and Oakland), the differential (contrast) swing for Biden amounts to 96,000± votes.

000920

The remainder of the nine outlier counties (ranks 3 to 9 on the spreadsheet above) represent an additional  $95,000 \pm$  excess votes for Biden, compared to Clinton *vs* Trump. (For example, Trump bested Clinton in Kent county by  $10,000 \pm$  votes but lost to Biden by  $22,000 \pm$  votes, for a net swing of  $32,000 \pm$  votes.) The total unexpected votes for Biden in the nine Michigan outliers is  $190,000 \pm$  votes.

### Item 3 —

Here is another anomaly that indicates suspicious results. The first set of plots compare Trump's election day votes to his mail-in votes, for each county. As would be expected, the distributions are quite similar. The second set of plots compare Biden's election day votes to his mail-in votes, again for each county. As is easily seen, the distributions are *very* different. This is a serious statistical aberration.



**CONCLUSIONS:** The distribution of Item 1, *and* the magnitude of the differentials in Item 2, *and* the statistically deviant patterns in Item 3, are all statistically improbable relative to the body of the data.

# 2 - Wayne and Oakland Counties: Finding Excessive Votes in 2020, Well Outside Their Voting History

*(condensed version: full version available)*

Dr. Eric Quinnell, Dr. Stanley Young

11/26/2020

## Contents

<a href="#">Executive Summary</a>	8
<a href="#">Wayne County/Oakland Buck the Trend</a>	8
<a href="#">Wayne County</a>	9
<a href="#">Oakland County</a>	12

## Executive Summary

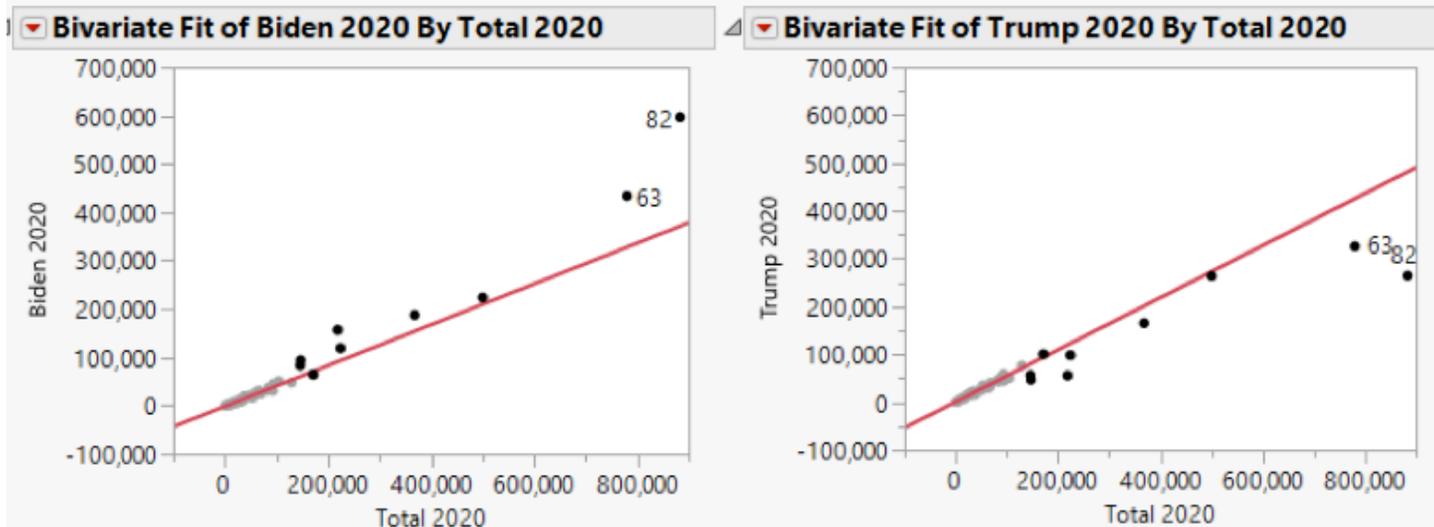
**Analysis** – A statistical team of unpaid citizen volunteer scientists, mathematicians, and engineers collaborated in a statistical vote analysis in the Pennsylvania 2020 Presidential Election, after having worked originally as individuals on various vote analysis across the country. Following the PA report (available on request), the collaboration team netted steep learning curves in analysis and methods, and produced a mathematically based predictive model to reverse engineer vote differential signatures. This now much more robust model is re-applied to Michigan.

Using simple linear regression of unproblematic voting districts, we predict hypothetically problematic voting districts. Using distributional characteristics within problematic counties, we point to problematic districts and precincts.

**Findings** – Two Michigan counties stand out as problematic, Wayne and Oakland Counties, 40,000 and 46,000 estimated excessive votes, respectively. Problematic districts and precincts within these counties exhibit unusual Democrat/Republican (D/R) ratios relative to their history and excessive vote in favor of Biden often in excess of new Democrat registrations.

## Wayne County/Oakland Counties Buck the Trend

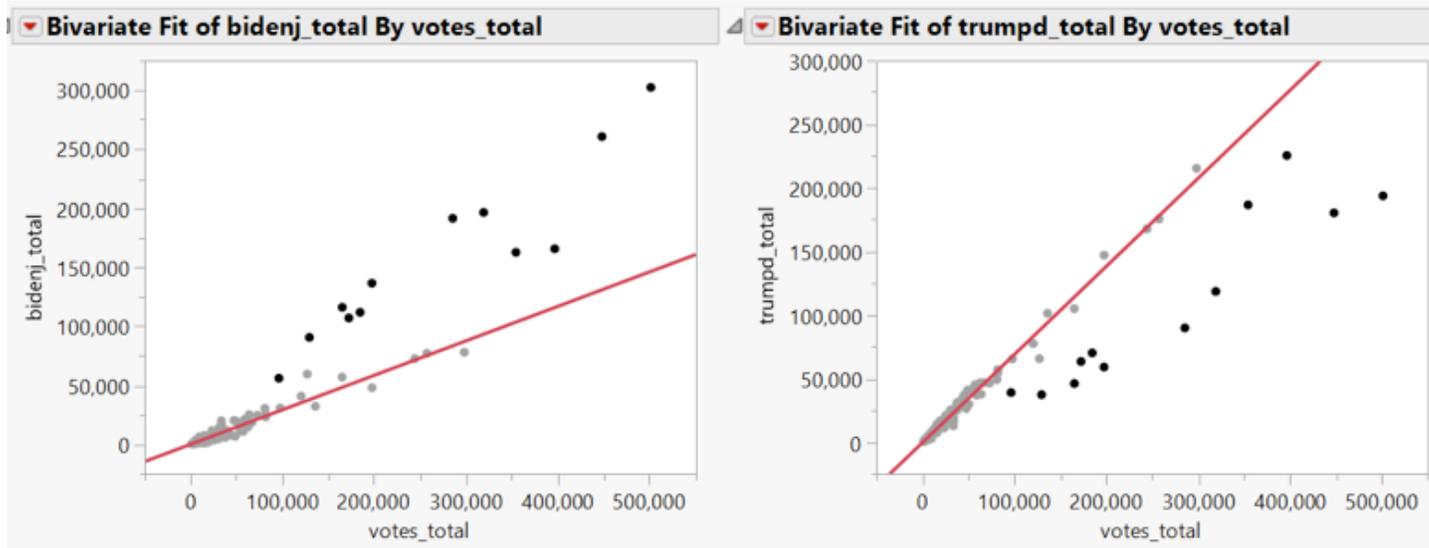
A bi-variate (two variable) trend-line across all Michigan counties (see next page) identify Wayne County and Oakland County as behaving well outside the trends of the rest of the state in 2020. Wayne and Oakland counties also stood out from the analysis done in another section of this report (see Page 6). Thus, these two counties were selected for deeper analysis.



RowID	County	Biden 2020	Trump 2020	Other 2020	Total 2020
63	OAKLAND	434,148	325,971	10,090	780,299
82	WAYNE	597,170	264,553	10,660	883,043

### Wayne County

A bi-variate linear fit of the Trump and Biden votes in 2020 Wayne County show major precincts completely off the charts as compared to the majority of the other precincts in the same county. The points exceedingly off the fit are mostly those in the Absentee Vote Counting Board (AVCB) districts. Several others outside of Detroit also buck the trend of the rest of the area.



The AVCB mail-in districts within Detroit have no ability to correlate with the precincts inside the city, so a historical voting pattern per precinct is not possible. There is also no indication that the AVCB distributions include the same precincts from year to year, so therefore there is no way to link AVCB in obvious ways. Instead, we first looked at the remainder of Wayne County. Outside the city we have much more history and can observe both mail-in votes as well as election day votes correlated to a precinct with history.

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Outside Detroit, Wayne County shows a significant disruption or new vote distribution well outside the 2016 norm. Specifically, both candidates achieved the total 2016 vote count and added to their sums, consistent with new turnout. What’s curious is that above the 2016 totals, a new vote ratio appears in contrast to the history of the area – showing new votes going 70% Democrat vs 30% Republican – a 15-point mismatch to the same area just in the last Presidential Election.

**Gained Votes over 2016 Avg per Precinct**

<i>Trump</i>	79.85
<i>Biden</i>	185.41
<i>Diff</i>	105.56
<i>2020 Dem/Rep Gain Ratio</i>	<b>2.32</b>
<i>%</i>	<b>70D / 30R</b>
<i>2016 Dem/Rep Historical Ratio</i>	1.29
<i>%</i>	55D / 45R

Voting totals of precincts may presume to follow a semi-normal distribution with enough data points. By fitting a normal distribution to actual data and taking the difference between the fitted and actual, potentially anomalous precincts can be identified. Using a per-precinct history, we can take an election result like this:

<b>2020 Actual</b>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>
	900050	620483	356234	251664	1.42
<i>Turnout</i>	68.9%		57.4%	40.6%	

And identify anomalous precincts. We forced the anomalous precincts back to their voting history ratios and adjust to keep pace with the 2020 turnout. This results in this prediction:

<b>Total Predicted 2020</b>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>	<b>Excess Votes</b>
	900050	580056	315807	251664	1.25	40771
<i>turnout</i>	64.4%		54.4%	43.4%		

Which helps us identify several townships outside Detroit in Wayne County that significantly stick out. A partial list of main townships that show excessive votes vs a standard normal with reasonable variance:

<b>Townships</b>	<b>Excessive Votes</b>
<i>Canton</i>	5735
<i>Livonia</i>	5428
<i>Redford</i>	4159
<i>Gr Pointe</i>	3052
<i>Taylor</i>	2891
<i>Westland</i>	2559
<i>Plymouth</i>	2400
<i>Dearborn</i>	2240
<i>Northville</i>	2111

000924

As an example of the excess vote gains above the norm, consider the Township of Livonia, broken into precincts. Nearly every single precinct first achieves the entire 2016 vote total for each party, but then a new population of votes skews excessively in favor of the Biden camp – resulting in a “new vote population” that is voting 76 D / 24 R — in a 2016 Republican township.

Additionally, the votes gained by Biden well outpace even the new registrations in the township – gaining 151% of the new registered voters and 97% of the new votes above 2016. This result/example is incredibly mathematically anomalous.

2016						2020 Gain							
Precinct	Trump	Clinton	Total	Dem/Rep	% Dem	New Trump	Biden	Total	New Registered	Gain Dem/Rep	Dem % of New Registered	Dem % of New Votes	
Livonia Pct 1A	650	783	1558	1.20	50%	119	263	310	272	2.21	97%	85%	
Livonia Pct 1B	310	348	706	1.12	49%	51	106	137	94	2.08	113%	77%	
Livonia Pct 2A	630	634	1337	1.01	47%	58	214	230	158	3.69	135%	93%	
Livonia Pct 3A	467	492	1035	1.05	48%	64	125	132	105	1.95	119%	95%	
Livonia Pct 3B	854	722	1680	0.85	43%	87	183	214	132	2.10	139%	86%	
Livonia Pct 4A	1034	834	1961	0.81	43%	44	233	217	137	5.30	170%	107%	
Livonia Pct 7A	823	638	1514	0.78	42%	31	164	168	102	5.29	161%	98%	
Livonia Pct 8A	752	398	1212	0.53	33%	20	134	123	71	6.70	189%	109%	
Livonia Pct 8B	598	426	1082	0.71	39%	18	135	114	30	7.50	450%	118%	
Livonia Pct 9A	947	635	1651	0.67	38%	12	264	238	146	22.00	181%	111%	
Livonia Pct 10A	615	478	1168	0.78	41%	47	153	152	105	3.26	146%	101%	
Livonia Pct 11A	797	715	1625	0.90	44%	53	218	193	95	4.11	229%	113%	
Livonia Pct 12A	544	671	1293	1.23	52%	78	159	183	146	2.04	109%	87%	
Livonia Pct 13A	637	709	1426	1.11	50%	44	180	177	131	4.09	137%	102%	
Livonia Pct 14A	755	721	1582	0.95	46%	53	163	143	60	3.08	272%	114%	
Livonia Pct 15A	732	563	1361	0.77	41%	74	140	181	114	1.89	123%	77%	
Livonia Pct 16A	713	506	1294	0.71	39%	84	133	176	106	1.58	125%	76%	
Livonia Pct 16B	479	408	961	0.85	42%	46	85	83	44	1.85	193%	102%	
Livonia Pct 17B	646	493	1219	0.76	40%	114	226	287	297	1.98	76%	79%	
Livonia Pct 17A	732	488	1284	0.67	38%	-61	136	42	-111	-2.23	-123%	324%	
Livonia Pct 18A	884	597	1552	0.68	38%	57	161	171	88	2.82	183%	94%	
Livonia Pct 19A	674	494	1244	0.73	40%	57	148	158	103	2.60	144%	94%	
Livonia Pct 19B	768	598	1472	0.78	41%	69	183	181	68	2.65	269%	101%	
Livonia Pct 20A	861	602	1555	0.70	39%	32	208	183	90	6.50	231%	114%	
Livonia Pct 21A	715	566	1369	0.79	41%	39	219	207	100	5.62	219%	106%	
Livonia Pct 22A	712	576	1396	0.81	41%	33	223	192	119	6.76	187%	116%	
Livonia Pct 22B	592	486	1142	0.82	43%	32	128	125	86	4.00	149%	102%	
Livonia Pct 23B	508	325	876	0.64	37%	119	390	498	524	3.28	74%	78%	
Livonia Pct 23A	579	550	1199	0.95	46%	-31	-89	-164	-315	2.87	28%	54%	
Livonia Pct 24B	492	591	1149	1.20	51%	102	235	313	182	2.30	129%	75%	
Livonia Pct 24A	535	610	1215	1.14	50%	69	126	155	161	1.83	78%	81%	
Livonia Pct 25A	358	358	784	1.00	46%	24	122	105	107	5.08	114%	116%	
Livonia Pct 31A	654	561	1286	0.86	44%	69	197	224	152	2.86	130%	88%	
Livonia Pct 31B	600	520	1199	0.87	43%	45	193	190	172	4.29	112%	102%	
Livonia Pct 32A	739	537	1345	0.73	40%	73	148	178	115	2.03	129%	83%	
Livonia Pct 33A	850	680	1616	0.80	42%	86	225	257	136	2.62	165%	88%	
Livonia Pct 34A	683	746	1532	1.09	49%	83	257	280	158	3.10	163%	92%	
Livonia Pct 34B	651	591	1345	0.91	44%	48	215	197	126	4.48	171%	109%	
Livonia Pct 34C	539	487	1107	0.90	44%	25	187	154	119	7.48	157%	121%	
Livonia Pct 35A	517	468	1085	0.91	43%	67	130	121	65	1.94	200%	107%	
Livonia Pct 35B	350	343	753	0.98	46%	28	144	135	62	5.14	232%	107%	
Livonia Pct 35C	330	315	703	0.95	45%	45	121	121	70	2.69	173%	100%	
Livonia Pct 36A	407	462	944	1.14	49%	62	145	163	151	2.34	96%	89%	
Livonia Pct 36B	534	469	1079	0.88	43%	104	165	219	142	1.59	116%	75%	
<b>Precinct</b>	<b>Trump</b>	<b>Clinton</b>	<b>Total</b>	<b>Dem/Rep</b>	<b>% Dem</b>	<b>New Trump</b>	<b>Biden</b>	<b>Total</b>	<b>New Registered</b>	<b>Gain Dem/Rep</b>	<b>Dem % of New Registered</b>	<b>Dem % of New Votes</b>	
<b>TOTAL</b>	28247	24194	55896	0.86	43%	2373	7595	7863	5015	3.20	151%	97%	
			<b>2016</b>	<b>Dem/Rep</b>	<b>46D / 54R</b>				<b>2020 Gain</b>	<b>Dem/Rep</b>	<b>76D / 24 R</b>		

000925

**Oakland County**

Oakland shares the Wayne County mathematical deviance of being well outside the norm. In Oakland all votes added by both candidates above the 2016 take show a new vote ratio of 72% Democrat to 28% Republican – an 18-point mismatch to the same area just since the last Presidential Election.

**Gained Votes over 2016 Avg per Precinct**

<i>Trump</i>	70.79
<i>Biden</i>	179.83
<i>Diff</i>	109.04
<i>2020 Dem/Rep Gain Ratio</i>	<b>2.54</b>
<i>%</i>	<b>72D / 28R</b>
<i>2016 D/R Historical Ratio</i>	1.19
<i>%</i>	54D / 46R

As mentioned, voting totals of precincts may presume to follow a normal distribution. By fitting a normal distribution to actual data and taking the difference between the fitted and actual, potentially anomalous precincts can be identified. Using a per-precinct history, we can take an election result like this

<b>2020 Actual</b>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>
	1035172	771991	434148	325971	<b>1.33</b>
<i>Turnout</i>	75%		56%	42%	

and identify anomalous precincts. Should we peel those anomalies back to the voting history ratios and keep pace with the 2020 turnout, we get this prediction:

<b>Total Predicted 2020</b>	<b>Register</b>	<b>Voted</b>	<b>Biden</b>	<b>Trump</b>	<b>D/R</b>	<b>Excess Votes</b>
	1035172	750646	388023	325971	<b>1.19</b>	46125
<i>turnout</i>	73%		52%	43%		

This helps us identify several townships in Oakland County that significantly stick out. This is a partial list of main townships that show unexpected deviations:

<b>Townships</b>	<b>Excessive Votes</b>
<i>Troy</i>	4781
<i>Royal Oak</i>	4152
<i>Novi</i>	3911
<i>Farmington Hills</i>	3598
<i>Rochester Hills</i>	3597
<i>Bloomfield</i>	2696

000926

As an example of the excess vote gains above the norm, consider the Township of Troy, broken into precincts. Nearly every single precinct first achieves the entire 2016 vote total for each party, but then a new population of votes skews excessively in favor of the Biden camp – resulting in a “new vote population” that is voting 80 D / 20 R — in a 2016 almost evenly split Dem/Rep township.

Additionally, the votes gained by Biden well outpace even the new registrations in the township – gaining 109% of the new registered voters and 98% of the new votes above 2016.

This situation is yet another example that is incredibly mathematically anomalous.

2016						2020 Gain						
Precinct	Trump	Clinton	Total	Dem/Rep	% Dem	New Trump	New Biden	New Total	New Registered	Gain Dem/Rep	Dem % of New Registered	Dem % of New Votes
Troy, Precinct 1	462	434	944	0.94	46%	40	226	230	199	5.65	114%	98%
Troy, Precinct 2	805	792	1680	0.98	47%	53	231	217	189	4.36	122%	106%
Troy, Precinct 3	791	572	1446	0.72	40%	137	270	343	337	1.97	80%	79%
Troy, Precinct 4	974	998	2064	1.02	48%	48	350	341	273	7.29	128%	103%
Troy, Precinct 5	683	453	1193	0.66	38%	18	120	104	72	6.67	167%	115%
Troy, Precinct 6	204	177	402	0.87	44%	19	55	61	40	2.89	138%	90%
Troy, Precinct 7	571	625	1251	1.09	50%	49	197	201	184	4.02	107%	98%
Troy, Precinct 8	536	731	1337	1.36	55%	29	153	125	68	5.28	225%	122%
Troy, Precinct 9	843	746	1683	0.88	44%	134	188	254	216	1.40	87%	74%
Troy, Precinct 10	760	673	1518	0.89	44%	21	306	263	273	14.57	112%	116%
Troy, Precinct 11	754	680	1496	0.90	45%	-12	183	123	87	-15.25	210%	149%
Troy, Precinct 12	523	534	1103	1.02	48%	56	128	155	137	2.29	93%	83%
Troy, Precinct 13	939	1037	2112	1.10	49%	37	312	251	217	8.43	144%	124%
Troy, Precinct 14	763	679	1508	0.89	45%	50	244	249	270	4.88	90%	98%
Troy, Precinct 15	695	687	1443	0.99	48%	2	288	254	200	144.00	144%	113%
Troy, Precinct 16	549	599	1223	1.09	49%	60	197	205	224	3.28	88%	96%
Troy, Precinct 17	746	830	1644	1.11	50%	-35	219	133	139	-6.26	158%	165%
Troy, Precinct 18	618	529	1208	0.86	44%	-14	177	127	111	-12.64	159%	139%
Troy, Precinct 19	595	531	1189	0.89	45%	-32	224	157	73	-7.00	307%	143%
Troy, Precinct 20	812	766	1647	0.94	47%	24	267	246	198	11.13	135%	109%
Troy, Precinct 21	486	536	1096	1.10	49%	67	194	214	213	2.90	91%	91%
Troy, Precinct 22	838	1008	1941	1.20	52%	82	320	329	325	3.90	98%	97%
Troy, Precinct 23	866	954	1908	1.10	50%	124	344	403	380	2.77	91%	85%
Troy, Precinct 24	801	669	1554	0.84	43%	181	178	311	295	0.98	60%	57%
Troy, Precinct 25	724	802	1604	1.11	50%	153	216	329	363	1.41	60%	66%
Troy, Precinct 26	616	699	1421	1.13	49%	120	332	369	330	2.77	101%	90%
Troy, Precinct 27	404	671	1131	1.66	59%	128	150	246	280	1.17	54%	61%
Troy, Precinct 28	380	679	1109	1.79	61%	60	155	173	149	2.58	104%	90%
Troy, Precinct 29	840	885	1848	1.05	48%	35	236	179	168	6.74	140%	132%
Troy, Precinct 30	202	199	425	0.99	47%	-12	81	56	27	-6.75	300%	145%
Troy, Precinct 31	319	238	590	0.75	40%	24	136	141	95	5.67	143%	96%
<b>Precinct</b>	<b>Trump</b>	<b>Clinton</b>	<b>Total</b>	<b>Dem/Rep</b>	<b>% Dem</b>	<b>New Trump</b>	<b>New Biden</b>	<b>New Total</b>	<b>New Registered</b>	<b>Gain Dem/Rep</b>	<b>Dem % of New Registered</b>	<b>Dem % of New Votes</b>
<b>TOTAL</b>	20099	20413	42718	1.02	48%	1646	6677	6789	6132	4.06	109%	98%
			2016 Troy Dem/Rep	51D / 49R					2020 Troy Gain Dem/Rep	80D / 20R		

### 3 - Exploring Michigan 2020 Mail-In Ballots Data

Robert Wilgus 11/27/20

The 2020 election data for Michigan mail-in ballots was provided as a large file obtained *via* an FOIA. The data was perused for anomalies that stood out. A more comprehensive analysis is appropriate and that is what has been arranged (see **Conclusions**).

The data file contains 19 fields for each mail-in application. The fields can be text, numbers, or dates. My understanding of the process is that certain voters (not sure how they were determined) were sent a form to request a mail-in ballot.

The data available captures the process from when the application was sent. The total of requested absentee ballots is 3,507,129. The table below contains measures that merit further investigation:

<b>Measure</b>	<b>Count</b>
<b>Duplicate Voter ID</b>	8341
<b>Duplicate Ballot ID</b>	32
<b>Missing Ballot ID</b>	35897
<b>Missing Ballot Number</b>	36035
<b>Missing Application Sent Date</b>	495065
<b>Missing Application Return Date</b>	0
<b>Missing Ballot Sent Date</b>	36052
<b>Missing Ballot Returned Date</b>	217271
<b>Missing Ballot Address</b>	35988
<b>Missing Resident Address</b>	41
<b>Rejected Ballots</b>	47226
<b>Spoiled Ballots</b>	87793
<b>Year of Birth Earliest</b>	1850
<b>Year of Birth Latest</b>	2002
<b>Year of Birth before 1921</b>	1414

Ballots did not get sent to about 36,000 of the requests received. It's not clear what the reason(s) were for this (e.g. faulty address, etc.). The ballot can be marked as Rejected or Spoiled. Spoiled ballots (incomplete?) and Rejected ballots (duplicates?) add up to about 135,000 ballots that got tossed. That seems like a lot.

The data also includes the voter's year of birth. One is 170 years old, likely an error but their application was not rejected. In total more than 1400 of these absentee voters are over 100 years old. These could well be nursing home patients.

000928

There are 217,271 applications without a recorded date (i.e. never received back). More interesting is the 288,783 that have the application sent and ballot received on the same day. Maybe these are one stop voting and get recorded with the mail in ballots? The table below contains other date related findings:

Measure	Value
<b>Earliest Ballot Sent</b>	06-Feb-2020
<b>Ballots Sent before 1-Sep-2020</b>	13372
<b>Ballots Sent after 3-Nov-2020</b>	12
<b>Ballots Returned after 3-Nov-2020</b>	936
<b>Ballots Returned before Sent</b>	64
<b>Same Date App Sent/Returned</b>	224525
<b>Same Date Ballot Sent/Returned</b>	288783
<b>Same Date for All</b>	78312

The ballots rejected doesn't provide any additional information for what the reason was. It does appear that the majority of ballots received after Nov-3 did fall into this category.

Measure	Value
<b>Total Ballots Rejected</b>	47,226
<b>Rejected Missing Return Date</b>	43,874
<b>Rejected and Spoiled</b>	398
<b>Rejected Return after 3-Nov-2020</b>	909

The last but not least is the spoiled ballots. There is a lot of them. In the first table there are 8,341 duplicate Voter ID. I would expect these were the 'spoiled' ones that got new ballots. There is another column in the table named SPOILED\_IND that means spoiled by the individual. It has values 'N' or is not entered.

There is also very small number that are both rejected and spoiled

Measure	Value
<b>Total Spoiled Ballots</b>	87,793
<b>Spoiled Missing Return Date</b>	15,724

**CONCLUSIONS:** There are numerous measures in the mail-in ballot data that warrant further investigation. This is surprising because there are very few field values with obvious errors. The records with multiple empty fields are of concern. Additional information is also needed for the high number of applications and ballots with the same and returned dates

Because of the importance of this file we recently shared it with a firm that specializes in data analytics of very large databases, to see what they can tease out if it. We are looking forward to some interesting analyses.

## 4 - Irrational MI Absentee Ballots Findings

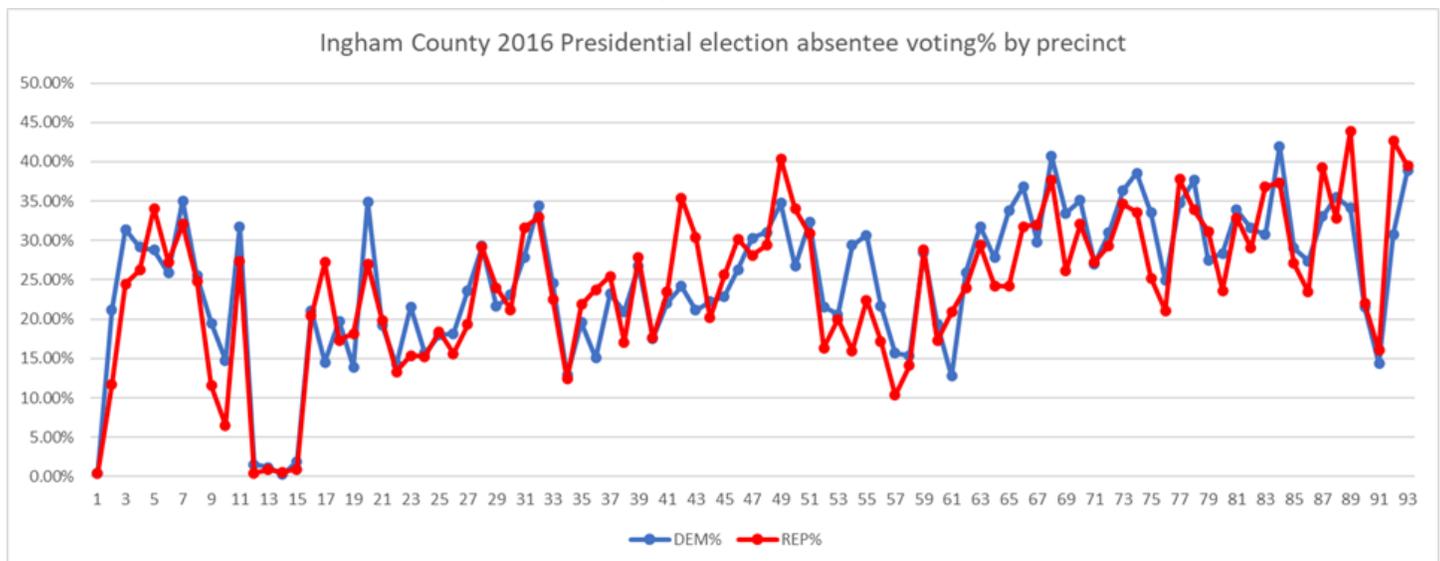
Thomas Davis, 11/28/20

All American citizens, regardless of party affiliation, should be concerned about the integrity of our election process. If citizens no longer determine who their representatives are, the United States is no longer a Republic. Accordingly, post-election scrutiny of suspicious results is not only appropriate, but required.

It is unsurprising that absentee voting in 2020 occurred at a much higher rate than in previous years. (For example, in Kent County Michigan there were 69,000± absentee voters in 2016, and 211,000± in 2020 – a threefold increase.) The COVID-19 virus undoubtedly had a direct impact on the strong move to absentee voting across the nation. In Michigan, there were two additional major contributing factors: **1)** voters approved a no-reason absentee voting law in 2018, and **2)** Secretary of State Jocelyn Benson sent absentee voting applications to all 7.7 million registered Michigan voters this past summer.

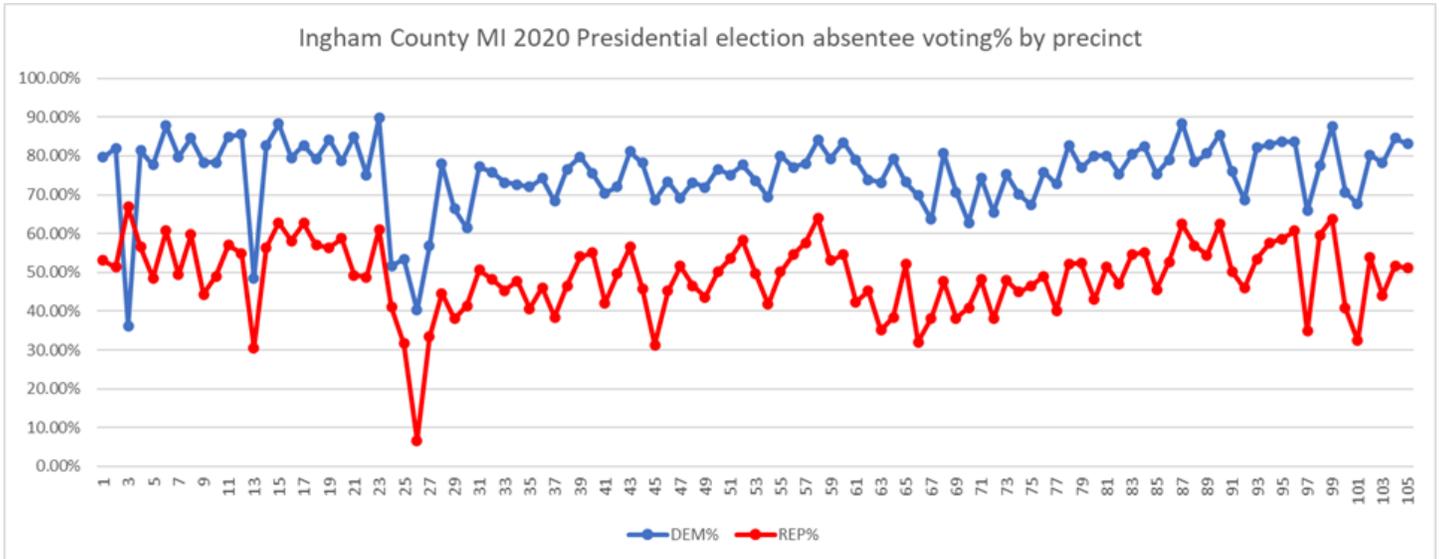
When statistics in Michigan showed especially high numbers of absentee votes for Biden, it didn't raise many red flags. After all, the Democratic party had encouraged people to vote absentee, while the Republican party had encouraged voting in-person (since ballots *could* be lost in the mail). However, a closer look at absentee voting (from the select Michigan counties that publish detailed voting statistics) appears to tell a different story.

Let's start by showing what normal (non-manipulated) absentee voting results should be. The plot below is the percentage of absentee ballots received by each 2016 presidential candidate in Ingham County (Michigan), by precinct (Red = R and Blue = D). Note the irregularities that occur: some precincts are higher for R, some are higher for D. More importantly, the difference between the two (R minus D) varies widely — from plus to minus. In other words: **neither the red line nor the blue line has a discernible pattern. This is what a normal result looks like!**



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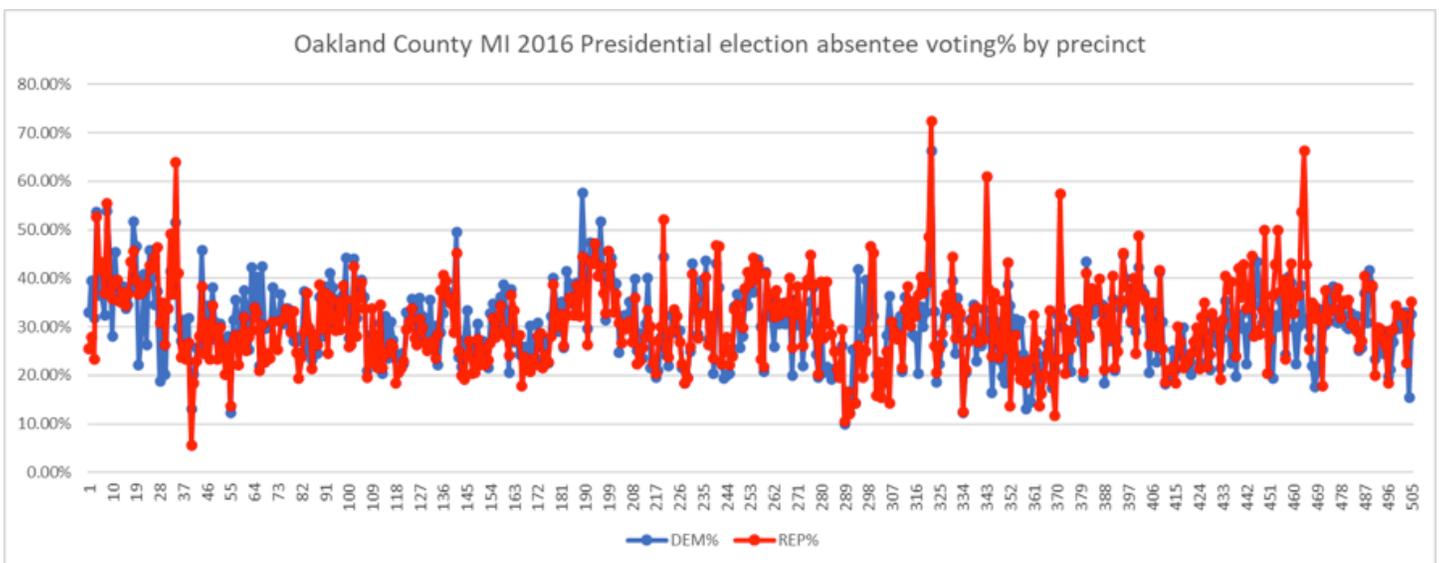
Now we'll look at Ingham County for 2020. (Note that Ingham is one of the top nine Michigan counties exhibiting 2020 voting irregularities [see page 6], *and* one of the few that has such data currently available.) Except for one outlier, the *percentage* of Democratic absentee voters exceeds the *percentage* of Republican absentee voters **in every precinct**. Even more remarkable (and unbelievable): these two *independent variables* appear to track one another.



*DEM% (blue) = # of absentee votes for Biden / total # of Biden votes*  
*REP% (red) = # of absentee votes for Trump / total # of Trump votes*

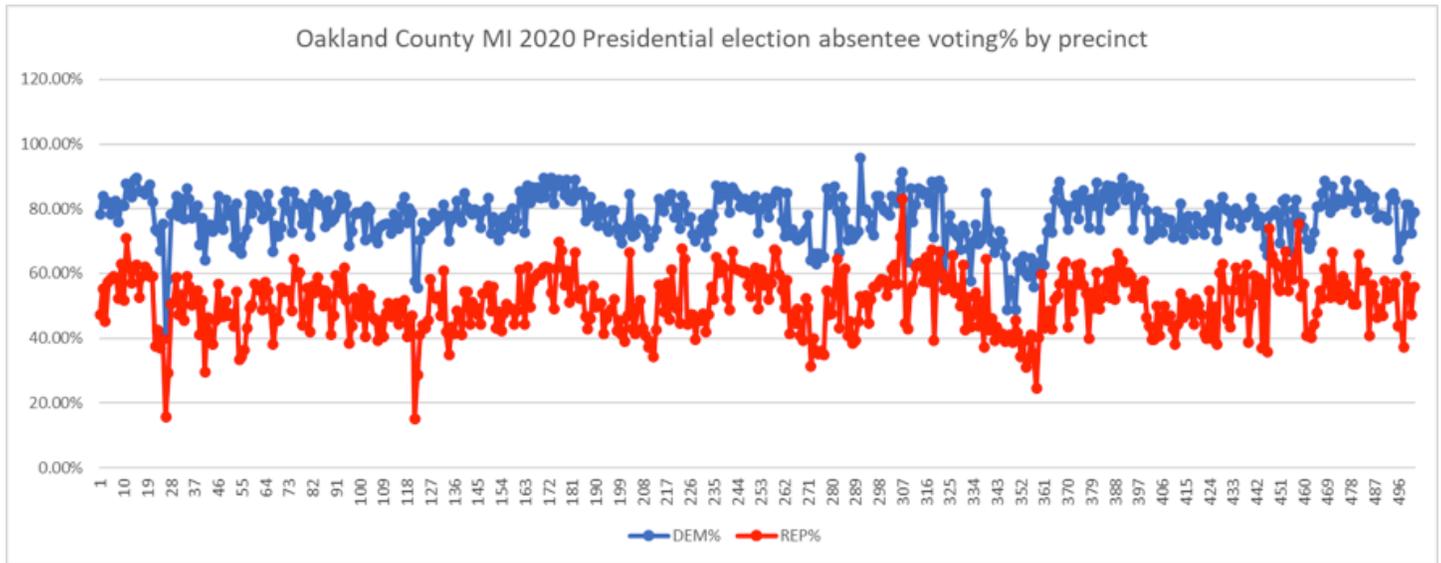
There is no apparent legitimate explanation for the two absentee lines to be tracking each other like that — other than it being due to a computer algorithm (software program).

Just so the reader is not left with the mistaken impression that Ingham County is some exception, we'll look at two others on the list of nine problematic Michigan counties. (We would have liked to do more, but the data is not available.) Here is another stunning comparison: Oakland County in 2016 (below). What the following shows is that Oakland County exhibited a *normal* absentee pattern for the 2016 Presidential election.

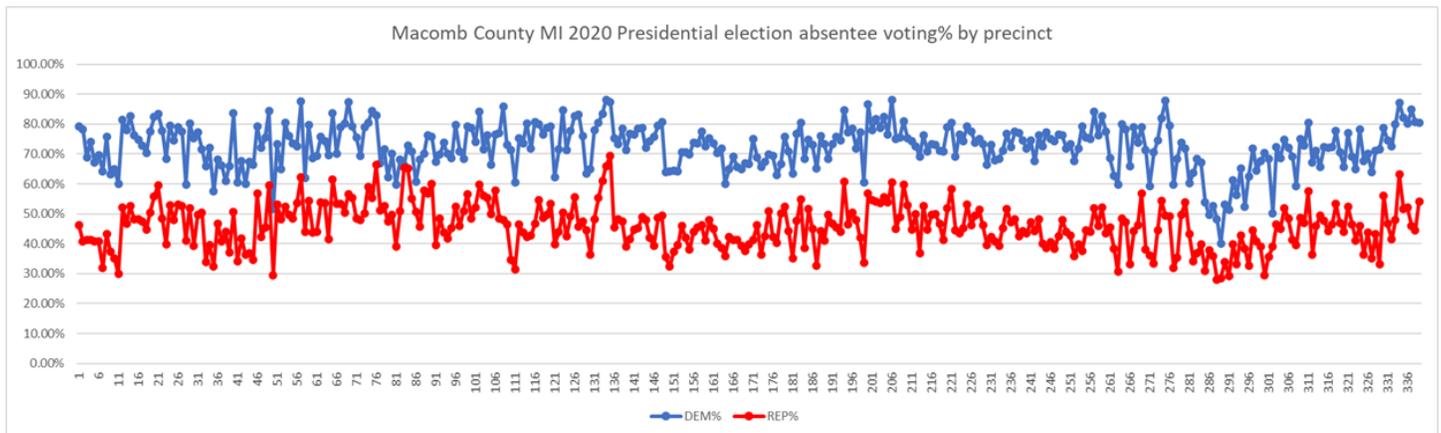
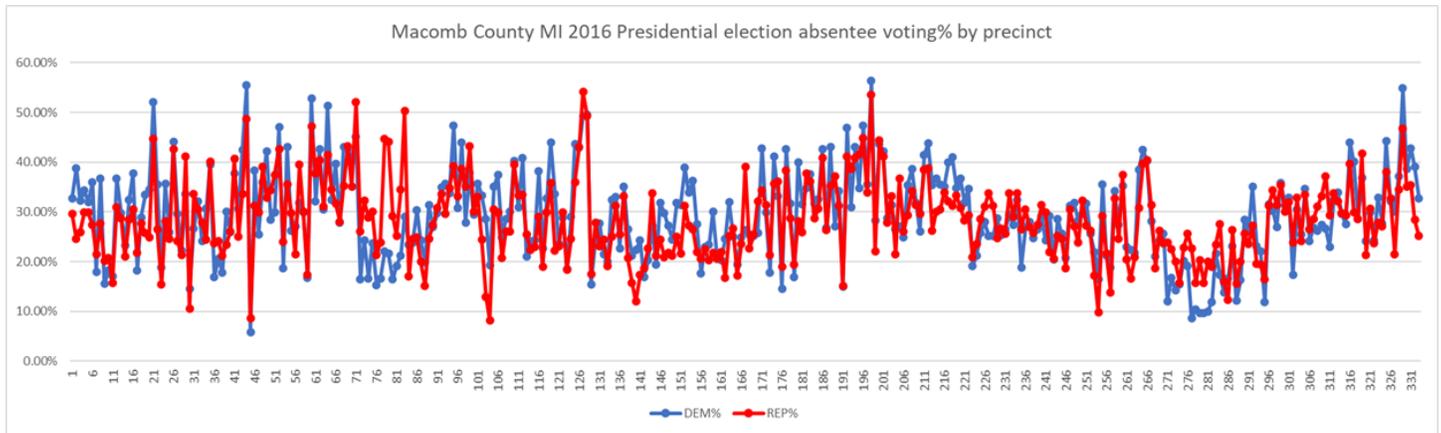


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Now look at what happens in 2020. Although Oakland County has 4± times more voters than Ingham County, this same artificial pattern can again be seen in the 2020 Presidential election results below — albeit somewhat less clearly, as there are more data points (i.e. precincts):

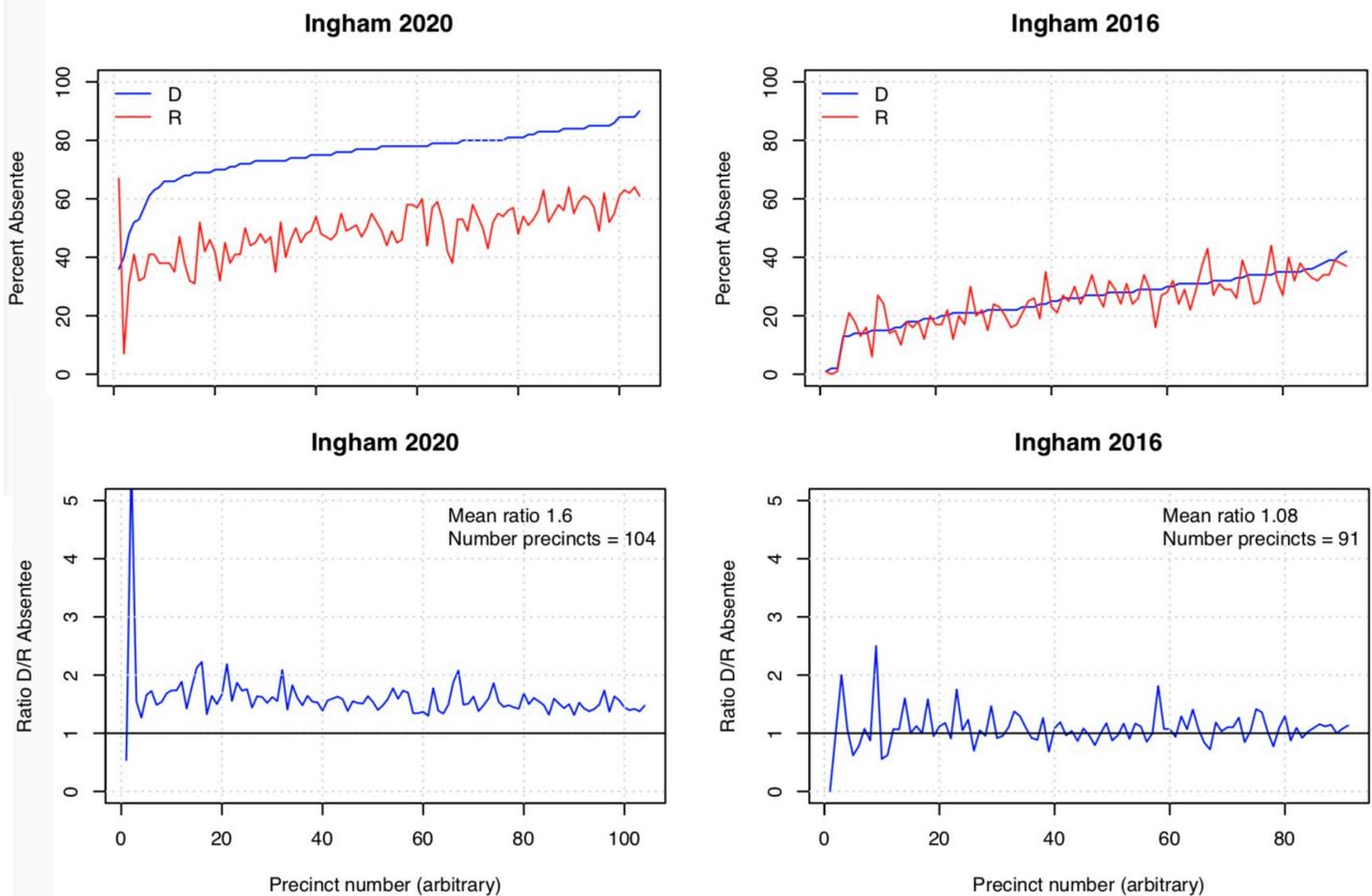


You should be getting the idea now, so just one more example from the list of most problematic Michigan counties in 2020: Macomb. The first is the expected relatively normal plot that occurs in 2016. Below that is the statistically tell-tale plot from 2020.



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For statistical junkies, here are two other perspectives on one of these counties. (We have the plots for the others mentioned above, and they are similarly deviant.) The point is that there are always multiple ways to statistically look at data, so we tried two additional methodologies here. The inescapable conclusion is the same for all three types of analyses: *the 2016 results look reasonably normal — while the 2020 results look artificial.*



**Conclusion:** This is *very* strong evidence that the absentee voting counts in some counties in Michigan have likely been manipulated by a computer algorithm. The comparison of the 2020 results to the normal 2016 election data is dramatic.

If no other plausible explanation can be made for these unexpected findings, it appears that this computer software was installed sometime after the 2016 Presidential election.

On the surface it would seem that the tabulating equipment in infected precincts has been programmed to shift a percentage of absentee votes from Trump to Biden. An accurate hand-count of absentee ballots from a sampling of precincts might be helpful.

Assuming that that any software insertions haven't been undone, it would also be advisable that for at least the three counties highlighted here, a forensic analysis (of the tabulating equipment and compiling codes) by independent experts would be required for definitive proof of malfeasance.

## 5 - Michigan Absentee Ballots: Several Key Counties Compared

Dr. William M. Briggs, 11/26/20

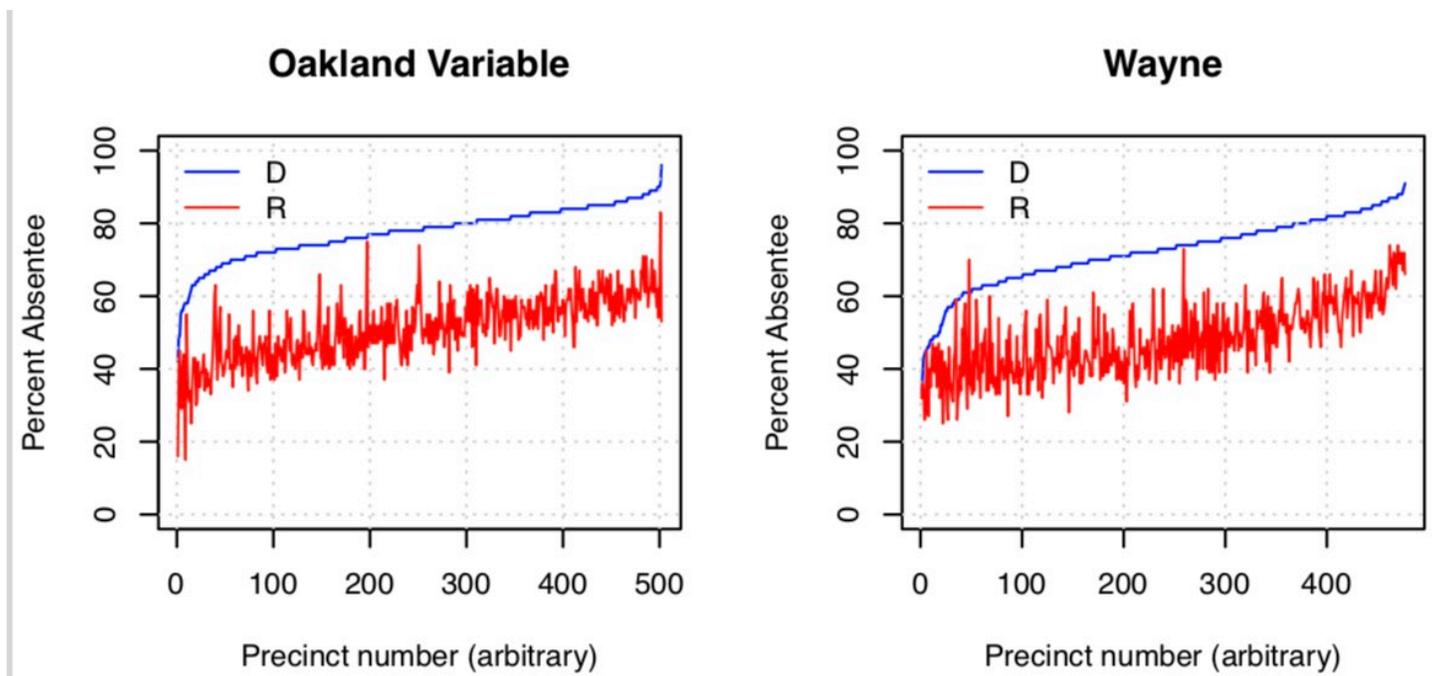
Data from counties in Michigan where absentee votes by candidate were available were gathered. The counties were (alphabetically): (1) Eaton, (2) Grand Traverse, (3) Ingham, (4) Leelanau, (5) Macomb, (6) Monroe, (7) Oakland, and (8) Wayne.

In Eaton and Oakland votes could be either **straight** party (e.g. choose all Democrats for all contests) or **variable** ballots (e.g. choose candidates individually). These were treated separately.

The data sources are: [Eaton](#) (XML), [Grand Traverse](#) (PDF), [Ingham](#) (PDF), [Leelanau](#) (PDF), [Macomb](#) (HTML), [Monroe](#) (PDF), [Oakland](#) (XML), and [Wayne](#) (PDF).

The percent of the total vote for each candidate (not the overall total, but the candidate total) that was absentee was calculated across each precinct or district within each county. The data within a county was sorted by the absentee percentages for Biden, low to high, for display ease.

Next, we plot the percent absentee votes for both Biden (D:blue) and Trump (R:red). See below for examples of two large counties. (For the same types of graphs of more Michigan counties see [here](#).) The precinct numbers are here arbitrary, and reflect the sorting of the data.



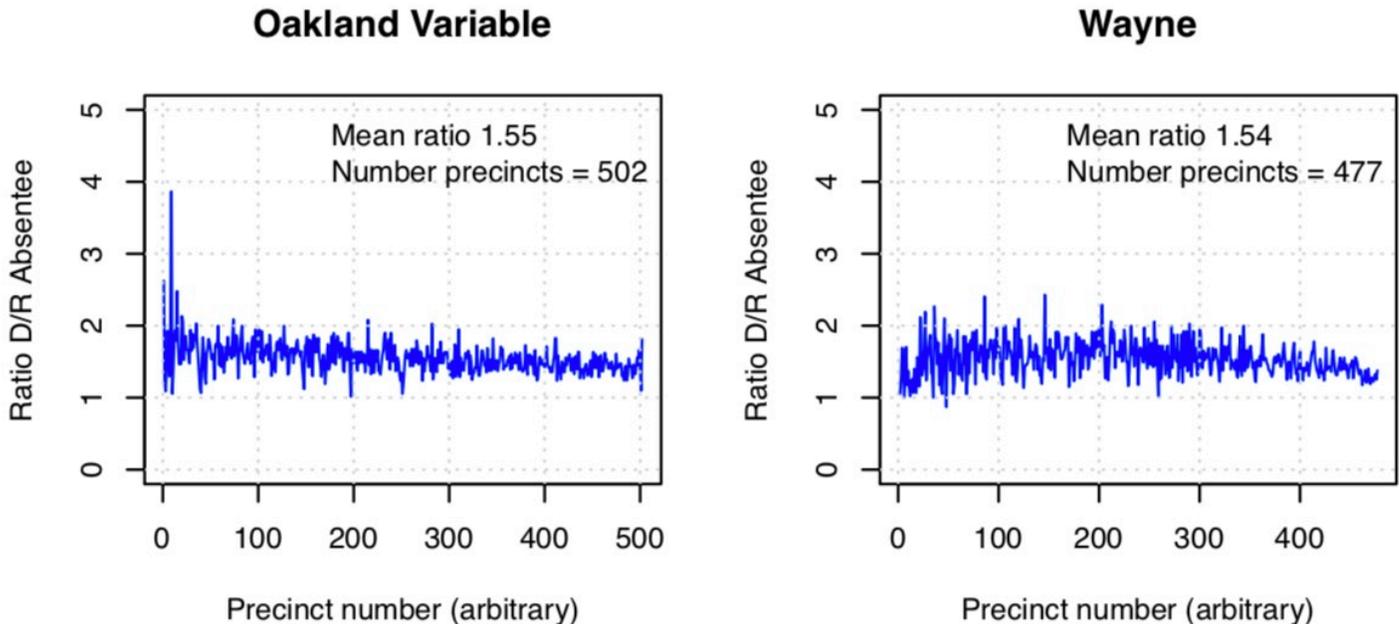
000934

Almost never does the percent of absentee ballots cast for Trump exceed the percent cast for Biden. There are only rare exceptions, such as in very small precincts where we'd expect totals to be more variable.

If absentee voting behavior was the same for those voting for Trump and Biden, the chance that absentee ballots for Biden would almost always be larger would, given the large number of precincts here, be vanishingly small.

Thus, either the absentee voting behavior of those voting for Biden was remarkably consistently different, or there is another explanation, such as manipulation of totals.

More proof of this is had by examining the ratios of absentee ballot totals in each precinct. See below for examples of the same two large counties. (For the similar graphs of more Michigan counties see [here](#).) Again, the precinct numbers are arbitrary and reflect the same sorting as before.



Only 36 precincts out of the 2,146 examined had 0% absentee ballots. These are obviously not shown in the figures (because of divide-by-zero possibilities). As mentioned, the ratio of Biden to Trump absentee votes is astonishingly consistent. The mean ratio inside each county is printed in the figure, along with the number of precincts.

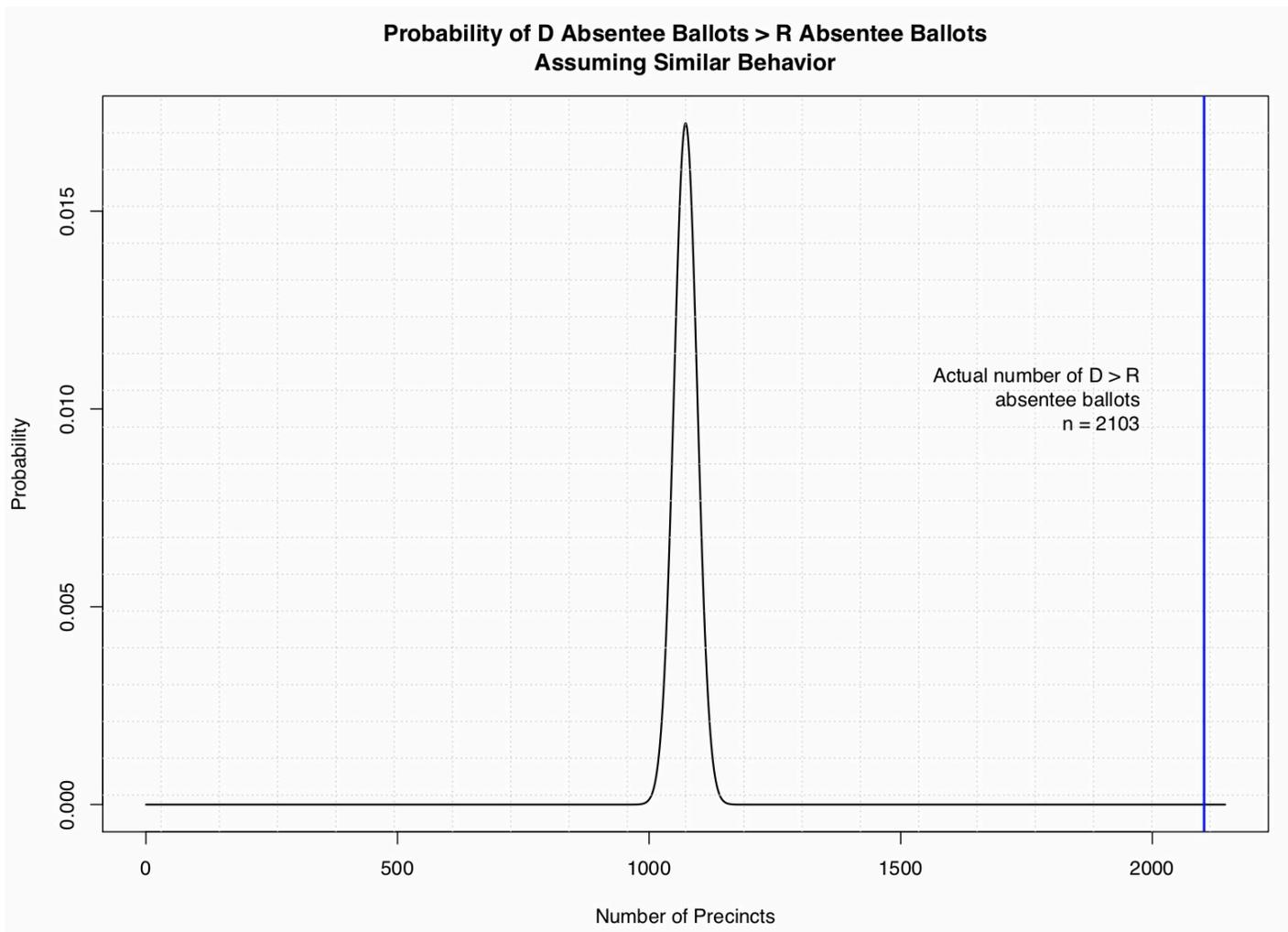
If voting behavior was similar for both candidates, we'd expect this ratio to be 1, with some variability across precincts, with numbers both above and below 1. Instead, the ratios are almost always greater than 1, and with a tight mean about 1.5 to 1.6 or so. This indicates the official tallies of absentee ballots for Biden were about 50-60% higher almost everywhere, with very little variation, except in smaller counties where the ratio was slightly higher.

000935

Such behavior could be genuine, or programmatic changes of the votes could be the explanation of these unusual results. The data here is more consistent with the later hypothesis.

Across all counties there are 2,145 precincts. If Democrat and Republican absentee-voting behavior was the same on average, then the probability the number of Democrat absentee ballots would exceed the number of Republican absentee ballots would be 0.5, or 50%. We can then plot a probability for every possible number of precincts where Democrats outnumber Republicans.

This is pictured below. The actual number of  $D > R$  precincts is 2,103. The probability this happens assuming equal behavior is about  $10^{-557}$ , a very small number, equivalent to winning the Powerball lottery about 65 times in a row.



# 6 - An Analysis of Surveys Regarding Absentee Ballots in Several States (including Michigan)

Dr. William M. Briggs, 11/23/20

## 1: Summary

Survey data was collected from individuals in several states, sampling those who the states listed as not returning absentee ballots. Data was provided by [Matt Braynard](#).

The survey asked respondents whether they **(a)** had ever requested an absentee ballot, and, if so, **(b)** whether they had in fact returned this ballot. From this sample I produce predictions of the total numbers of: **Error #1**, those who were recorded as receiving absentee ballots without requesting them; and **Error #2**, those who returned absentee ballots but whose votes went missing (i.e. marked as unreturned).

The sizes of both errors were large in each state. The states were: Arizona, Georgia,, Michigan, Pennsylvania, and Wisconsin.

## 2: Analysis Description

Each analysis was carried out separately for each state. The analysis used **(a)** the number of absentee ballots recorded as *unreturned*, **(b)** the total number of people responding to the survey, **(c)** the total of those saying they did *not* request a ballot, **(d)** the total of those saying they *did* request a ballot, and of these **(e)** the number saying they returned their ballots.

From these data a simple parameter-free predictive model was used to calculate the probability of all possible outcomes. Pictures of these probabilities were derived, and the 95% prediction interval of the relevant numbers was calculated. The pictures for Michigan appear in the Appendix at the end. (Other states are available on request.) They are summarized here with their 95% prediction intervals.

**Error #1:** being recorded as sent an absentee ballot without requesting one.

**Error #2:** sending back an absentee ballot and having it recorded as not returned.

State	Unreturned ballots	Error #1	Error #2
Georgia	138,029	16,950–22,787	31,581–38,894
Michigan	139,190	29,402–36,270	27,731–34,464
Pennsylvania	481,022	93,091–107,795	77,037–90,748
Wisconsin	96,771	10,640–13,216	10,067–12,581
Arizona	518,560	208,333–229,937	78,714–94,975

Ballots that were not requested, and ballots returned and marked as not returned were classified as troublesome. The estimated average number of troublesome ballots for each state was then calculated using the table above and are presented here:

State	Unreturned ballots	Estimated average troublesome ballots	Percent
Georgia	138,029	53,528	39%
Michigan	139,190	62,064	45%
Pennsylvania	481,022	181,604	38%
Wisconsin	96,771	21,517	22%
Arizona	518,560	303,305	58%

### 3: Conclusion

There are clearly a large number of troublesome ballots in each swing state investigated. Ballots marked as not returned that were never requested are clearly an error of some kind. The error is not small as a percent of the total recorded unreturned ballots.

Ballots sent back and unrecorded is a separate error. These represent votes that have gone missing, a serious mistake. The number of these missing ballots is also large in each state.

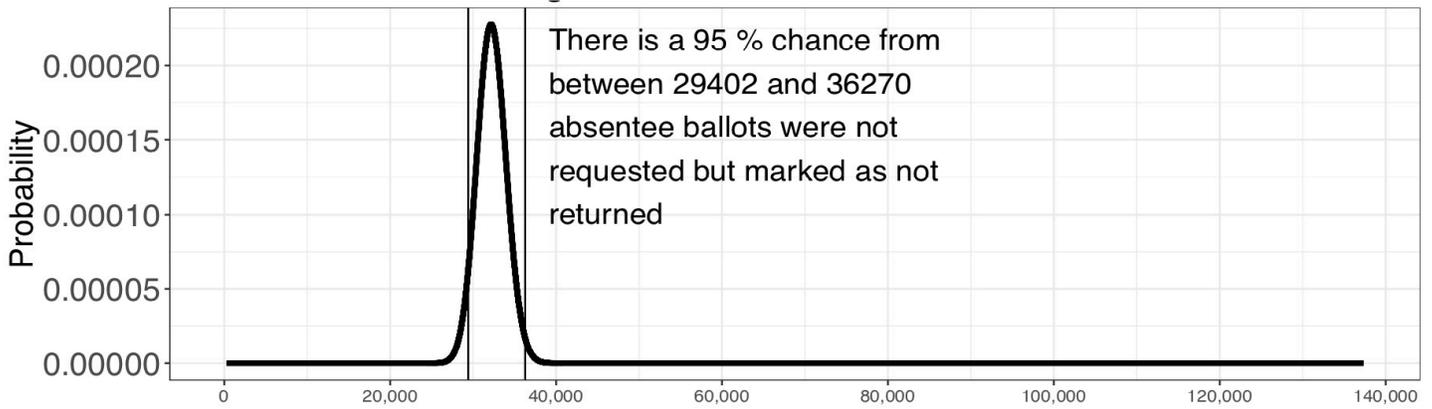
Survey respondents were not asked that if they received an unrequested ballot whether they sent these ballots back. This is clearly a possibility, and represents a third possible source of error, including the potential of voting twice (once by absentee and once at the polls). No estimates or likelihood can be calculated for this additional potential error due to absence of data.

*(See next page for an Appendix to this chapter...)*

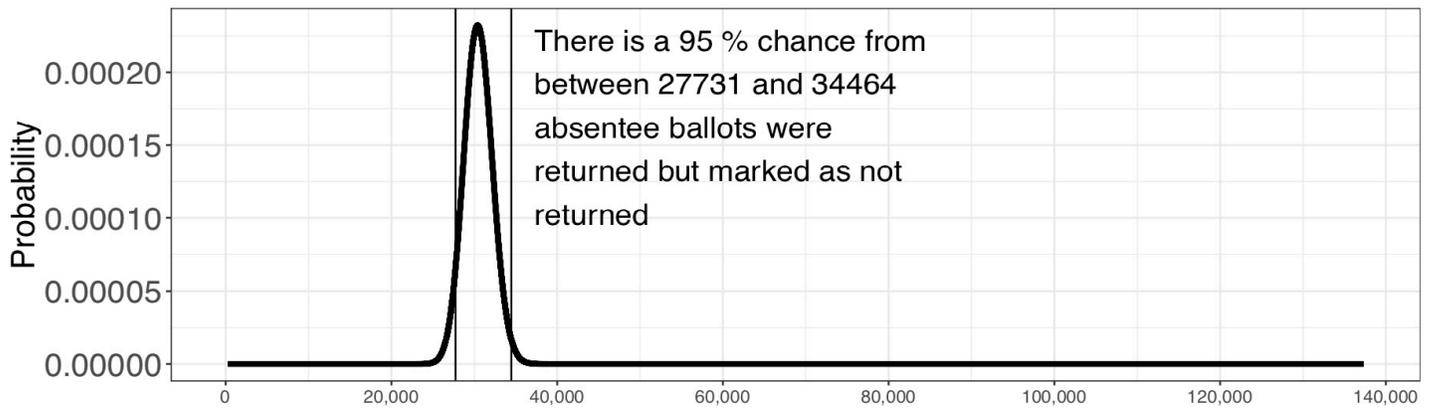
#### 4: Appendix

The probability pictures for Michigan for each outcome as mentioned above.

*Probability of numbers of un-requested absentee ballots listed as not returned for Michigan:*



*Probability of numbers of absentee ballots returned but listed as not returned for Michigan:*



# 7 - Statistical Analysis of Michigan 2020 Election

*(condensed version: full version available)*

Dr. Louis Bouchard

11/28/2020

**Synopsis** - Election results for the state of Michigan (MI) were analyzed for potential anomalies. The state of Florida (FL) is used as reference for comparison, as the election results show a tight race for both states. Therefore, one would assume that the vote counts should be similar, at least on average. Two such anomalies have been identified: **(1)** The rates vote counts is significantly lower for Trump than Biden (even when normalized to the total vote count), indicating the possibility of pro-Biden systematic bias (weighted vote count); and **(2)** *Statistically impossible* “jumps” in the vote counts are found in Biden’s favor for Michigan.

**Methodology** - Edison Research election data was downloaded from the New York Times website on Nov. 25, 2020 and analyzed in MATLAB 2019b. (*The MATLAB code and JSON files are available on request.*) We used the state of FL as reference for comparison because no serious allegations of election fraud have been made to date for FL. The time axis for each state is as follows:

FL: from 2020-11-04 06:43:00 to 2020-11-20 14:16:04

MI: from 2020-11-04 10:00:04 to 2020-11-24 02:28:05

To simplify things, in the graphs below time is reported as “batch”, which roughly speaking corresponds to time. We use “time” and “batch” interchangeably in this document.

Our approach consists of analyzing the statistics of votes added from batch to batch. The rationale is that with each batch, the votes added enables us to study the potential occurrence of anomalous “jumps”. These jumps are denoted here as:  $\Delta$  Trump and  $\Delta$  Biden.

**Analysis of Statistical Anomalies** - Figure 1 (*next page*) shows the results for Florida. The four graphs shown are: [*top left*] cumulative vote count (Trump vs Biden) as function of time (batch), [*top right*] votes added (“jumps”) at each batch divided by the time interval between consecutive batches (i.e. “velocity” of vote counts, denoted  $\Delta$  Trump and  $\Delta$  Biden), [*bottom left*] correlation analysis of Biden jumps vs Trump jumps and [*bottom right*] plot of the residuals. “Residuals” is defined as the difference between Biden and Trump votes added ( $\Delta$  Biden- $\Delta$  Trump) for each batch.

000940

On the average, we expect Trump/Biden jumps to be of the same order of magnitude for each candidate. Wild differences in magnitudes, and especially ones that favor a particular candidate, are signs of potential anomalies. When the race is tight, we expect the points to lie along the diagonal **red** line, indicating that the jumps in vote counts are similar between both candidates. Deviations from the diagonal may indicate anomalous jumps.

As can be seen in the correlation plot, and to a larger extent in the residuals plot, statistically anomalous jumps are all in Biden’s favor. A jump of magnitude shown by the **green** line [bottom right] is statistically impossible: the odds of this happening are 1 in  $10^{23}$ . We see two such jumps in the FL data, both in Biden’s favor.

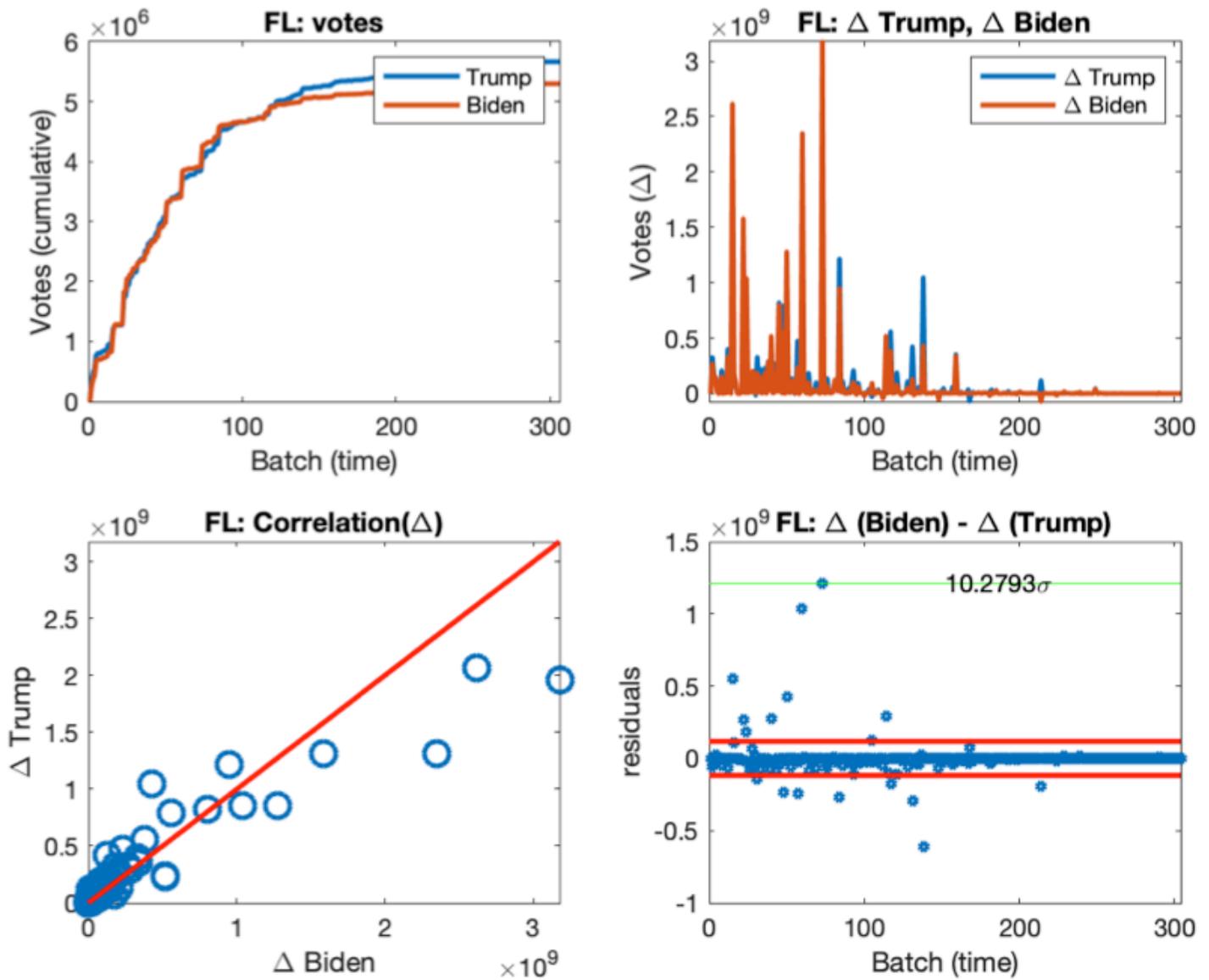


Figure 1. State of Florida election time series analysis (a reference).

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For the Michigan election (Figure 2, next page) there is one statistically impossible jump to the level shown by the horizontal green line [bottom right]. The odds of this happening are 1 in  $10^{117}$ . This “impossible” jump also happens to be in Biden’s favor.

We note that for both states, the largest jumps are not only statistically impossible, but all happen to be in Biden’s favor. For Michigan the jump occurs after the election (towards the end of the count). In the case of Florida, the anomalous jumps occur earlier in the count.

These “impossible” Biden jumps are found at the following time stamps in the EDISON data:

MI: 2020-11-04 11:31:48 (+141,257 votes),

FL: 2020-11-04 00:32:23 (+435,219 votes) and 2020-11-04 00:38:40 (+367,539 votes)

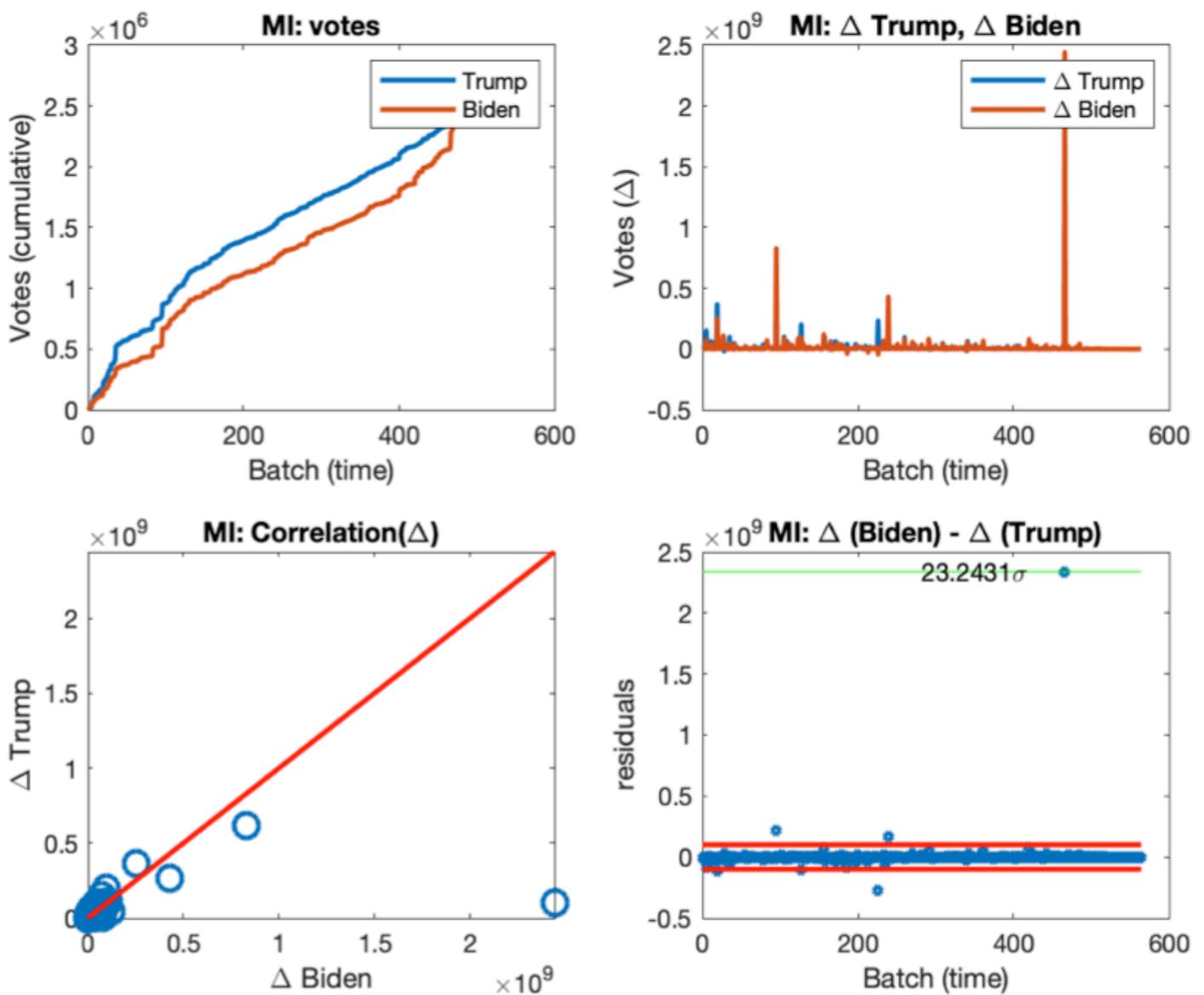


Figure 2. State of Michigan election time series analysis.

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**Analysis of Statistical Bias in Votes Added** - Focusing on Michigan, Fig. 2 (top right plot) shows results for votes added (including any jumps) for both candidates. We find that the votes added for Biden are systematically higher, i.e. there are considerably more events of the type  $\Delta \text{Biden} - \Delta \text{Trump} > 0$ . While this behavior may be expected for a “blowout race” where one candidate gets a much higher vote count than the other, it is unexpected in a race this close. To quantify the bias and likelihood of such an unlikely event, we require a reference race to use for comparison purposes. We will use the race in FL because the results are also close (51.2% Trump, 47.9% Biden) and the FL election has not yet been contested to our knowledge.

Figure 3 presents an alternative way to plot the results of Fig. 2 (top right). This plot shows the **Biden curve** consistently above the **Trump curve**. As shown by the **yellow regions**, across more than 90% of the frequency axis, votes added for Biden are consistently higher than those of Trump. This is indicative of bias in the way votes are added: either the vote count for Biden is artificially inflated at every batch, or those of Trump are systematically depressed.

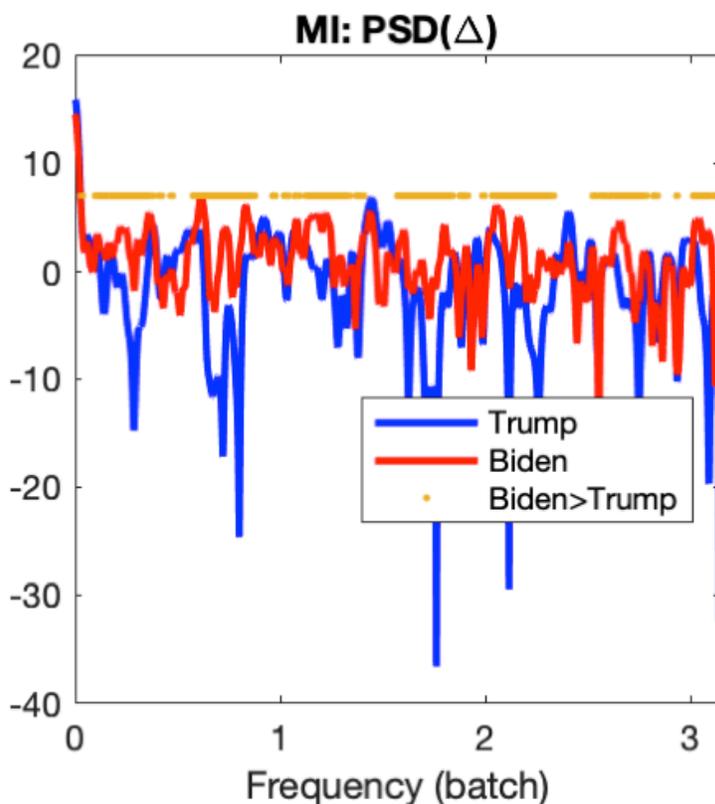


Figure 3. Comparison of statistical bias in the votes added for Michigan.

Vertical axis indicates votes added (for each candidate). Horizontal axis is frequency of batches. This plot, technically called “power spectral density (PSD)”, depicts how frequently such a vote-added count pattern occurs in the time series.

Quantification of the likelihood of such bias to occur was done using a reference time series. FL results were used as reference. A statistical test comparing the mean votes added (for MI vs FL) concluded that for Biden, the means are not statistically different, implying that the votes in MI likely have been counted using the same method as in FL.

On the other hand, the test found significant differences in the way Trump votes in MI were added compared to FL. This could imply: Biden vote counts were inflated, or Trump vote counts were depressed. The odds of this outcome are 1 in 1,000, an unlikely occurrence. This statistical test used all data points in the time series and the mean value of each time series is dominated by small jumps, which happen most frequently (see Figures 1 and 2, top right).

We also compared the “tails” of the distributions between MI and FL, i.e. the larger jumps found in the time series of  $\Delta$  Biden and  $\Delta$  Trump (Figs. 1-2, top right plots). These large jumps contain information about rare events, i.e. statistical anomalies. By considering the votes added that correspond to large jumps, we analyzed the behavior of large jumps while discarding the small jumps.

Our analysis found that the statistics of Biden large jumps in MI did not differ from those in FL. On the other hand, the analysis found that the statistics of Trump large jumps in MI differed from those in FL. The odds of this happening are 1 in  $10^{10}$ , a statistical impossibility.

**Conclusions** - Statistically impossible jumps in the Biden vote counts were found in the time series of election results. For one of these jumps (MI election, +141,257 votes for Biden added during a single time interval), its odds of happening were 1 in  $10^{117}$ , a vanishingly small probability. We also found systematic bias in the way votes were counted, favoring Biden. With high certainty, Trump vote counts were depressed (or, Biden vote counts were inflated). This bias was confirmed using multiple methods<sup>1</sup>. These statistically unlikely events in the Michigan election all favored Biden. Our analysis is statistical and based on the EDISON times series<sup>2</sup>. It also uses Florida as a reference state for statistical analysis.

We recommend further investigations of the root causes of these anomalies.

<sup>1</sup> A more detailed report is available upon request.

<sup>2</sup> EDISON dataset exhibited small occasional drops in candidates' vote counts, but the drops were small and neglected in our analysis; their presence does not alter our analysis and conclusions.

## Summary

Several nationally recognized statistical experts were asked to examine some 2020 Michigan voting records, and to identify anything that they deemed to be statistically significant anomalies — i.e. large deviations from the norm.

In the process they basically worked separately from other team members, consulted with other experts, analyzed the data they were given from different perspectives, obtained some additional data on their own, etc. — all in a very limited time allotment.

Their one — and only — objective was to try to assure that every legal Michigan vote is counted, *and* only legal Michigan votes are counted.

The takeaway is that (based on the data files they were examining) these experts came to one or more of the following conclusions:

- 1) There are some major statistical aberrations in the MI voting records, that are extremely unlikely to occur in a normal (i.e. un-manipulated) setting.
- 2) The appearance of software manipulation (Chapter 5) is most troubling.
- 3) The anomalies almost exclusively happened with the Biden votes. By comparison, the Trump votes looked statistically normal.
- 4) Nine (out of 83) Michigan counties stood out from all the rest. These counties (see Page 6) showed distinctive signs of voting abnormalities — again, all for Biden.
- 5) The total number of suspicious votes in these counties is 190,000± — which greatly exceeds the reported margin of Biden votes over Trump. (We don't know how many of these are artificial Biden votes, *or* votes switched from Trump to Biden.)
- 6) These statistical analyses do not prove fraud, but rather provide scientific evidence that the reported results are highly unlikely to be an accurate reflection of how Michigan citizens voted.

As stated in the Executive Overview, our strong recommendation is that (as a minimum):  
**the two worst of the nine abnormal MI counties have an immediate recounts.**

If the results of an accurate recount are that there is **no** significant change in voting results for those two counties (very unlikely), then the authors of this report recommend that we write off those county deviations as an extreme statistical fluke, and that the Michigan voting results be certified.

On the other hand, if the results of an accurate recount are that there **are** significant changes in voting results for either of these two counties, then the authors of this Report recommend that (as a minimum) that the next seven statistically suspicious counties also have an accurate recount, prior to any certifying of the Michigan voting results.

## **Declaration of Thomas Davis**

Pursuant to 28 U.S.C Section 1746, I, Thomas Davis, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. My training and experience are in Information Technology (IT). I earned a B.S. in Computer Science from Michigan State University (MSU) and the bulk of my career was spent working in the central IT department at MSU. I retired in 2015 and now own and operate a small IT consulting business (TechWise).
3. I reside at 661 S. Edgar Road, Mason, MI 48854
4. My affidavit highlights the percentage of absentee voting that each major party presidential candidate received in the Michigan 2020 election.
5. News of a voting “glitch” in Antrim County MI caught my attention. In an effort to learn about what happened, I went to the Internet in search of the backstory. Given today’s world full of misinformation, I kept digging until I was satisfied with the answer.
6. In resolving the Antrim County question satisfactorily, I stumbled upon a report of statistical anomalies regarding straight-party voting in Kent County MI. This piqued my interest enough that I went to the county website, downloaded the election results, and massaged them into Excel. I was able to reproduce the scatter graph (as seen on the Internet) but was not convinced that it represented anything anomalous about the presidential election (as reported).

7. Poking around in the Kent County voting data, I noticed that John James (the Republican senate candidate) received a much higher percentage of votes than Donald Trump (the Republican presidential candidate). This intrigued me enough to keep digging.
8. I discovered that several Michigan counties use the same system to publish voting results – electionreporting.com – so downloaded these PDF datasets. Reports of potential voting irregularities in various locations prompted me to peek into voting data from Georgia where I learned about clarityelections.com (all counties in Georgia publish their results on this website). A nice feature of this site is that data can be downloaded directly into Excel for analysis.
9. Turning my focus back to Michigan, I found that Oakland County publishes voting results (for multiple years) on clarityelections.com so downloaded the data into Excel and began poking around. This dataset included details about absentee voting and, in examining these data, stumbled upon the seemingly anomalous fact that the percentage of Democrat absentee voters exceeded the percentage of Republican voters in every precinct. This was remarkable. I then looked at the 2016 election data and found no similar anomaly.
10. Being particularly interested in my home county, I learned that Ingham County publishes detailed voting results (in PDF format). After loading these data into Excel and looking at absentee voting percentages, I found the same pattern as Oakland (with one outlier).
11. Increasingly convinced that these were evidence of algorithmic manipulation of voting results, I visited the websites of all 83 Michigan county websites in a quest for voting data. Eight counties

publish detailed results which include absentee voting by precinct (Eaton, Grand Traverse, Ingham, Leelanau, Macomb, Monroe, Oakland, and Wayne) and I created Excel spreadsheets for each. The absentee voting pattern was evident in all cases.

12. I subsequently created line graphs for each of the eight counties and pasted them into a single PDF document. As reports of potential voting irregularities continued, I began looking for ways to publish my findings. I learned of Sidney Powell's lawsuit in Michigan and, in reading the filing, came across the name William M. Briggs. Having never heard of him before, I tracked down his website and provided a copy of my graphs via the "Contact Us" form.
13. William M. (Matt) Briggs put me in contact with John Kroz and I subsequently provided my data and graphs to his team of experts. I also wrote a chapter of the team report which described my findings.



Thomas Davis

November 28, 2020

Mason, MI

# Thomas D. Davis

661 S. Edgar Road, Mason, MI 48854 | tom@mytechwise.com | 517-881-3578

## Summary

- IT executive with diversified experience delivering services that benefit a broad range of end-users
- Well-rounded leader skilled in developing effective teams, processes, and organizational structures
- Team player with results orientation and outstanding communication and interpersonal skills

## Experience

TECHWISE CONSULTING, LLC (MASON, MICHIGAN)

### **Organizer and Sole Member — February 2017–Present**

- Expert technology solutions and support for small businesses and individuals

LANSING BOARD OF WATER AND LIGHT (LANSING, MICHIGAN)

### **Director of Information Technology — July 2015–May 2016**

- Overall responsibility for portfolio of IT systems and networks
- Established governance to provide oversight of IT projects and services
- Rebuilt trust and collaboration between IT and business units

MICHIGAN STATE UNIVERSITY (EAST LANSING, MICHIGAN)

### **Assistant VP, Information Technology Services — September 2014–June 2015**

- Oversaw \$20M enterprise research administration project
- Directed team of functional and technical experts implementing complex software system
- Interfaced with senior executives to ensure functional and strategic alignment of project

### **Acting CIO, Information Technology Services — March 2013–August 2014**

- Management and oversight of MSU's \$60M central IT Services organization
- Formulated and executed plans for major IT projects and service improvements
- Developed, maintained, and applied policies and guidelines pertinent to IT resources and assets
- Engaged with senior executives and governance groups relevant to the position

### **Deputy CIO, Information Technology Services — March 2012–February 2013**

- Led planning activities for central IT unit consisting of eight departments and 340 employees
- Built highly collaborative working relationships between central IT and distributed IT units
- Restructured central IT unit to improve organizational effectiveness and service delivery

### **Director, Academic Technology Services — June 2002–March 2012**

- Responsible for campus networking, infrastructure, and central academic computing services
- Directed 140 employees and department with \$24M annual operating budget
- Collaborated with campus units on planning, development, and operation of IT-related services
- Upgraded campus network backbone to 10Gbps with fault-tolerant architecture
- Launched annual IT Conference, quarterly IT Exchange meetings, and monthly IT coordinating council
- Refurbished 40-year-old datacenter to state-of-the-art facility supporting co-location and virtualization
- Improved overall IT service quality and support utilizing ITIL-based service management practices

Thomas D. Davis — continued

- Established high-performance computing center to support computational research
- Merged two diverse departments with long-standing histories into single integrated support unit
- Assisted in the development and implementation of university-wide policies and IT strategic plans
- Developed Michigan Lambda Rail (MiLR) fiber network with University of Michigan and Wayne State
- Represented MSU with off-campus interests including alumni, vendors, peer universities, and the media

**Division Manager, Computer Laboratory — April 1996–June 2002**

- Managed key campus services including MSUNet authentication, Andrew File System, MSU email system, Blackboard CourseInfo, microcomputer labs, self-service laser printing, and web services
- Expanded division from five to 20 employees
- Worked collaboratively with Main Library on several initiatives including conversion of online catalog system
- Developed and maintained servers for K-12 schools participating in Southeast Central Network Consortium
- Provided email portion of MichK12 project in partnership with Merit Network, Inc.
- Participated on Instructional Computing and Technology Committee

**Team Leader, Computer Laboratory — May 1991–April 1996**

- Led development, deployment, and growth of MSU email system
- Managed team of two systems programmers
- Expanded Andrew File System to support MSU email, microcomputer labs, and web servers
- Implemented high-speed dial-up service
- Participated on Network Communication Committee and Merit Remote Access committee

**Systems Programmer, Computer Laboratory — August 1988–May 1991**

- Developed network printing system for mainframe users
- Administered and maintained key network servers and software (e.g., DNS)
- Managed distribution of site-licensed software

## Education

MICHIGAN STATE UNIVERSITY (EAST LANSING, MICHIGAN)

- BS in Computer Science with minors in Electrical Engineering and Mathematics — 1982
- Graduated with High Honors

## Professional Development

MICHIGAN STATE UNIVERSITY (EAST LANSING, MICHIGAN)

- Inaugural Executive Leadership Academy (ELA) Fellow — 2006
- Assisted with subsequent ELA cohorts and establishment of MSU IT leadership development program

## **Declaration of Eric Quinnell**

Pursuant to 28 U.S.C Section 1746, I, Eric Quinnell, make the following declaration.

1. My name is Dr. Eric Quinnell. I am over 21 years of age, and I am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge. All scientific conclusions herein are made to a reasonable degree of scientific certainty in my fields of expertise.

2. I received a Bachelor of Science Degree in Engineering in May of 2004, a Master of Science in Circuit Design in May of 2006, and a Doctorate in Computer Arithmetic in May of 2007, all from The University of Texas at Austin.

3. I have extensive professional experience as an engineer designing and leading teams engaged in various aspects of circuit architecture and processing. In this capacity, I frequently engage in complex and sophisticated predictive mathematical modeling and statistical analysis. I am required to prepare reports and analysis on the same for presentations to executives and other decision makers. I make this declaration in my personal capacity.

### **Executive Summary**

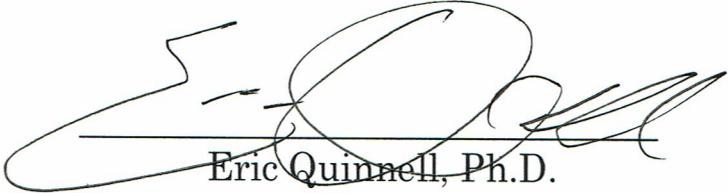
4. I was asked and willingly participated as part of a statistical team of unpaid citizen volunteer scientists, mathematicians, and engineers to produce a statistical vote analysis of the Michigan 2020 Presidential Election.

5. The team produced a report titled "Michigan 2020 Voting Analysis Report". I hereby attest my contributing section is Chapter 2, titled "Wayne and Oakland Counties: Finding Excessive Votes in 2020, Well Outside Their Voting History". I co-author this section with Dr. Stanley Young.

6. I have already filed an affidavit with an extracted version of this Chapter's report which has Dr. Young's work stripped out and my work alone remaining. The original affidavit already cites my methodology, analysis, and data set selection that matches that found in the larger Michigan statistical report.

I declare under the penalty of perjury that the foregoing is true and correct.

November 28, 2020



Eric Quinnell, Ph.D.

**Eric Charles Quinnell, Ph.D.**

6501 Orchard Hill Dr.  
 Austin, TX 78739  
[eric.quinnell@gmail.com](mailto:eric.quinnell@gmail.com)  
 (512) 736-1488

**Education**                    **Doctor of Philosophy, Computer Arithmetic, May 2007**  
 Dissertation Title: *Floating-Point Fused Multiply-Add Architectures*  
**Master of Science, Circuit Design, May 2006**  
**Bachelor of Science, Electrical Engineering - magna cum laude, May 2004**  
 The University of Texas at Austin

**Experience****ARM****Principal Engineer – current – Core Architect (2022 ELP core)**

- Designed and specified isa and uArch plan for next gen “big” cpu core, setting general vision for full cpu team intercept
- Wrote performance models, rtl experiments, timing experiments, verification code, micro benchmarks
- Extracted new traces, workloads, MTBF data, and ram model tradeoffs to gather data for future insight
- Worked with post silicon, compilers, customers, mid/small cpu groups, marketing, tech leads, unit engineers to define full spectrum PPA and engineer work tradeoffs

**Samsung****Principal Engineer – Front-End Fetch/Branch-Predict Lead Micro Architect – (Exynos M4, M5, Galaxy S10/S11/S20)**

- Lead uArchitect, team lead for Front-End Fetch and Neural Net Branch Predictors, ~6 rtl, ~30 engineers all groups
- Individual RTL for predictors, iTags, TLBs, ISA changes, skids, queues, caches, and any/all holes that need filling

**Sr. Staff Engineer 2015-2016 – L3 Lead Micro Architect, Team Lead – (Exynos M3, Galaxy S9)**

- uArchitect, team lead for from-scratch L3 shared cache, ~3 rtl, ~15 engineers all groups
- Individual RTL for tags, snoop filters, LRU, data bank, ECC

**Staff Engineer 2013-2014 – FP/L2 Micro Architect – Mongoose ARMv8 (Exynos M1,M2, Galaxy S7, S8)**

- RTL/uArch for the floating-point multiplier (FPA), floating-point convert (FCVT), NSHUF, NSHIFT
- RTL/uArch for the L2 shared cache, specialized in ECC, write replays, snoops, tags, arbitration
- Sold uArch IP from UT dissertation to Samsung, used in all Exynos M-CPU's (100M+ so far)

**AMD****MTS Engineer 2010-2012 – Micro Architect – Jaguar x86 CPU (PS4, Xbox One)**

- RTL/uArch for the floating-point multiplier (FPM), floating-point adder (FPA), AES and math units
- Added SSE4.1, SSE4.2, AES, CLMUL, AVX to FP unit; expanded datapaths to a 128-bit native FPU

**Senior Design Engineer 2007-2009 – Physical Designer – Bobcat x86 CPU (try #2) (Netbooks)**

- Designed a variable width sleep FET implementation for the Bobcat core-C6 sleep state, 45nm
- Physical block owner of L2 Cache. (SAPR, ECOs, DRC/LVS)

**Design Engineer II 2006-2007 – Physical Designer – Bobcat x86 CPU (try #1)**

- Physical custom placement designer for floating-point multiplier (FPM) and floating-point adder (FPA)
- CAD method developer and owner of route, IR, and power/signal EM, 65nm

**Patents:**

**US8037118, US8078660, US8415972, US8988108, US9291676, US9461667, US9830129, US9904545, US10108398, US10360158, US10564963, US10740236, more Samsung and ARM applications pending**

**Publications:**

[1] Brian Grayson, Jeff Rupley, Gerald Zuraski, Eric Quinnell, Daniel A. Jiménez, Tarun Nakra, Paul Kitchin, Ryan Hensley, Edward Brekelbaum, Vikas Sinha, Ankit Ghiya, “*Evolution of the Samsung Exynos CPU Microarchitecture*,” 2020 ACM/IEEE 47th Annual International Symposium on Computer Architecture (ISCA), 2020.

[2] Jeff Rupley, John King, Eric Quinnell, Frank Galloway, Ken Patton, Peter-Michael Seidel, James Dinh, Hai Bui, Anasua Bhowmik, “*The Floating-Point Unit of the Jaguar x86 Core*,” 2013 IEEE 21st Symposium on Computer Arithmetic

[3] A. Rogers, D. Kaplan, E. Quinnell, and B. Kwan, “*The Core-C6 (CC6) Sleep State of the AMD Bobcat x86 Microprocessor*,” ISLPED '12, Aug 2012.

[4] E. Quinnell, E. E. Swartzlander, Jr., and C. Lemonds, “*Bridged Fused Multiply-Add Design*,” IEEE Transactions on VLSI Systems, 2008.

[5] E. Quinnell, E. E. Swartzlander, Jr, “*Introduction to Floating-Point Arithmetic Systems*,” J.W. Wiley Encyclopedia of Computer Engineering, 2008.

[6] E. Quinnell, “*Floating-point fused multiply-add architectures*,” PhD Thesis, The University of Texas at Austin, 2007

[7] E. Quinnell, E. E. Swartzlander, Jr., and C. Lemonds, “*Floating-Point Fused Multiply-Add Architectures*,” Proceedings of the 41st Asilomar Conference on Signals, Systems, and Computers (ACSSC), 2007.

**Actual Life:**

Eagle Scout, Collegiate Medaling Archer, Father of 3, Cub Scout Den Leader, Visiting uArch lecturer (UT, Madison), MMA

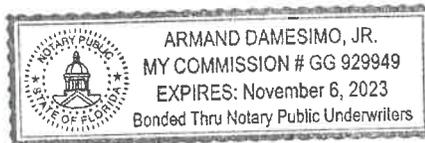
### Declaration of S. Stanley Young

Pursuant to 28 U.S.C Section 1746, I, S. Stanley Young, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am a trained statistician with experience in multiple fields, biology, chemistry, drug discovery, etc. I am a Fellow of the American Statistical Association and also a Fellow of the American Association for the Advancement of Science. I am or have been an adjunct professor of statistics at five research universities. I am currently on the EPA Science Advisory Board. I have over 60 published papers.
3. I reside at 3401 Caldwell Drive, Raleigh, NC.
4. My affidavit highlights substantial deviance from statistical norms and results regarding voting patterns in Pennsylvania and Michigan.
5. Several counties in both Pennsylvania and Michigan deviate substantially from either previous voting patterns or from other counties in the respective states. My contributions to voting questions are given in two reports: Exhibit A, Michigan 2020 Voting Analysis Report 11-27-20 (rev 1), and B, Pennsylvania 2020 Voting Analysis Report 11-16-20 (rev 2).

*S. Stanley Young*  
 S. Stanley Young

STATE OF FLORIDA  
 COUNTY CITRUS  
 SWORN TO (OR AFFIRMED) AND SUBSCRIBED BEFORE  
 ME ON THIS 28<sup>th</sup> DAY OF NOVEMBER, 2020 BY  
 S. STANLEY YOUNG, HE PROVIDED NORTH  
 CAROLINA DRIVERS LICENSE FOR IDENTIFICATION  
 NOTARY: *Armand Damesimo, Jr.*  
 COMM EXP: 06-NOV-2023



Young CV 2020

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**Current Position:**  
 CEO CGStat LLC

### Education

BS, MES, PhD, 1966, 1968, 1974, North Carolina State University, Raleigh, NC

### Postions

1972-1987	Research Statistician, Eli Lilly&Co.
1987-2000	Principle Consultant, GlaxoWelcome
2000-2002	Director, Statistical Research, GlaxoSmithKline
1996-	Adjunct Professor of Statistics, NCSU
1998-	Adjunct Professor of Statistics, University of Waterloo
2002-	CEO, CGStat, LLC
2002-2015	Assistant Director for Bioinformatics, NISS
2004-	Adjunct Professor of Statistics, University of British Columbia
2015-	Adjunct Professor of Biostatistics, Georgia Southern University
2018-	Member USEPA Scientific Advisory Board

### Other Experience and Professional Memberships

1972-	American Statistical Association
1972-	Biometrics Society
2004	Program Chair, ASA's Section on SPES
2003	Program Chair, Midwest Biopharmaceutical Statistics Workshop

### Honors

1980	Best Statistics Paper, SAS Users' Group International
1989	Best Statistics Paper, SAS Users' Group International
1990	Fellow of the American Statistics Association
1991	Best Statistics Application Paper, ASA
1998	Statistics in Chemistry Award, ASA
1999	Virtual Screening Conference, Marburg Germany
2000	Statistics in Chemistry Award, ASA
2000	Participant of "Biostatistics Workshop" at the Oberwolfach Institute in Germany
2000	Participant of "Computational Chemistry Workshop" Beilstein Institute of Germany
2006	Fellow of the American Association for the Advancement of Science
2006	Statistics in Chemistry Award, ASA

### Book

Peter H. Westfall and S. Stanley Young (1993) *Resampling-based Multiple Testing*, John Wiley&Sons

### Book Chapters

Young SS, Hawkins DM. (2004) Using recursive partitioning analysis to evaluate compound

selection methods. Chemoinformatics: Methods and Protocols Ed. J. Bajorath. The Humana Press Inc., Totowa, NJ 07512

Westfall, W.H., Zaykin, D.V. and Young, S.S. (2002) Multiple tests for genetic effects in association studies. Biostatistical Methods. S.W. Looney, Ed. Humana Press Inc., Totowa, NJ 07512

Lambert CG, Young SS. (2006) Pharmaceutical research and development productivity: Can software help? Computer Applications in pharmaceutical research and development, Ekins S, Wang B. Eds Wiley

Young SS, Obenchain RL, Lambert CG. (2016) A Problem of Bias and Response Heterogeneity. In Standing with Giants. Eds. Moghissi AA and Ross G. American Council on Science and Health.

### **Patents**

Farmen MW, Lambert CG, Rusinko III AR, Young SS. Statistical deconvoluting of mixtures. US Patent 6,434,542. (1997).

Lam RLH, Welch WJ, Young SS. Cell based binning methods and cell coverage system for molecule selection. US Patent 6,850,876 (2000)

Young SS, Barrett, Jr. TH, Beecher CW. System, method, and computer program product for analyzing spectrometry data to identify and quantify individual components in a sample. US Patent 7,561,975 (2009)

### **Papers**

Gries CL, Young SS. (1982) Positive correlation of body weight with pituitary tumor incidence in rats. *Fundamental and Applied Toxicology* 2:145-148.

Young SS. On the choice of experimental populations for research in neurobehavioral toxicology. *J Toxicol Environ Health*. 1983 Oct-Dec;12(4-6):841-842.

Young SS, Gries CL. (1984) Exploration of the negative correlation between proliferative hepatic lesions and lymphoma in rats and mice - establishment and implications. *Fundamental and Applied Toxicology* 4, 632-640.

Meyers DB, Young SS, Gries CL. (1985) Design of cancer assays for pharmaceutical agents. *J Natl Cancer Inst*. 74,1151-1152.

Young SS, Brannon DR. (1986) Dose selection for long-term rodent carcinogenicity studies. *Fundam Appl Toxicol*. 6, 185-188.

Tamura RN, Young SS. (1986) The incorporation of historical information in tests of proportions: Simulation study of Tarone's procedure. *Biometrics* 42, 343-349.

Tamura RN Young SS. (1987) A stabilized moment estimator for the beta-binomial distribution. *Biometrics* 43, 813-824.

Young SS. (1988) Evaluation of data from long-term rodent studies. *J Natl Cancer Inst*. 80,3-4.

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- Young SS. (1989) What is the proper experimental unit for long-term rodent studies? An examination of the NTP benzyl acetate study. *Toxicology*. 54, 233-9.
- Young SS. (1989) A blind reanalysis of a random subset of NCI bioassay studies: agreement between rats and mice. *Fundam Appl Toxicol*. 12, 232-41.
- Young, S.S. (1991) Drug Design: Examining Large Experimental Designs. Proceedings of the 23rd Computing Science and Statistics: Symposium on the Interface.
- Young, S.S., and Hawkins, D.M. (1995) Analysis of a  $2^9$  full factorial chemical library. *J. Medicinal Chemistry* 38, 2784-2788.
- Young S S, Farmen M., Rusinko A. III (1996) Random versus rational which is better for general compound screening? *Network Sci.* [Electronic Publication] 2(7), URL: <http://www.awod.com/netsci/Issues/Aug96/feature3.html>
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- Westfall PH, Krishen A, Young SS. (1998) Using prior information to allocate significance levels for multiple endpoints. *Stat Med*. 17, 2107-19.
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Fogel P, Gobinet C, Young SS, Zugaj D. (2009) Evaluation of unmixing methods for the separation of quantum dot sources. *WHISPERS 2009*

Young SS, Yu M. (2009) To the Editor: Association of Bisphenol A with diabetes and other abnormalities. *JAMA* 301:720-722.

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Young SS, Obenchain RL, Krstic G. (2015) Local Control Analysis of Radon and Ozone. Discovery Summit 2015. <https://community.jmp.com/docs/DOC-7784>

Lopiano KK, Smith RL, Young SS (2015) Air quality and acute deaths in California, 2000-2012.  
<https://arxiv.org/abs/1502.03062>

Fogel P, Gaston-Mathé Y, Fogel F, Luta G, Young SS. (2016) Applications of a Novel Clustering Approach Using Non-Negative Matrix Factorization to Environmental Research in Public Health. *International Journal of Environmental Research and Public Health*. 13,509  
doi:10.3390/ijerph13050509.

Obenchain RL, Young SS. (2017) Local Control strategy: Simple analyses of air pollution data can reveal heterogeneity in longevity outcomes. *Risk Analysis*. [Risk Anal.](https://doi.org/10.1111/risa.12749) doi: 10.1111/risa.12749

Young SS. (2017) Air quality environmental epidemiology studies are unreliable. *Regulatory Toxicology and Pharmacology* 88, 177-180.

Young SS, Smith RL, Lopiano KK. (2017) Air quality and acute deaths in California, 2000-2012. *Regulatory Toxicology and Pharmacology* 88, 173-184.

Peace KE, Yin JJ, Rochani H, Pandeya S, Young SS. (2018) A Serious Flaw in Nutrition Epidemiology: A Meta-Analysis Study. *International Journal of Biostatistics*. **Published Online:** 2018-11-22 | **DOI:** [doi.org/10.1515/ijb-2018-0079](https://doi.org/10.1515/ijb-2018-0079)

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You C, Lin DKJ, Young SS (2018) Time series smoother for effect detection. *PLoS ONE* 13(4): e0195360. doi.org/10.1371/journal.pone.0195360

Young SS, Acharjee MK, Das K. (2018) The reliability of an environmental epidemiology meta-analysis, a case study. *Regulatory Toxicology and Pharmacology*. 102:47-52.

Young SS and Fogel P. (2018) MetaEval: a JMP add-in to evaluate a claim coming from a meta-analysis [version 1; not peer reviewed]. *F1000Research* 2018, 7:1913 (slides)  
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Young SS, Kindzierski KB. 2018. Combined background information for meta-analysis evaluation.  
<https://arxiv.org/abs/1808.04408>

Young SS, Kindzierski KB. 2019. Evaluation of a meta-analysis of air quality and heart attacks, a case study, *Critical Reviews in Toxicology*, doi: [10.1080/10408444.2019.1576587](https://doi.org/10.1080/10408444.2019.1576587)

## **Declaration of Louis Bouchard**

Pursuant to 28 U.S.C Section 1746, I, Louis Bouchard, make the following declaration.

1. My name is Louis Bouchard. I am over the age of 21 years and I am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge. All scientific conclusions herein are made to a reasonable degree of scientific certainty in my fields of expertise.
2. I received a Bachelor of Science in Physics in 1996 (McGill University), a Master of Science in Medical Biophysics in 1999 (University of Toronto) and a Ph.D. in Chemistry in 2005 (Princeton University).
3. I have extensive professional experience as a research scientist and teacher at a research university and have taught hundreds of students and mentored many graduate and undergraduate students. In this capacity, I frequently engage in complex and sophisticated data modeling and statistical analysis. I am required to prepare scientific papers and give presentations in class and at scientific meetings. I make this declaration in my personal capacity.

### **Executive Summary**

4. I was asked and willingly participated as part of a statistical team of unpaid citizen volunteer scientists, mathematicians, and engineers to produce a statistical vote analysis of the Michigan 2020 Presidential Election.

5. The team produced a report entitled “Michigan 2020 Voting Analysis Report”. I hereby attest that my contributed section is a Chapter titled “Statistical Analysis of Michigan 2020 Election” where I analyzed Edison time-course data for Michigan and compared it to Florida. I have found statistical anomalies in the vote count. The reported findings are of the “statistically impossible” kind. I authored this section as a sole author.
6. The Chapter is a simplified version (i.e. layman’s version) of a more detailed report, which is available on request.

November 29, 2020

  
Louis Bouchard, Ph.D.

**L O U I S B O U C H A R D**

Associate Professor | UCLA Departments of Chemistry &amp; Biochemistry and of Bioengineering

**education and training**

2005-08 UC Berkeley | Post Doc | Chemistry & Materials Sciences  
 2000-05 Princeton University | Ph.D. | Physical Chemistry  
 1997-99 University of Toronto | M.Sc. | Medical Biophysics  
 1993-96 McGill University | B.Sc. | Physics

**awards and honors**

2015 AXΣ (UCLA) Glenn T. Seaborg Award  
 2015 Chinese Academy of Sciences | CAS President's International Fellowship  
 2014 Jonsson Comprehensive Cancer Center | Seed Grant Award  
 2014 UCLA Diversity & Faculty Development | Faculty Career Development Award  
 2013 UCLA Diversity & Faculty Development | Faculty Career Development Award  
 2013 Jonsson Comprehensive Cancer Center | Seed Grant Award  
 2012 Arnold and Mabel Beckman Foundation | Beckman Young Investigator Award  
 2012 Exploratory Research Space | RWTH Aachen University  
 2012 UCLA Diversity & Faculty Development | Faculty Career Development Award  
 2011 Jonsson Comprehensive Cancer Center | Seed Grant Award  
 2011 UCLA Council on Research | Faculty Research Grant Award  
 2010 Spectroscopy Society of Pittsburgh | Starter Grant Award  
 2008 Camille and Henry Dreyfus Foundation | New Faculty Award  
 2003 Princeton University | Charlotte Elizabeth Procter University Honorary Fellowship  
 1998 University of Toronto | Graduate Fellowship

**appointments**

2014- UCLA | Molecular Biology Institute | Associate Member  
 2012 RWTH Aachen University | Visiting Scientist  
 2009- UCLA | California NanoSystems Institute | Member  
 2009- UCLA | Affiliate Faculty | Department of Bioengineering  
 2008-2016 UCLA | Assistant Professor | Department of Chemistry and Biochemistry  
 2016- UCLA | Associate Professor | Department of Chemistry and Biochemistry  
 2018- Associate Editor | *Science Advances*

**patents**

1. **US National Stage Patent Application No. 16/626,508** (Filed: December 24, 2019) **PCT Patent Application No. PCT/US2018/039944, WO2019006088A1** (Filed: Jun. 28, 2017, Published: Jan. 3, 2019). Title: "Training artificial neural networks with reduced computational complexity". Inventors: Youssef K, **Bouchard LS**.
2. **US Patent Application no. 15/799,498** (Filed: Nov. 1, 2016 as Provisional Appln. No. 62/415,986). Title: "Biologically applicable water-soluble heterogeneous catalysts for para-hydrogen induced polarization". Inventors: Glöggler S, Wagner S, **Bouchard LS**.
3. **US Patent no. US20160171727A1** (Granted: Apr. 24, 2018). Title: "Feature-preserving image noise removal". Inventors: Youssef K, **Bouchard LS**.

4. **International Patent Application no. PCT/US2014/055507** (Filed: Sep. 12, 2014). Title: “Universal bio diagnostic, drug delivery device & marker for correlated optical & electron microscopy”. Inventors: Zurbuchen M, Lake M, Zhou ZH, **Bouchard LS**.
5. **US Patent no. US20150137807 A1** (Application: US 14/413,679); **International Patent no. WO/2014/011937 A1**. (Application: PCT/US2013/050161, Published: Jan. 16, 2014). Title: “Miniaturized magnetic resonance probe”. Inventors: Hu J, **Bouchard LS**.
6. **US Patent no. US8547095 B2** (Application: US 12/753,306, Published: Oct. 1, 2013); **International Patent no. WO/2009/046350 A1** (Application: PCT/US2008/078820, Published: Apr. 9, 2009). Title: “Detection of magnetic resonance signals using a magnetoresistive sensor”. Inventors: Budker D, Pines A, Xu S, Hilty C, Ledbetter MP, **Bouchard LS**.
7. **US Patent no. US20110001478 A1** (Application: US 12/747,488, Published: Jan. 6, 2011); **International Patent no. WO/2009/097053 A1** (Application: PCT/US2008/086646, Published: Aug. 6, 2009). Title: “Magnetic resonance imaging of living systems by remote detection”. Inventors: Wemmer DE, Pines A, **Bouchard LS**, Xu S, Harel E, Budker D, Lowery T, Ledbetter MP.
8. **US Patent no. US8570042 B2** (Application: US 12/675,604, Published: Oct. 29, 2013); **International Patent no. WO/2009/029896 A1** (Application: PCT/US2008/074925, Published: Mar. 5, 2009). Title: “Adjustable permanent magnet assembly for NMR and MRI”. Inventors: Pines A, Paulsen A, **Bouchard LS**, Blümich B.
9. **US Patent no. US8633693 B2** (Application: US 12/594,341, Published: Jan. 21, 2014); **International Patent no. WO/2008/154059 A9** (Application: PCT/US2008/059183, Published: Feb. 19, 2009). Title: “Rotating-frame gradient fields for magnetic resonance imaging and nuclear magnetic resonance in low fields”. Inventors: **Bouchard LS**, Pines A, Demas V.
10. **US Patent no. US20120136241 A1** (Application: US 13/202,976, Published: May 31, 2012); **International Patent no. WO/2010/096828** (Application: PCT/US2010/025097, Published: Aug. 26, 2010). Title: “Multi-modality nanoparticles having optically responsive shape”. Inventors: Chen FF, **Bouchard LS**.

**publications** (over 80 publications in peer-reviewed journals)

1. Li H, Zhao X, Wang Y, Lou X, Chen S, Deng E, Shi L, Xie J, Tang D, Zhao J, **Bouchard LS**, Xia L, Zhou X, Damaged lung gas-exchange function of discharged COVID-19 patients detected by hyperpolarized <sup>129</sup>Xe MRI, *Science Advances* 20 Nov 2020: eabc8180 DOI: 10.1126/sciadv.abc8180
2. Hasani-Sadrabadi MM, Majedi FS, Miller ML, Thauland TJ, **Bouchard LS**, Li S and Butte MJ, Augmenting T-cell responses to tumors by in situ nanomanufacturing, *Materials Horizons* (advance article) <https://doi.org/10.1039/D0MH00755B>
3. Majedi FS, Hasani-Sadrabadi MM, Thauland TJ, Li S, **Bouchard LS**, Butte MJ, T-cell activation is modulated by the 3D mechanical microenvironment, *Biomaterials* **252**, 120058 (2020)
4. Youssef K, Cai Y, Schuette G, Zhang D, Huang Y, Rahmat-Samii Y, **Bouchard LS**, Scalable End-to-End Radar Classification: A Case Study on Undersized Dataset Regularization by Convolutional-MST (in preparation)
5. Koumoulis D, Fang L, Chung DY, Kanatzidis MG, **Bouchard LS**, Evolution of nontrivial Fermi surface features in the band structures of the homologous members Pb<sub>5</sub>Bi<sub>6</sub>Se<sub>14</sub> and Pb<sub>5</sub>Bi<sub>12</sub>Se<sub>23</sub>, *Phys. Rev. B*. **101**, 115309 (2020)
6. Zheng Q, Guo Q, Yuan Y, Zhang X, Jiang W, Xiao S, Zhang B, Lou X, Ye C, Liu M, **Bouchard LS**, Zhou X, A Small Molecule Multifunctional Tool for pH Detection, Fluorescence Imaging and Photodynamic Therapy, *ACS Appl. Bio Mater.* **3**, 1779-1786 (2020)

7. Kaltschnee L, Jagtap AP, McCormick J, Wagner S, **Bouchard LS**, Utz M, Griesinger C, Glögger S, Hyperpolarization of Amino Acids in Water Utilizing Parahydrogen on a Rhodium Nanocatalyst, *Chemistry: A European Journal* **25**, 11031-11035 (2019)
8. Majedi FS, Hasani-Sadrabadi MM, Thauland TJ, Li S, **Bouchard LS**, Butte MJ, Augmentation of T-Cell Activation by Oscillatory Forces and Engineered Antigen-Presenting Cells, *Nano Letters* **19**, 6945-6954 (2019)
9. Yang S, McCormick J, Mamone S, **Bouchard LS**, Glögger S, Nuclear Spin Singlet States in Photoactive Molecules: From Fluorescence/NMR Bimodality to a Bimolecular Switch for Spin Singlet States, *Angewandte Chemie* **58**, 2879-2883 (2019)
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**Declaration of** [REDACTED]

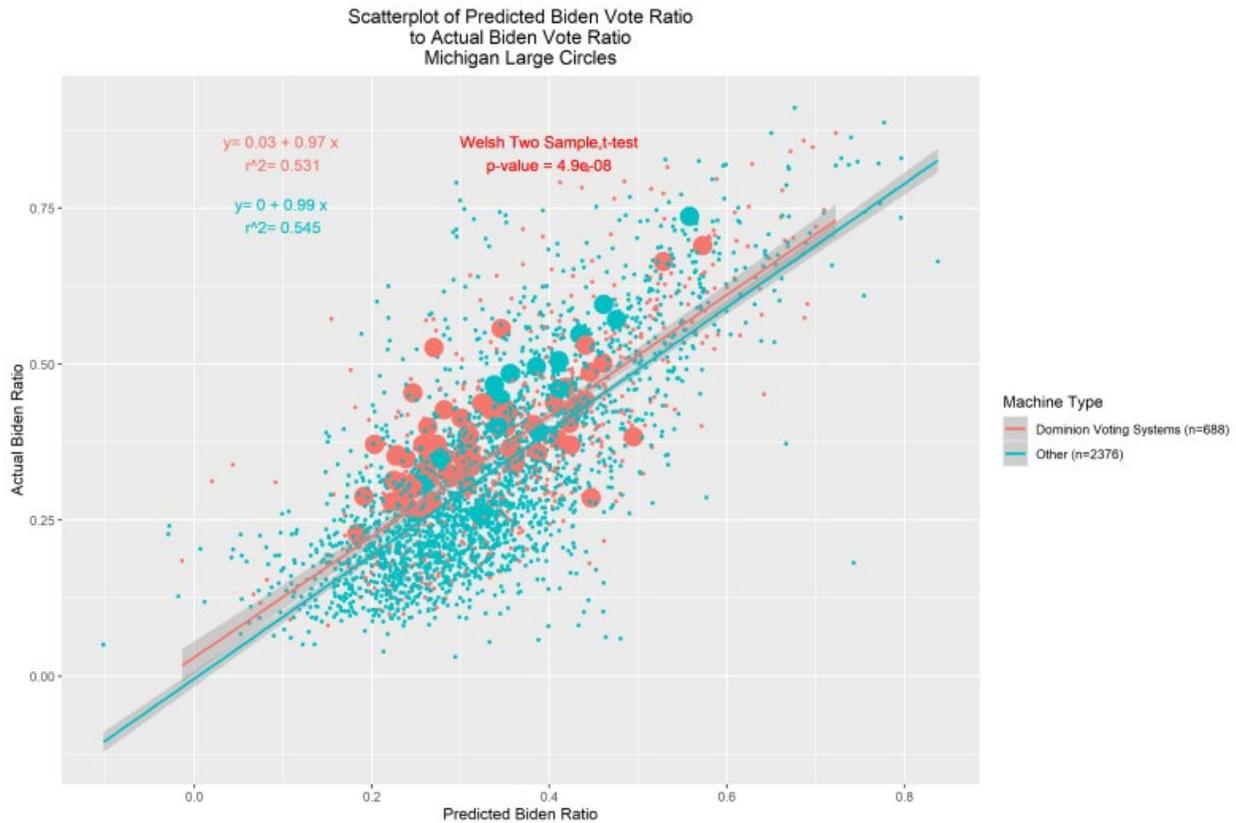
Pursuant to 28 U.S.C Section 1746, I, [REDACTED], make the following declaration.

1. I am over the age of 21 years and am a resident of [REDACTED], Florida.
2. I am under no legal disability that would prevent me from giving this declaration.
3. I hold a Bachelor of Science degree in Mathematics and a Master of Science degree in Statistics.
4. For thirty years, I have conducted statistical data analysis for companies in various industries, including aerospace, consumer packaged goods, disease detection and tracking, and fraud detection.
5. From November 13<sup>th</sup>, 2020 through November 28<sup>th</sup>, 2020, I conducted in-depth statistical analysis of publicly available data on the 2020 U.S. Presidential Election. This data included vote counts for each county in the United States, U.S. Census data, and type of voting machine data provided by the U.S. Election Assistance Committee.
6. The analysis yielded several “red flags” concerning the percentage of votes won by candidate Biden in counties using voting machines provided by Dominion Voting Systems. These red flags occurred in several States in the country, including Michigan.
7. I began by using Chi-Squared Automatic Interaction Detection (CHAID), which treats the data in an agnostic way—that is, it imposes no parametric assumptions that could otherwise introduce bias. Here, I posed the following question: “Do any voting machine

types appear to have unusual results?” The answer provided by the statistical technique/algorithm was that machines from Dominion Voting Systems (Dominion) produced abnormal results.

8. Subsequent graphical and statistical analysis shows the unusual pattern involving machines from Dominion occurs in at least 100 counties and multiple States, including Michigan.
9. The results from most, if not all counties using the Dominion machines is three to five point six percentage points higher in favor of candidate Biden than the results should be. This pattern is seen easily in graphical form when the results from “Dominion” counties are overlaid against results from “non-Dominion” counties. The results from “Dominion” counties do not match the results from the rest of the counties in the United States. The results are certainly statistically significant, with a p-value of  $< 0.00004$ . This translates into a statistical impossibility that something unusual involving Dominion machines is *not* occurring. This pattern appears in multiple States, including Michigan, and the margin of votes implied by the unusual activity would easily sway the election results.
10. The following graph shows the pattern. The large red dots are counties in Michigan that use Dominion voting machines. Almost all of them are above the blue prediction line, when in normal situations approximately half of them would be below the prediction line (as evidence by approximately half the counties in the U.S. (blue dots) that are below the blue centerline). The p-value of statistical analysis regarding the centerline for the red dots (Michigan counties with Dominion machines) is 0.000000049, pointing to a statistical

impossibility that this is a “random” statistical anomaly. Some external force caused this anomaly.



11. To confirm that Dominion machines were the source of the pattern/anomaly, I conducted further analysis using propensity scoring using U.S. census variables (Including ethnicities, income, professions, population density and other social/economic data) , which was used to place counties into paired groups. Such an analysis is important because one concern could be that counties with Dominion systems are systematically different from their counterparts, so abnormalities in the margin for Biden are driven by other characteristics unrelated to the election.



**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID  
HOOPER and DAREN WADE RUBINGH,**

**Plaintiffs**

**v.**

**GRETCHEN WHITMER, in her official capacity  
as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, the Michigan  
BOARD OF STATE CANVASSERS,**

**Defendants.**

**CASE NO. 20-cv-13134**

**PLAINTIFFS' EMERGENCY MOTION FOR DECLARATORY, EMERGENCY, AND  
PERMANENT INJUNCTIVE RELIEF AND MEMORANDUM IN SUPPORT THEREOF**

COMES NOW Plaintiffs, Timothy King, Marian Ellen Sheridan, John Earl Haggard, Charles James Ritchard, James David Hooper, and Daren Wade Rubingh, by and through their undersigned counsel, and file this Emergency Motion for Injunctive Relief and Memorandum of Law In Support Thereof, respectfully requesting the relief for the following reasons:

**FACTS**

The facts relevant to this motion are set forth in the November 29, 2020 amended complaint ("Complaint") filed in the above-captioned proceeding, and its accompanying exhibits, filed concurrently with this motion, all of which are respectfully incorporated herein by reference. We present only a summary.

After a general election and recount, Joe Biden has been declared the winner of Michigan's General Election for President by a plurality of 154,188 votes. But the vote count certified by defendants on November 23, 2020, is defective. Hundreds of thousands of votes counted toward Mr. Biden's final tally were the product of illegality, fraud and misappropriation. Plaintiffs support this claim in two independent ways.

**i. Counting and/or Creating Fraudulent Ballots**

First, as set forth in the affidavit of Russell Ramsland, Jr. (Compl., Ex. 104), at least 289,866 (and likely many more) ballots were fraudulent.

Something occurred in Michigan that is physically impossible, indicating that the results were manipulated on election night ... The event as reflected in the data are the 4 spikes totaling 384,733 ballots allegedly processed in a combined interval of only two hour[s] and 38 minutes. This is physically impossible given the equipment available at the 4 referenced locations (precincts/townships). .... This calculation yields a sum of 94,867 ballots at the maximum number of ballots that could be processed. ... [T]here were 289,866 more ballots processed in the time available for processing in four precincts/townships than there was processing capacity. *Id.* ¶14.

[T]hese statistical anomalies and impossibilities compels the conclusion to a reasonable degree of professional certainty that the vote count in Michigan and in Wayne County, in particular for candidates for President contain at least 289,866 illegal votes that must be disregarded. *Id.* ¶15.

These fraudulent ballots alone are nearly twice Biden's purported margin of 154,188 ballots.

Separately, evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiffs' expert, Williams M. Briggs, PhD (Compl., Exh. 101), shows, based on a statistically significant sample of 248 Michigan voters, two separate types of error indicative of widespread absentee ballot fraud. Dr. Briggs first estimates that 29,611 to 36,529 ballots were recorded for voters who had not requested them, and second, that 27,928 to 34,710 ballots were recorded for voters who did return their ballots were recorded as being unreturned (*i.e.*, lost or destroyed). *Id.* Taking the average of the two types or errors

together, Dr. Briggs estimates that 62,517, or 45% of total “unreturned” ballots, are “troublesome” and thus indicative fraud or other illegal conduct. *Id.* Mr. Braynard separately analyzed data from the National Change of Address (“NCOA”) data base to identify Michigan voters that had moved out of state, as well as Michigan voters who had registered to vote in another State, before the Michigan election, and identified at least 13,248 out-of-state voters who voted in the Michigan 2020 General Election. *Id.* at 1.

Third, Eric Quinell, Ph.D. (Compl., Ex. 102) analyzed the statistically anomalous voting patterns in Wayne County (outside Detroit) and Oakland County – where there was both an extraordinary turnout surge from 2016 to 2020 and nearly 100% or even more of the “new” 2020 voters voted for Biden – resulting in a 15-point swing in the Democrat vs. Republican two-way vote shares (*i.e.*, shifting from 55/45 in 2016 to 70/30 in 2020 for Wayne County (outside Detroit) and 54/46 in 2016 to 72/28 in 2020 for Oakland County). *Id.* ¶¶ 18&20. Dr. Quinell estimates that there were 40,771 “excess” and likely fraudulent votes in Wayne County (outside Detroit) and 46,125 such votes for Oakland County, for a total of 86,896 fraudulent votes in these two counties. *Id.* ¶5.<sup>1</sup> Taken together, the ineligible or illegal ballots identified Dr. Briggs, Dr. Quinell and Mr. Braynard total 162,661 ballots, which is once again in excess of Biden’s 154,188 vote plurality in Michigan, and provides a separate and independent ground from the Ramsland Affidavit to set aside the results of 2020 General Election in Michigan.

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<sup>1</sup> A report from Dr. Stanley Young (Compl. Ex. 110, Chapter 1) reviewed data from the entire State of Michigan and identified nine “outlier” counties that had both significantly increased turnout in 2020 vs. 2016 almost all of which went to Biden totaling over 190,000 suspect “excess” Biden votes (whereas turnout in Michigan’s 74 other counties was flat), reinforcing Dr. Quinell’s analysis and showing that “excess” and likely fraudulent votes from these counties would alone be sufficient to overcome Biden’s margin.

Fourth, a report from Robert Wilgus (*see* Compl., Ex. 110, Chapter 3) analyzing the absentee ballot data that identified a number of significant anomalies, in particular, 224,525 absentee ballot applications that were both sent and returned on the same day, 288,783 absentee ballots that were sent and returned on the same day, and 78,312 that had the same date for all (*i.e.*, the absentee application was sent/returned on same day as the absentee ballot itself was sent/returned), as well as an additional 217,271 ballots for which there was no return date at all. *Id.* at 14-15. No explanation has been provided for how more than two hundred thousand each of applications and ballots could make the roundtrip of being sent to a voter and then returned (*i.e.*, received by Michigan agency) on the same day, much less the nearly 80,000 that made two roundtrips on the same day, and it is hard to conceive of an innocent explanation for how 200,000+ ballots could have no return date at all.

**ii. Foreign Interference and Hacking in Michigan**

In addition, the Complaint includes an analysis of the Dominion software system by a former US Military Intelligence expert concludes that the system and software have been accessible and were certainly compromised by rogue actors, such as Iran and China. (*See* Compl., Ex.105). By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020.

Another expert, whose name and testimony have been redacted to protect his safety, reviewed vote counts for each county in the United States, U.S. Census data, and type of voting machine data provided by the U.S. Election Assistance Committee and found significant

evidence of foreign interference and “several ‘red flags’ concerning the percentage of votes won by candidate Biden in counties using ... Dominion Voting Systems.” (*See* Compl., Ex. 111 ¶6).

Affiant concludes that:

[T]he results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Michigan’s vote tallies to be inflated by somewhere between three and five point six percentage points. **Statistical estimating yields that in Michigan, the best estimate of the number of impacted votes is 162,400. However, a 95% confidence interval calculation yields that as many as 276,080 votes may have been impacted.** *Id.* ¶13.

In addition, the Federal Bureau of Investigation (“FBI”) and the Cybersecurity and Infrastructure Security Agency (“CISA”) issued a joint advisory statement on October 30, 2020, warning states of Iranian cyberattacks and interference targeting state election websites and infrastructure. (*See* Compl. Ex. 8 at 1).

The substantial likelihood that hostile foreign governments, with or without active collusion or collaboration with the Defendants, is a separate and independent ground to grant the declaratory and injunctive relief requested in the Complaint and this Motion.

**iii. Ballot Stuffing and Other Michigan Election Code Violations**

The election process for the State of Michigan depended heavily on voting machines, tabulators and software purchased from Dominion Voting Systems Corporation. (“Dominion”), and more or less exclusively in key counties like Wayne County. Computerized vote recording and tabulations are controlled by software programs that were designed to cheat, and which were open to human manipulation. In 2020, ballot stuffing is not simply counting votes of dead people, illegal aliens or out of state residents – all of which occurred here. *See generally* Compl., Section II.

Manipulation of votes was apparent shortly after the polls closed on November 3, 2020. In particular, several witnesses testified to the delivery, in unmarked vans with out-of-state license plates, to the TCF Center of two shipments of tens of thousands each of “new” ballots that arrived on November 4, 2020, well after the 8:00 PM Election Day deadline. *See* Compl., Section II.B.1. Election workers, in collaboration with Michigan State, Wayne County, and City of Detroit employees and Democratic election challengers and activists, engaged in a pattern of illegal conduct to systematically deny Republic election challengers the opportunity to meaningfully supervise or observe ballot handling, counting and processing. *See* Compl., Section II.A. Without supervision or challengers, election officials could have processed tens or hundreds of thousands of illegal votes from these shipments and other forged, altered, duplicated, or outright fabricated votes. They could also have processed thousands of illegal mail-in ballots that were cast by third-parties, deceased voters, unregistered or out-of-state voters, blank ballots that were counted over and over, and/or double votes from people voting both absentee and in-person. *See* Compl., Section II.B and II.C.

With only 154,188 votes separating the candidates out of a total of 5,539,302 cast, this pattern of systematic and widespread violations of the Michigan Election Code by election workers to illegally count ineligible, illegal, duplicate or outright fictitious votes is more than sufficient to invalidate the final results. In the Complaint, Plaintiffs identified dozens of distinct violations of the Michigan Election Code in a single county, all supported by sworn testimony, *see* Compl. Section II. *See generally* Compl., Section II. While it may not be possible to precisely quantify the number of illegal votes, the testimony indicates that it was certainly in the tens of thousands (if not hundreds of thousands), *see, e.g.*, Compl., Section

II.B.1, it is not necessary for Plaintiffs to do so; instead, they merely need to show that “it appears that the irregularity affected the result.” *Behrendt v. Wilcox*, 277 Mich. 232, 246 (Mich. 1936) (affirming set aside of election upon showing of numerous irregularities). *Accord Attorney General ex rel. McCall v. Kirby*, 120 Mich. 592, 595 (Mich. 1899) (setting aside election results where election law requirements were “wholly ignored ... notwithstanding where everything was done in good faith”); *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (1994) “[p]laintiffs need not show how the [] voters would have voted if their [absentee] ballots had been regular. [] only had to show that there were enough irregular ballots to place in doubt the result.”). Unless Defendants are enjoined from certifying the election, Plaintiff will be left with no remedy because Michigan’s electoral votes for President will not be awarded to the proper candidate.

## **DISCUSSION**

### **Plaintiffs Have Standing**

Each of Plaintiffs Timothy King, Marian Ellen Sheridan, John Earl Haggard, Charles James Ritchard, James David Hooper, and Daren Wade Rubingh are registered Michigan voters and are nominees of the Republican Party to be a Presidential Elector on behalf of the State of Michigan. *See* Compl., “Parties”. As such, they each have standing under the 2018 amendments to Article II of the Michigan Constitution, which provides that “[e]very citizen of the United States who is an elector qualified to vote in Michigan shall have the right,” among other things, “to have the results of statewide elections audited, ..., to ensure the accuracy and integrity of elections.” Mich. Const. 1963, art. 2, §4(1)(h). Various provisions of the Michigan Election Code also give any citizen the right to bring an election challenge within 30 days of an election where, as here, it appears that a material fraud or error has been committed.

*See, e.g., Hamlin v. Saugatuck Twp.*, 299 Mich. App. 233, 240-241 (2013) (citing *Barrow v. Detroit Mayor*, 290 Mich. App. 530 (2010)); MCL § 168.31a (setting forth election audit requirements); MCL § 168.861 (*quo warranto* remedy for fraudulent or illegal voting). In addition, each Plaintiff has standing to bring this action as a candidate for the office of Elector under MCL §§ 168.42 & 168.43 (election procedures for Michigan electors), because Presidential Electors “have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast,” as “[a]n inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors.” *Carson v. Simon*, 978 F.3d 1051, 1057 (8th Cir. 2020) (affirming that Presidential Electors have Article III and prudential standing to challenge actions of Secretary of State in implementing or modifying State election laws); *see also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000) (per curiam).

**Plaintiffs are Entitled to Injunctive Relief**

“To determine whether to grant a preliminary injunction or temporary restraining order, a district court must consider: (i) whether the movant has a strong likelihood of success on the merits; (ii) whether the movant would suffer irreparable injury without the injunction; (iii) whether issuance of the injunction would cause substantial harm to others; and (iv) whether the public interest would be served by the issuance of the injunction.” *Stein v. Thomas*, 222 F.Supp.3d 539, 542 (E.D. Mich. 2016) (citing *Baker v. Adams Cnty./Ohio Valley Sch. Bd.*, 310 F.3d 927, 928 (6th Cir. 2002)); *see also City of Pontiac Retired Employees Ass’n v. Schimmel*, 751 F.3d 427, 430 (6th Cir. 2014).

All elements are met here.

While the U.S. Constitution itself accords no right to vote for presidential electors, “[w]hen the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter.” *Bush v. Gore*, 531 U.S. 98, 104 (2000) (emphasis added). The evidence shows not only that Defendants failed to administer the November 3, 2020 election in compliance with the manner prescribed by the Michigan Legislature in the Michigan Election Code, MCL §§ 168.730-738, but that Defendants committed a scheme and artifice to fraudulently and illegally manipulate the vote count to make certain the election of Joe Biden as President of the United States. Compl., Section I. This conduct violated Plaintiffs’ equal protection and due process rights as well their rights under the Michigan Election Code and Constitution. *See generally* MCL §§ 168.730-738 & Mich. Const. 1963, art. 2, §4(1).

The Michigan Court of Appeals has held that, in a civil action to vindicate Plaintiffs’ right “to seek office in a fair election” the burden of proof is a “preponderance of the evidence”. *Treasurer of the Committee to Elect Gerald D. Lostracco v. Fox*, 150 Mich.App. 617, 623 (Mich.App. 1986).

**i. Plaintiffs have a substantial likelihood of success.**

Through detailed fact and expert testimony including documentary evidence contained in the Complaint and its exhibits, Plaintiffs have made a compelling showing that Defendants’ intentional actions jeopardized the rights of Michigan citizens to select their leaders under the process set out by the Michigan Legislature through the commission of election frauds that violated Michigan laws, including multiple provisions of the Michigan Election Code. MCL

§§ 168.730-738. These acts also violated the Equal Protection Clause in the United States Constitution, U.S. Const. Amend XIV.

The tally of ballots certified by Defendants giving Mr. Biden a 154,188 vote plurality cannot possibly stand in light of the hundreds of thousands of illegal mail-in ballots that were improperly counted and the vote manipulation caused by the Dominion software.

Plaintiffs' equal protection claim is straightforward. The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 665 (1966). *See also Reynolds v. Sims*, 377 U.S. 533, 554 (1964) (The Fourteenth Amendment protects the “the right of all qualified citizens to vote, in state as well as in federal elections.”). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (citing *Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it “is preservative of other basic civil and political rights.” *Reynolds*, 377 U.S. at 562; *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463,476 (6th Cir. 2008) (“The right to vote is a fundamental right, preservative of all rights.”). Voters have a “right to cast a ballot in an election free from the taint of intimidation and fraud,” *Burson v. Freeman*, 504 U.S. 191, 211 (1992), and “[c]onfidence in the integrity of our electoral processes

is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

“Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted” if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). “[T]he right to have the vote counted” means counted “at full value without dilution or discount.” *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

“Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974); *see also Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes “debase[]” and “dilute” the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States.” *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff’d due to absence of quorum*, 339 U.S. 974 (1950)).

Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 (“[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.”). States may not, by arbitrary action or

other unreasonable impairment, burden a citizen's right to vote. *See Baker v. Carr*, 369 U.S. 186, 208 (1962) ("citizen's right to a vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution"). "Having once granted the right to vote on equal terms, the state may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05. Among other things, this requires "specific rules designed to ensure uniform treatment" in order to prevent "arbitrary and disparate treatment of voters." *Id.* at 106-07; *see also Dunn v. Bloomstein*, 405 U.S. 330, 336 (1972) (providing that each citizen "has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction").

Additionally, as U.S. citizens qualified to vote in Michigan and as candidates for the electoral office of Presidential Elector, MCL §§ 168.42 & 168.43, Plaintiffs seeks redress under the Michigan Election Code and the Michigan Constitution, to vindicate their constitutional right to a free and fair election ensuring the accuracy and integrity of the process pursuant to the Michigan Constitution, art. 2, sec. 4, par. 1(h), which states all Michigan citizens have:

The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections.

The Mich. Const. 1963, art. 2, sec. 4, further states, "All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes."

The Eleventh Circuit recently addressed a claim in 2018 related to the same Dominion software used in Michigan in the 2020 General Election. The Court found:

In summary, while further evidence will be necessary in the future, the Court finds that the combination of the statistical evidence and witness declarations in the record here (and the expert witness evidence in the related *Curling* case which the Court takes notice of) persuasively demonstrates the likelihood of Plaintiff succeeding on its claims. Plaintiff has shown a substantial likelihood of proving that

the Secretary's failure to properly maintain a reliable and secure voter registration system has and will continue to result in the infringement of the rights of the voters to cast their vote and have their votes counted.

*Common Cause Georgia v. Kemp*, 347 F.Supp.3d 1270, 1294-1295, (11th Cir. 2018).

Based upon all the allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to enjoin the certification of the election results, and grant the declaratory, emergency and permanent injunctive relief requested herein and in the Complaint, pending a full investigation and court hearing, and to order an independent audit of the November 3, 2020 General Election to ensure the accuracy and integrity of the election.

**ii. The Plaintiffs will suffer Irreparable Harm**

Plaintiffs will suffer an irreparable harm due to the Defendants' myriad violations of Plaintiffs' rights under the U.S. and Michigan Constitutions detailed in the Complaint, in particular, Plaintiffs' fundamental right to vote, equal protection of the laws, due process, and their specific rights as candidates to electoral office.

When Constitutional rights are threatened or impaired, irreparable injury is presumed. A restriction on the fundamental right to vote therefore constitutes an irreparable injury.

*Obama for America vs. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (citations omitted). *See also Am. Civil Liberties Union of Kentucky v. McCreary Cnty., Ky.*, 354 F.3d 438, 445 (6th Cir. 2003) *aff'd sub nom., McCreary Cnty., Ky., v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844 (2005) (where a plaintiff's constitutional rights are at issue, the movant need only show that his rights are "threatened," from which showing "a finding of irreparable injury is mandated.").

The Michigan count was defective, including defective absentee ballots and out of state voters, then Michigan's election results are improper and suspect, resulting in Michigan's electoral college votes going to Democrats, including Joseph R. Biden, contrary to the votes of

the majority of Michigan’s qualified electors. Plaintiffs will directly be impacted by their roles in the voting for the Presidential election as Electors to the Michigan Legislature.

**iii. The Balance of Equities**

The third fact, whether “the balance of the equities tips in his favor,” *Husted*, 697 F.3d at 428 (*quoting Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008)), also favors granting the instant motion for injunctive relief. In balancing the equities, a court considering an election challenge “must weigh the character and magnitude of the asserted injury” to the constitutional rights that the plaintiff seeks to protect “against ‘the precise interests put forward by the State as justifications for the burdens imposed by its rule . . . .’” *Stein*, 222 F.Supp.3d at 543 (*quoting Burdick v. Takushi*, 504 U.S. 428, 434 (1992)). Here, the balance must tip into Plaintiffs’ favor, as the State has presented no justification for its lawless behavior and wanton disregard of the Michigan Election Code. The only justification Defendants can put forward, were they to say the silent part out loud, is that imperative of ensuring a Biden victory overrides any constraints imposed by the Michigan Election Code.

**iv. The Public Interest**

Finally, the public interest would be served by the grant of the temporary relief requested herein.

The fundamental right invoked by Plaintiffs—the right to vote, and to have that vote conducted fairly and counted accurately—is the bedrock of our Nation. Without elections that are conducted fairly—and perceived to be fairly conducted—public confidence in our political institutions will swiftly erode.

*Stein*, 222 F.Supp.3d at 544. This Court granted the temporary relief requested by Ms. Stein in 2016, despite the fact that the vote margin separating her and President Trump was an order of

magnitude larger than Biden’s margin,<sup>2</sup> her evidence of violations was minimal to non-existent (compared with the two dozen plus violations identified in sworn eyewitness testimony in Section II of the Complaint), and the Michigan election workers in key areas like Wayne County for the 2016 election were much more hostile to President Trump than they ever were to Jill Stein. Accordingly, if this Court found that temporary relief for Jill Stein in 2016 was in the public interest, then it must reach the same conclusion for Plaintiffs given that Trump (unlike Stein) has a realistic chance of winning and Plaintiffs have arguably presented more evidence of more kinds of election fraud than has ever been included in an election challenge to a court in a Michigan (or the United States for that matter). This conclusion is further supported by the 2018 enactment of the amendments to Article II of the Michigan Constitution, which are intended, among other things “to preserve the purity of elections, ... [and] to guard against abuses of the electoral franchise ....” Mich. Const. 1963, art. 4, §2.

**Plaintiffs Are Entitled to Emergency Injunctive Relief Prior to December 8, 2020**

Under *Bush v. Gore*, 531 U.S. 98 (2000), Plaintiffs are entitled to emergency injunctive relief that must be granted in advance of December 8, 2020, which is the “safe harbor” date for States to submit their slates of electors under 3 U.S.C. § 5. There, the Supreme Court granting an emergency application for stay of Florida recount because there was “no recount procedure in place ... that comports with minimal constitutional safeguards,” and any recount procedure that could meet constitutional requirements could not be completed by the 3 U.S.C. §5 safe harbor date. Accordingly,

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<sup>2</sup> In 2016, Jill Stein received 51,463 votes (or slightly over one percent), while the winner she challenged, current President Trump, received 2,279,543 votes and nearly 50 percent of the vote. In 2020, the current margin between President Trump and Biden is 154,188 votes, based on the November 23, 2020 certification, which has not disqualified any of the illegal or ineligible votes discussed in the Complaint.

this Court must schedule and complete any required hearings, briefings and responses in time to issue a decision before December 8, 2020.

**Relief Requested**

Plaintiffs seek a de-certification of Michigan's election results or a stay in the delivery of the certified results to the Electoral College to preserve the status quo while this case proceeds, as well as seeking the impounding of the voting machines made available and other equitable relief, on an emergency basis, due to the irreparable harm, and impending election voting for the electors, as stated in the Complaint. The low costs to Defendants and high potential harm to Plaintiffs make this a case with a substantial net harm that an immediate and emergency injunctive relief can prevent. Therefore, it is respectfully requested that the Court grant Plaintiffs' Motion. A proposed form of Order is attached.

Respectfully submitted, this 29th day of November 2020.

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**CERTIFICATE OF SERVICE**

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Motion for Declaratory, Emergency, and Permanent Injunctive Relief and Memorandum in Support Thereof using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 29th day of November, 2020.

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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID  
HOOPER and DAREN WADE RUBINGH,**

**Plaintiffs**

**v.**

**GRETCHEN WHITMER, in her official capacity  
as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, the Michigan  
BOARD OF STATE CANVASSERS,**

**Defendants.**

**CASE NO. 20-cv-13134**

**PLAINTIFFS' RESPONSE TO RESPONSES IN OPPOSITION TO MOTION FOR  
DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF AND  
MEMORANDUM IN SUPPORT THEREOF**

## Table of Contents

<b>I. PRELIMINARY MATTERS .....</b>	<b>4</b>
<b>A. Plaintiffs Have Standing.....</b>	<b>4</b>
<b>1. Elector Standing under Electors and Elections Clause .....</b>	<b>4</b>
<b>2. Voter Standing for Equal Protection and Due Process Claims</b>	<b>6</b>
<b>3. Standing Under Michigan Constitution and Michigan Election Code.....</b>	<b>8</b>
<b>B. Laches.....</b>	<b>8</b>
<b>C. Mootness.....</b>	<b>10</b>
<b>D. Eleventh Amendment.....</b>	<b>10</b>
<b>E. Abstention .....</b>	<b>11</b>
<b>F. Federal Jurisdiction .....</b>	<b>15</b>
<b>II. RESPONSES TO FACT AND EXPERT WITNESSES .....</b>	<b>17</b>
<b>A. Defendants and Defendant-Intervenor Have Failed to Rebut Factual Testimony.....</b>	<b>17</b>
<b>B. Defendants and Defendant-Intervenor Have Failed to Rebut Expert Testimony.....</b>	<b>18</b>
<b>C. Defendants and Defendant-Intervenors Have Failed Altogether to Address Dominion Testimony.....</b>	<b>20</b>
<b>III. PLAINTIFFS ARE ENTITLED TO INJUNCTIVE RELIEF .....</b>	<b>20</b>
<b>A. Plaintiffs have a substantial likelihood of success.....</b>	<b>21</b>
<b>B. The Plaintiffs will suffer Irreparable Harm .....</b>	<b>23</b>
<b>C. The Balance of Equities &amp; The Public Interest .....</b>	<b>24</b>
<b>D. Plaintiffs Reiterate Request for Emergency Injunctive Relief Prior to December 8, 2020.....</b>	<b>24</b>
<b>IV. RELIEF REQUESTED.....</b>	<b>25</b>

## INDEX OF AUTHORITIES

	<u>Page</u>
<b>Cases</b>	
<i>Bognet v. Sec’y of Commonwealth</i> , No. 20-2314, 2020 WL 6686120 (3d Cir. Nov. 13, 2020)	5
<i>Carson v. Simon</i> , 978 F.3d 1051 (8th Cir. 2020)	6
<i>McPherson v. Blacker</i> , 146 U.S. 1, 27 (1892)	7
<i>Bush v. Palm Beach Cty. Canvassing Bd.</i> , 531 U.S. 70, 76 (2000) (per curiam)	7
<i>Baker v. Carr</i> , 369 U.S. 186 (1962)	8
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964)	8
<i>George v. Haslam</i> , 112 F.Supp.3d 700, 710 (M.D. Tenn. 2015)	8
<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 560-561 (1992)	9
<i>Hamlin v. Saugatuck Twp.</i> , 299 Mich. App. 233, 240-241 (2013)	9
<i>Meade v. Pension Appeals and Review Committee</i> , 966 F.2d 190, 195 (6th Cir. 1992)	9
<i>Toney v. White</i> , 488 F.2d 310, 315 (5th Cir. 1973)	10
<i>Alabama v. Pugh</i> , 438 U.S. 781, 782 (1978)	11
<i>Russell v. Lundergan-Grimes</i> , 784 F.3d 1037, 1045 (6th Cir. 2015)	12
<i>Colorado River Water Conservation Dist. v. United States</i> , 424 U.S. 800, 808 (1976)	12
<i>Harman v. Forssenius</i> , 380 U.S. 528, 534, (1965)	12
<i>Louisville Bedding Co. v. Perfect Fit Indus.</i> , 186 F. Supp. 2d 752, 753-754, 2001 U.S. Dist. LEXIS 9599	14, f.n. 1
<i>Guaranty Trust Co. v. York</i> , 326 U.S. 99 (1945)	16
<i>Holmberg v. Armbrecht</i> , 327 U.S. 392, 395 (1946)	16
<i>N.A.A.C.P. v. Ala. ex. rel. Patterson</i> , 357 U.S. 449, 455 (1958)	16
<i>Roosevelt, Kermit III, Light from Dead Stars: The Procedural Adequate and Independent State Ground Reconsidered</i> , 103 Columbia L. Rev. 1888, 1890 (citing <i>Barr v. City of Columbia</i> , 378 U.S. 146, 149 (1964);	16
<i>Boddie v. Connecticut</i> , 401 U.S. 371 (1971)	17
<i>Ortwein v. Schwab</i> , 410 U.S. 656 (1973);	17

Sosna v. Iowa, 419 U.S. 393 (1975) .....17

Priorities United States v. Nessel, 2020 U.S. Dist. LEXIS 177888, \*37-38 ( E.D. Mich. September 17, 2020); .....17

OCA-Greater Houston v. Texas, 867 F.3d 604, 615 (5th Cir. 2017) .....17

*Stein v. Thomas*, 222 F.Supp.3d 539, 542 (E.D. Mich. 2016) .....17

*Cnty./Ohio Valley Sch. Bd.*, 310 F.3d 927, 928 (6th Cir. 2002)) ..... 21

*City of Pontiac Retired Employees Ass’n* v. Schimmel, 751 F.3d 427, 430 (6th Cir. 2014)... 21

*Baker v. Carr*, 369 U.S. 186 (1962) .....23

*Reynolds v. Sims*, 377 U.S. 533 .....23

*Obama for America vs. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) .....25

*Am. Civil Liberties Union of Kentucky v. McCreary Cnty., Ky.*, 354 F.3d 438, 445 (6th Cir. 2003).....25

*McCreary Cnty., Ky., v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844 (2005) .....25

*Bush v. Gore*, 531 U.S. 98 (2000) .....25

3 U.S.C. §5 .....25

MCL § 168.31a (setting forth election audit requirements).....9

MCL § 168.861 (*quo warranto* remedy for fraudulent or illegal voting). .....9

MCL §§ 168.730-738 .....22

MCL §§ 168.730-738.....23

, MCL §§ 168.730-738 .....22

MCL §§ 168.730-738.....23

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID  
HOOPER and DAREN WADE RUBINGH,**

**Plaintiffs**

v.

**GRETCHEN WHITMER, in her official capacity  
as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, the Michigan  
BOARD OF STATE CANVASSERS,**

**Defendants.**

**CASE NO. 20-cv-13134**

**PLAINTIFFS' RESPONSE TO RESPONSES IN OPPOSITION TO MOTION FOR  
DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF AND  
MEMORANDUM IN SUPPORT THEREOF**

COMES NOW Plaintiffs, Timothy King, Marian Ellen Sheridan, John Earl Haggard, Charles James Ritchard, James David Hooper, and Daren Wade Rubingh, by and through their undersigned counsel, and file this Response, and Memorandum of Law In Support Thereof, to Defendants' and Intervenor-Defendants Response in Plaintiffs' November 29, 2020 Motion for Declaratory, Emergency and Permanent Injunctive Relief ("TRO Motion"). ECF No. 7.

*Then you will know the truth, and the truth will set you free.*

John 8:32

The 2020 Michigan election result certified by the defendants does not reflect the voice of Michigan voters. It is a lie. But how do you prove a lie that is so repugnant to democratic society that a fair-minded public and even well-intentioned government officials dare to contemplate its premise? Without the assistance of subpoenas, court-ordered discovery or any input from law enforcement, you start with the public record; with statistical analysis; with eye witness accounts of what took place. Then you move to expert analysis. The Amended Complaint does precisely that.

Russell Ramsland, in both his initial and rebuttal reports, explains in detail that in the early morning hours of November 4, Michigan election officials tabulated 384,733 votes in four precincts whose machinery could not possibly have counted more than 94,867 votes during that time. Defendants submit testimony that, in general, votes are reported in delayed batches. But, critically they do not state *pro hac verba* that the precise vote tabulations identified by Ramsland was the product of a delayed batch. Thus, Ramsland's testimony remains unrebutted, and compels the unavoidable conclusion that 289,866 ballots tabulated on November 4 must be disregarded.

Redacted witness referred to as "Spider", a former member of the 305 Military Intelligence unit responsible for protecting this country from enemy guided missiles, explains vulnerabilities with the Dominion system. He sets forth in 17 pages of detailed analysis and evidence that the Dominion voting system used throughout Michigan, and in other states, was compromised and infiltrated by agents of China and Iran. Defendants respond with silence.

Dozens of fact witnesses in sworn affidavits report of illegal vote switching, double voting, dead people voting, ballot destruction, forging dates on ballots, tampering with voter information, and harassment and assault of Republican election observers. The defendants' response, is "so what", if it happened it was legal.

At this early stage of litigation, Plaintiffs ask this court to preserve the status quo through a temporary restraining order, until a hearing can be set, preventing defendants from facilitating the empowerment of the Democratic slate of Presidential Electors, to the detriment of Plaintiffs. Defendants' certified vote count does not represent real votes; it is the product of fraud, illegality and cheating, which disenfranchises all lawful Michigan voters regardless of party or preference. Only the truth will allow voters in this state to find comfort and confident in their election process, and uphold the democratic values this country was founded upon.

### **STATEMENT FACTS**

The facts relevant to this Response are set forth in the November 29, 2020 First Amended Complaint ("Complaint"), ECF No. 6, filed in the above-captioned proceeding, and its accompanying exhibits, and the TRO Motion.

### **DISCUSSION**

This brief will first in Section I respond to, and dispose of, Defendants and Defendant-Intervenors specious legal arguments for denial of Plaintiffs' TRO Motion on grounds of: (1)

standing, (2) laches, (3) mootness, (4) the Eleventh Amendment, (5) abstention, and (6) federal jurisdiction.

In Section II, Plaintiffs respond to Defendant and Defendant Intervenors fact and expert witnesses, and will demonstrate that these witnesses have in large part failed to respond to, much less rebutted, the specific factual allegations made in the Complaint, and/or that the responses made are based on speculation, circular reasoning, or bald assertions unsupported by evidence.

In Section III, Plaintiffs will respond to Defendant and Defendant Intervenors claims that Plaintiffs have not met the requirements for injunctive relief, which are: (1) substantial likelihood of success on the merits, and in particular that Plaintiffs have adequately pled their Constitutional and statutory claims; (2) irreparable injury, (3) the balance of equities tips in their favor, and (4) the requested relief is in the public interest.

## **I. PRELIMINARY MATTERS**

### **A. Plaintiffs Have Standing**

Each of Plaintiffs Timothy King, Marian Ellen Sheridan, John Earl Haggard, Charles James Ritchard, James David Hooper, and Daren Wade Rubingh are registered Michigan voters and are nominees of the Republican Party to be a Presidential Elector on behalf of the State of Michigan. *See* ECF No. 6, “Parties”.

#### **1. Elector Standing under Electors and Elections Clause**

Defendants and Defendant-Intervenors’ arguments on standing rely more or less exclusively on the Third Circuit’s decision in *Bognet v. Sec’y of Commonwealth*, No. 20-2314, 2020 WL 6686120 (3d Cir. Nov. 13, 2020), where the court found that electors lacked standing based on the particularities of a Pennsylvania law that are not present here. In

particular, the *Bognet* court did not discuss the significance of State law provisions pursuant to which Presidential Electors are candidates for office.

State Defendants correctly note that *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020), which affirmed that Presidential Electors have both Article III and Prudential standing under the Electors and Elections Clauses, “was rooted heavily in the court’s interpretation of Minnesota law.” ECF No. 31 at 12. What State Defendants neglect to mention is that the *Carson* court relied on provisions of Minnesota law treating electors as candidates for office are nearly identical to the corresponding provision of the Michigan Election Code because in both States a vote cast for a party’s candidate for President and Vice-President are deemed to be cast for that party’s Electors. Compare the relevant provisions of Minnesota election law, Minn. Stat. §208.04(1) and MCL § 168.45.

When presidential electors ... are to be voted for, ***a vote cast for the party candidate for president and vice-president shall be deemed a vote cast for that party’s electors*** ... as filed with the secretary of state.

Minn. Stat. § 208.04(1) (emphasis added).

Marking a cross (X) or a check mark (✓) in the circle under the party name of a political party, at the general November election in a presidential year, ***shall not be considered and taken as a direct vote for the candidates of that political party for president and vice-president or either of them, but, as to the presidential vote, as a vote for the entire list or set of presidential electors chosen by that political party*** and certified to the secretary of state pursuant to this chapter

MCL § 168.45 (emphasis added).

The *Carson* court concluded that, “[b]ecause Minnesota law plainly treats presidential electors as candidate, we do, too.” *Carson*, 978 F.3d at 1057.

In other words, a vote for President Trump and Vice-President Pence in Michigan—and Minnesota—is ***a vote for each Republican electors***, and just as in Minnesota, illegal conduct aimed at harming candidates for President similarly injures Presidential Electors. As

such, Plaintiff Elector candidates “have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast,” as “[a]n inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors.” *See also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000) (per curiam). Notably, Defendant and Defendant Intervenors have cited no Sixth Circuit or Michigan precedent in support of their position, nor have they shown any relevant similarity between Pennsylvania and Michigan law on election of electors.

## **2. Voter Standing for Equal Protection and Due Process Claims**

Defendant and Defendant-Intervenors misrepresent Plaintiffs’ Equal Protection and Due Process claims, both in terms of substance and for standing purposes, insofar as they claim that Plaintiffs’ claims are based solely on a theory of vote dilution that “will proportionally impact every Michigan voter to the same mathematical degree,” (ECF No. 39 at 25; *see also* ECF No. 31 at 10 (“The alleged ‘dilution’ would affect all Michigan voters equally ...”), and therefore is a “generalized grievance,” rather than the concrete and particularized injury required for Article III standing. ECF No. 36 at 7; *see also* ECF No. 31 at 11.

This is incorrect.

Plaintiff’s, on behalf of themselves and other similarly situated voters allege, first, and with great particularity, that Defendants have both violated Michigan Election Code and applied the Michigan Election Code to dilute the votes of Michigan’s Republican voters (or voters for Republican candidates) with illegal, ineligible, duplicate or fictitious that Defendants, in collaboration with public employees, Dominion and Democratic poll watchers and activists, have caused to be counted as votes for Democratic candidates. The fact and

expert witness testimony describes and quantifies the myriad means by which Defendants and their collaborators illegally inflated the vote tally for Biden and other Democrats, in districts that were overwhelmingly Democratic such as the City of Detroit, including: double voting, dead voting, double counting of same vote, forgery of ballot and voter information, illegally completing or modifying ineligible ballots, ballot switching (Trump to Biden), changing dates or backdating absentee ballots, failure to match signatures, etc., etc. *See* ECF No. 6, Section II and III. Thus, the vote dilution resulting from this systemic and illegal conduct did not affect all Michigan voters equally; it had the intent and effect of inflating the number of votes for Democratic candidates and reducing the number of votes for Trump and Republican candidates.

Further, Plaintiffs have presented evidence that, not only did Defendants dilute the votes of Plaintiffs and similarly-situated voters for Republican candidates, they sought to actively disenfranchise such voters to reduce their voting power, in clear violation of “one person, one vote.” *See generally Baker v. Carr*, 369 U.S. 186 (1962); *Reynolds v. Sims*, 377 U.S. 533 (1964). Defendants engaged in several schemes to devalue Republican votes as detailed in the Complaint, including Republican ballots being destroyed or discarded, or “**1 person, 0 votes,**” vote switching “**1 person, -1 votes,**” (Dominion and election workers switching votes from Trump/Republican to Biden/Democrat), and Dominion algorithmic manipulation, or for Republicans, “**1 person, 1/2 votes,**” and for Democrats, “**1 person, 1.5 votes.**” *See e.g.*, ECF No. 6, Section II.C (ballot destruction/discarding) Ex. 101 (Dr. Briggs Testimony regarding potential ballot destruction), Ex. 104 (Ramsland testimony regarding additive algorithm), Section IV (multiple witnesses regarding Dominion vote manipulation).

Plaintiffs' injury is that "the relative values of their particular votes [were] devalued," and as such, "theirs is not a generalized grievance about a law not being followed that is applicable to all," *George v. Haslam*, 112 F.Supp.3d 700, 710 (M.D. Tenn. 2015), as Defendant and Defendant Intervenors claim. Plaintiffs have thus met the requirements for stand: (1) the injuries of their rights under the Equal Protection and Due Process clauses that concrete and particularized for themselves, and similarly situated voters, whose votes have been debased (2) that are actual or imminent and (3) are causally connected to Defendants conduct because the debasement of their votes is a direct and intended result of the conducts of the Defendants and the public employee election workers they supervise. *See generally Lujan v. Defenders of Wildlife*, 504 U.S. 555 560-561 (1992).

### **3. Standing Under Michigan Constitution and Michigan Election Code**

As such, they each have standing under the 2018 amendments to Article II of the Michigan Constitution, which provides that "[e]very citizen of the United States who is an elector qualified to vote in Michigan shall have the right," among other things, "to have the results of statewide elections audited, ..., to ensure the accuracy and integrity of elections." Mich. Const. 1963, art. 2, §4(1)(h). Various provisions of the Michigan Election Code also give any citizen the right to bring an election challenge within 30 days of an election where, as here, it appears that a material fraud or error has been committed. *See, e.g., Hamlin v. Saugatuck Twp.*, 299 Mich. App. 233, 240-241 (2013) (*citing Barrow v. Detroit Mayor*, 290 Mich. App. 530 (2010)); MCL § 168.31a (setting forth election audit requirements); MCL § 168.861 (*quo warranto* remedy for fraudulent or illegal voting).

### **B. Laches**

Defendants and Defendant Intervenor assert that Plaintiffs claims are barred by laches. *See* ECF No. 31 at 3-7; ECF No. 39 at 30. Laches consists of two elements, neither of which are

met here: (1) unreasonable delay in asserting one's rights; and (2) a resulting prejudice to the defending party. *Meade v. Pension Appeals and Review Committee*, 966 F.2d 190, 195 (6th Cir. 1992). The bar is even higher in the voting rights or election context, where defendants asserting the equitable defense must show that the delay was due to a “deliberate” choice to bypass judicial remedies and they must do so “by clear and convincing” evidence. *Toney v. White*, 488 F.2d 310, 315 (5th Cir. 1973). The cases relied on by State Defendants are inapposite as the plaintiffs in those cases waited *years* to file a challenge on the eve of an election, *see* ECF No. 31 at 5 (*discussing Crookston v. Johnson*, 841 F.3d 396, 398, (6th Cir. 2016) (Plaintiff waited “nearly four years” to file claim), whereas here Plaintiffs filed mere days after the completion of counting.

Further, the “delay” in filing after Election Day is almost entirely due to Defendants failure to promptly complete counting until weeks after November 3, 2020—Michigan county boards did not complete counting until November 17, 2020, and Defendant Michigan Board of State Canvassers did not do so until November 23, 2020, ECF No. 31 at 4—a mere *two days* before Plaintiffs filed their initial complaint on November 25, 2020. Plaintiffs admittedly would have preferred to file sooner, but Plaintiffs needed some time to gather statements from dozens of fact witnesses, retain and engage expert witnesses, and gather other data supporting their Complaint, and this additional time was once again a function of the sheer volume of evidence of illegal conduct by Defendants and their collaborators. Defendants cannot now assert the equitable affirmative defense of laches, when any prejudice they may suffer, is entirely a result of their own actions and misconduct.

Moreover, much of the misconduct identified in the Complaint was not apparent on Election Day, as the evidence of voting irregularities was not discovered until weeks after the

election. William Hartman explains in a sworn statement dated November 18, 2020, that “on November 17th there was a meeting of the Board of Canvassers to determine whether to certify the results of Wayne County” and he had “determined that approximately 71% of Detroit’s 134 Absentee Voter Counting Boards were left unbalanced and unexplained.” He and Michele Palmer voted not to Certify and only agreed upon a representation of a full audit, but then reversed when they learned there would be no audit. (*See* ECF No. 6, Ex. 11 &12.) Further, the certification that followed despite 71% of precincts showing voting irregularities was one of the points where the extent of voter fraud and the pressure to hide any investigation of that fraud became the clearest. *Id.* Furthermore, it is disingenuous to try to bottle this slowly counted election into one day when in fact waiting for late arriving mail ballots and counting mail ballots persisted long after “Election Day.”

**C. Mootness**

State Defendants throw in a mootness argument that is similarly without merit. *See* ECF No. 31 at 7-9. This argument is based on the false premise that this Court cannot order any of the relief requested in the Complaint or the TRO Motion. This Court can grant the primary relief requested by Plaintiffs – de-certification of Michigan’s election results and an injunction prohibiting State Defendants from transmitting the results – as discussed in Section I.E. on abstention below. There is also no question that this Court can order other types of declaratory and injunctive relief requested by Plaintiffs, in particular, impounding Dominion voting machines and software for inspection, nor have State Defendants claimed otherwise.

**D. Eleventh Amendment**

State Defendants assert that Plaintiffs’ claims are barred by the Eleventh Amendment, but the cases address circumstances that are not present here. *See* ECF No. 31 at 13 (*discussing*

*Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (dismissing prison inmate lawsuit under the Eighth and Fourteenth Amendment claims where Alabama had not consented to civil actions against it).

While the contours of the Eleventh Amendment’s jurisdictional bar are ambiguous in many cases, this is not one of them. The Sixth Circuit recently addressed the scope of Eleventh Amendment sovereign immunity in the election context in *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1045 (6th Cir. 2015). In *Russell*, the court held that federal courts do in fact have the power to provide injunctive relief where the defendant, “The Secretary of State and members of the State Board of Elections,” were like State Defendants, “empowered with expansive authority to “administer the election laws of the state.”” *Russell*, 784 F.3d at 1047 (internal quotations omitted). The court held that the Eleventh Amendment did not bar a federal court from “[e]njoining a statewide official under Young based on his obligation to enforce a law is appropriate” where the injunctive relief requested sought to enjoin actions (namely, prosecution) that was within the scope of the official’s statutory authority. *Id.*

This is precisely what the Plaintiffs request in the Amended Complaint, namely, equitable and injunctive relief to prospectively enjoin the Defendants from taking actions that are within the scope of their statutory authority, in particular, Secretary Benson as chief election officer, including but not limited to seeking a permanent injunction “enjoining Secretary Benson and Governor Whitmer from transmitting the currently certified election results to the Electoral College.” (See ECF No. 6 ¶1). Under *Russell*, the Eleventh Amendment is no bar to this Court granting the requested relief.

#### **E. Abstention**

State Defendants spill a lot of ink making an abstention claim based on *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 808 (1976) (“*Colorado River*”), a case addressing concurrent federal and state jurisdiction over water rights. *See* ECF No. 31 at 19-20.

Presumably they did so because the case setting the standard for federal abstention in the voting rights and state election law context, *Harman v. Forssenius*, 380 U.S. 528, 534, (1965) is not favorable to their cause. In *Harman*, the Supreme Court rejected

The Supreme Court rejected the Defendant state's argument that federal courts should dismiss voting rights claims based on federal abstention, emphasizing that abstention may be appropriate where "the federal constitutional question is dependent upon, or may be materially altered by, the determination of an *uncertain issue of state law*," and "deference to state court adjudication only be made where the issue of state law is uncertain." *Harman*, 380 U.S. at 534 (citations omitted). But if state law in question "is not fairly subject to an interpretation which will render unnecessary or substantially modify the federal constitutional question," then "it is the duty of the federal court to exercise its properly invoked jurisdiction." *Id.* (citation omitted).

The State Defendants go on to describe several ongoing state proceedings where there is some overlap with the claims and specific unlawful conduct identified in the Complaint. *See* ECF No. 31 at 21-26. But State Defendants have *not identified any uncertain issue of state law that would justify abstention*. *See* ECF No 31 at 21-26. Instead, as described below the overlaps are over factual matters and the credibility of witnesses, and the finding of these courts would not resolve any uncertainty about state law that would impact Plaintiffs constitutional claims (Electors and Elections Clauses and Equal Protection and Due Process Clauses).

Defendants' reliance on *Colorado River* is also misplaced insofar as they contend that abstention would avoid "piecemeal" litigation, *see id.* at 38, because abstention would result in exactly that. The various Michigan State proceedings raise a number of isolated factual and legal issues in separate proceedings, whereas Plaintiffs' Complaint addresses most of the legal claims and factual evidence submitted in Michigan State courts, and also introduces a number of new

issues as well that are not present in any of the State proceedings. According, the interest in judicial economy and avoidance of “piecemeal” would be best served by this Court retaining federal question jurisdiction and supplemental jurisdiction over State law claims.

Defendants cited to four cases brought in the State courts in Michigan, none of which have the same plaintiffs, and all of which are ongoing and have not been resolved by final orders or judgments. (See ECF Nos. 31-6 to 31-15.)<sup>1</sup>

- Donald J. Trump v. Benson, Court of Claims, 20-000225. The court denied declaratory relief on November 6, 2020 stating, “This is not a final order and it does not resolve the last pending claim or close the case.” The Appeal filed related thereto was withdrawn also without prejudice.
- Constantino v. City of Detroit, Wayne Circuit Court, No. 20-014780. The court stated that Plaintiff has multiple legal remedies and that “This is not a final order and it does not resolve the last pending claim or close the case.
- Johnson v. Benson, Michigan Supreme Court No. 162286. The Complaint seeks declaratory relief and equitable relief, but not based on the identical claims or brought by these Plaintiffs.
- Stoddard v City Election Commission, Wayne Circuit Court No. 20-014604. Court denied injunctive relief, without prejudice; involves different parties as well as non-identical issues.
- Bailey v. Antrim County, Antrim Circuit Court, No. 20-9238. Plaintiff seeks equitable declaratory relief, but has not submitted similar evidentiary issues as in this case; not final, involves different parties as well as non-identical issues.

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<sup>1</sup> The significant differences between the instant proceeding and the foregoing State proceedings would also prevent issue preclusion. A four-element framework finds issue preclusion appropriate if: (1) the disputed **issue** is identical to that in the previous action, (2) the **issue** was actually litigated in the previous action, (3) resolution of the issue was necessary to support a final judgment in the prior action, and (4) the party against whom issue preclusion is sought had a full and fair opportunity to litigate the issue in the prior proceeding. See *Louisville Bedding Co. v. Perfect Fit Indus.*, 186 F. Supp. 2d 752, 753-754, 2001 U.S. Dist. LEXIS 9599 (citing *Graco Children's Products, Inc. v. Regalo International, LLC*, 77 F. Supp. 2d 660, 662 (E.D. Pa. 1999)). None of these requirements have been met with respect to Plaintiffs or the claims in the Complaint.

Of equal importance is the fact that the isolated claims in State court do not appear to present evidence demonstrating that a sufficient number of illegal ballots were counted to affect the result of the 2020 General Election. The fact and expert witnesses presented in the Complaint do. As summarized below, the Complaint alleges and provides supporting evidence that the number of illegal votes is potentially multiples of Biden's 154,188 margin in Michigan. (See ECF No. 6 ¶16).

- A. A report from Russell Ramsland, Jr. showing the "physical impossibility" of nearly 385,000 votes injected by four precincts/township on November 4, 2020, that resulted in the counting of nearly 290,000 more ballots processed than available capacity (which is based on statistical analysis that is independent of his analysis of Dominion's flaws), a result which he determined to be "physically impossible" (*see* Ex. 104 ¶14);
- B. A report from Dr. Louis Bouchard finding to be "statistically impossible" the widely reported "jump" in Biden's vote tally of 141,257 votes during a single time interval (11:31:48 on November 4), *see* Ex. 110 at 28);
- C. A report from Dr. William Briggs, showing that there were approximately 60,000 absentee ballots listed as "unreturned" by voters that either never requested them, or that requested and returned their ballots. (*See* Ex. 101);
- D. A report from Dr. Eric Quinell analyzing the anomalous turnout figures in Wayne and Oakland Counties showing that Biden gained nearly 100% and frequently more than 100% of all "new" voters in certain townships/precincts over 2016, and thus indicated that nearly 87,000 anomalous and likely fraudulent votes came from these precincts. (*See* Ex. 102);
- E. A report from Dr. Stanley Young that looked at the entire State of Michigan and identified nine "outlier" counties that had both significantly increased turnout in 2020 vs. 2016 almost all of which went to Biden totaling over 190,000 suspect "excess" Biden votes (whereas turnout in Michigan's 74 other counties was flat). (*See* Ex. 110);
- F. A report from Robert Wilgus analyzing the absentee ballot data that identified a number of significant anomalies, in particular, 224,525 absentee ballot applications that were both sent and returned on the same day, 288,783 absentee ballots that were sent and returned on the same day, and 78,312 that had the same date for all (*i.e.*, the absentee application was sent/returned on same day as the absentee ballot itself was sent/returned), as well as an additional 217,271 ballots for which there was no return date (*i.e.*, consistent with eyewitness testimony described in Section II below). (*See*

Ex. 110);

- G. A report from Thomas Davis showing that in 2020 for larger Michigan counties like Monroe and Oakland Counties, that not only was there a higher percentage of Democrat than Republican absentee voters in every single one of hundreds of precinct, but that the Democrat advantage (*i.e.*, the difference in the percentage of Democrat vs. Republican absentee voter) was consistent (+25%-30%) and the differences were highly correlated, whereas in 2016 the differences were uncorrelated. (*See* Ex. 110); and
- H. A report by an affiant whose name must be redacted to protect his safety who concludes that “the results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Michigan’s vote tallies to be inflated by somewhere between three and five point six percentage points. Statistical estimating yields that in Michigan, the best estimate of the number of impacted votes is 162,400. However, a 95% confidence interval calculation yields that as many as 276,080 votes may have been impacted.” (*See* Ex. 111 ¶13).

#### **F. Federal Jurisdiction**

Article I, § 4 and Article II, § 1 of the U.S. Constitution grant plenary authority to state legislatures to enact laws that govern the conduct of elections. Unlike the situation where a court is situated in diversity jurisdiction and deciding an entirely state-law matter, as presented in *Guaranty Trust Co. v. York*, 326 U.S. 99 (1945), in this action this Court has “no duty ... to approximate as closely as may be State law in order to vindicate without discrimination a right derived solely from a State.” *Holmberg*, 327 U.S. at 395. Rather, the duty here is that “of federal courts, sitting as national courts throughout the country, to apply their own principles in enforcing an equitable right” created under the U.S. Constitution. *Id.*

“[F]ederal jurisdiction is not defeated if the nonfederal ground relied on by the state court is ‘without any fair or substantial support ....’” *N.A.A.C.P. v. Ala. ex. rel. Patterson*, 357 U.S. 449, 455 (1958)(quoting *Ward v. Board of County Commissioners*, 253 U.S. 17, 22 (1920)).

“State procedural rules have been held insufficient to bar federal review if they are ‘not strictly or regularly followed,’ if they are ‘novel and unforeseeable,’ ... or if they impose undue burdens on the assertion of federal rights.” Roosevelt, Kermit III, *Light from Dead Stars: The Procedural Adequate and Independent State Ground Reconsidered*, 103 *Columbia L. Rev.* 1888, 1890 (citing *Barr v. City of Columbia*, 378 U.S. 146, 149 (1964); Daniel J. Meltzer, *State Court Forfeitures of Federal Rights*, 99 *Harv. L. Rev.* 1128, 1137-45 (1986); *Douglas v. Alabama*, 380 U.S. 415, 422-23 (1965)).

Consistently, this Court has reviewed such deprivation of access to the courts under a Due Process Clause, and Equal Protection framework. See, e.g., *Boddie v. Connecticut*, 401 U.S. 371 (1971); *Ortwein v. Schwab*, 410 U.S. 656 (1973); but see *Sosna v. Iowa*, 419 U.S. 393 (1975) (declining to apply *Boddie* the restriction of access did not amount to a “total deprivation”). “In short, ‘within the limits of practicability, a state must afford to all individuals a meaningful opportunity to be heard if it is to fulfill the promise of the Due Process Clause.’” *Bodie*, 401 U.S. at 377. (internal citations omitted).

When a state fails to correct a violation of the state’s Constitution in the context of federal elections and fails to provide any avenue for relief for federal election challengers, it violates the U.S. Constitution. The definition of “voting” appears to include all stages of applying for an absentee ballot. *Priorities United States v. Nessel*, 2020 U.S. Dist. LEXIS 177888, \*37-38 ( E.D. Mich. September 17, 2020); see also *OCA-Greater Houston v. Texas*, 867 F.3d 604, 615 (5th Cir. 2017) (Interpreting the VRA and stating that “[t]o vote,’ therefore, plainly contemplates more than the mechanical act of filling out the ballot sheet. It includes steps in the voting process before entering the ballot box, ‘registration,’ and it includes steps in the voting process after leaving the ballot box, ‘having such ballot counted properly.’ Indeed, the

definition lists 'casting a ballot' as only one example in a non-exhaustive list of actions that qualify as voting.").

## II. RESPONSES TO FACT AND EXPERT WITNESSES

### A. Defendants and Defendant-Intervenor Have Failed to Rebut Factual Testimony

Defendants have submitted a number of affidavits, consisting mostly of recycled testimony from ongoing State proceedings, that purports to rebut Plaintiffs' fact witnesses all of which boil down to: (1) they did not see what they thought they saw; (2) maybe they did see what they thought they saw, but it was legal on the authority of the very government officials engaged in or overseeing the unlawful conduct; (3) the illegal conduct described could not have occurred because it is illegal; and/or (4) sure it happened, but those were independent criminal actions by public employees over whom State Defendants had no control.

Below are a few examples of State Defendant affiants' non-responsive responses, evasions and circular reasoning, followed by Plaintiff testimony and evidence that remains unrebutted by their testimony.

- **Illegal or Double Counted Absentee Ballots.** Affiant Brater asserts that Plaintiffs' allegation regarding illegal vote counting can be "cursorily dismissed by a review of election data," and asserts that if illegal votes were counted, there would be discrepancies in between the numbers of votes and numbers in poll books. ECF No. 31-3 ¶19. Similarly, Christopher Thomas, asserts that ballots could not, as Plaintiffs allege, *see* FAC, Carrone Aff., have been counted multiple times because "a mistake like that would be caught very quickly on site," or later by the Wayne County Canvassing Board. ECF No. 39-6 ¶6. Mr. Brater and Mr. Thomas fails to acknowledge that **is precisely what happened**, where the Wayne County Canvassing Board found that over 70% of Detroit Absentee Voting Board ("AVCB") were unbalanced, and that two members of Wayne County Board of Canvassers initially refused to certify results and conditioned certification on a manual recount and answers to questions such as "[w]hy the pollbooks, Qualified Voter Files, and final tallies do not match or balance." FAC ¶¶105-107 & Ex. 11-12 (Affidavits of Wayne County Board of Canvasser Chairperson Monica Palmer and Member William C. Hartmann). Further, Plaintiffs' affiants testified to observing poll workers assigning ballots to different voters than the one named on the ballot. FAC ¶86 & Larsen Aff.

- **Illegal Conduct Was Impossible Because It Was Illegal.** Mr. Thomas wins the prize in this round for tautological and circular reasoning for his assertion that “[i]t would have been impossible for any election worker at the TCF Center to count or process a ballot for someone who was not an eligible voter or whose ballot was not received by the 8:00 p.m. deadline on November,” and “no ballot could have been backdated,” because no ballots received after the deadline “were ever at the TCF Center,” nor could the ballot of an ineligible voter been “brought to the TCF Center.” ECF No. 39-5 ¶20; *id.* ¶27. That is because it would have been illegal, you understand. The City of Detroit’s absentee voter ballot quality control was so airtight and foolproof that only 70% of their precincts were unbalanced for 2020 General Election, which exceeded the standards for excellence established in the August 2020 primary where 72% of AVCB were unbalanced. FAC Ex. 11 ¶¶7&14.

State Defendants Affiants did not, however, dismiss all of Plaintiff Affiants’ claims and made key admissions that the conduct alleged did in fact occur, while baldly asserting, without evidence, that this conduct was legal and consistent with Michigan law.

- **Election Workers at TCF Center Did Not Match Signatures for Absentee Ballots.**
- **Election Workers Used Fictional Birthdates for Absentee Voters.** ECF No. 39-5 ¶15. The software made them do it.
- **Election Workers Altered Dates for Absentee Ballot Envelopes.** Mr. Thomas does not dispute Affiant Jacob’s testimony that “she was instructed by her supervisor to adjust the mailing date of absentee ballot packages” sent to voters, but asserts this was legal because “[t]he mailing date recorded for absentee ballot packages would have no impact on the rights of the voters and no effect on the processing and counting of absentee votes.”

#### **B. Defendants and Defendant-Intervenor Have Failed to Rebut Expert Testimony**

As a general matter, Defendants and Defendant-Intervenors present testimony from Michigan, Wayne County and City of Detroit Election Officials that are apparently meant as both fact and expert witnesses simultaneously, but their testimony should be rejected as inadmissible or irrelevant, insofar as they simply dismiss or issue blanket denials of testimony submitted by Plaintiffs’ affiant. They do not, however, respond to the specific allegations made by Plaintiffs’ affiants, nor do they provide evidence, or analysis of data in their sole possession and control, that could rebut Plaintiffs’ specific examples.

Below are a few of the most significant examples:

- **Ramsland Testimony: November 4 Voting “Spike.”** Mr. Brater dismisses Ramsland’s analysis of the November 4 voting spikes where 384,733 ballots in four precincts/townships were tallied in 2 hours and 38 minutes, with the blanket assertion that Mr. Ramsland “does not understand how unofficial election results are reported in Michigan,” and that unofficial totals “are the products that have been counted throughout the day.” ECF No. 31-3 ¶18. Mr. Brater, however, says nothing about the specific event cited by Ramsland, nor does he offer any analysis or evidence using election data within control of Defendants to refute Mr. Ramsland or demonstrate that his purported explanation accounts for the events in Wayne County or other counties on Election Night. As such, Mr. Brater’s assertion is unsupported speculation that must be dismissed.
- **Ramsland Testimony: “Ranked Choice Voting” Algorithm.** Defendant-Intervenors expert Dr. Rodden seeks to dismiss and ridicule Mr. Ramsland testimony for failing to understand what ranked-choice voting is, ECF No. 13-2 at 24, but Dr. Rodden’s response indicates he has not carefully read Mr. Ramsland’s testimony, where he is taking the term from Dominion’s own user guide. FAC ¶141 & Ex. 104 ¶14. Mr. Ramsland instead uses the term “additive algorithm” to describe what Dominion refers to as the RCV method. FAC ¶141 & Ex. 104 ¶14. More importantly, Dr. Rodden **acknowledges that Election Night data included fractional votes**, speculating that these votes were when “workers at Edison Research multiplied total votes cast by vote shares that had been rounded;” ECF No. 13-2 at 24. Thus their only disagreement concerns the cause for fractional votes – which both agree are non-sensical as votes can only have integer values – not the existence of this data, and his only response is his own speculation, rather than his expert opinion.
- **Wilgus Testimony.** Defendant-Intervenors mischaracterize the report submitted by Robert Wilgus as a statistical analysis. ECF No. 36 at 11. It is not. Mr. Wilgus is an IT professional who simply performed a query in a voter database obtained through a FOIA request, which tallied the values in certain fields. FAC Ex. 110. As such, it is sorting and tallying entries in database fields; there was no statistical analysis. Further, this same data is in the possession of Defendant, including among other things, voting records where the ballot application, or absentee ballots, were sent and returned on same date, yet they failed to provide any analysis or evidence that the raw numbers tabulated by Mr. Wilgus using a simply database query are wrong, or to explain the meaning of the data in their possession. Mr. Brater’s speculation that these results may be accounted for by in-person absentee voters is similarly non-responsive. ECF No. 31-3 ¶20.c. Defendants or Mr. Brater have access to State, County and City records that could identify how many of these hundreds of thousands of voters were in-person absentee voters, so that Plaintiffs and this Court could focus on the remainder not accounted by Mr. Brater’s assertion.

The following Plaintiff expert witnesses have also submitted rebuttal testimony in response to the Defendant Intervenor exhibits.

- **Briggs Rebuttal.** William Briggs, with a PhD in statistics from Cornell, provides as Exhibit 1 hereto his in-depth response to Stephen Ansolabehere’s rebuttal of Briggs’ original

report. In essence, Briggs shows that Ansolabehere's critiques are not supported with evidence, fail basic logic tests, do not consider the methods applied and speak to insignificant matters. As an example, the critique of a low response rate is accounted for in his analysis and he explains the marginally larger prediction interval that he originally applied to account for this.

- **Quinnell Rebuttal.** In response to the paper submitted by Jonathan Rodden with a Political Science PhD, Eric Quinnell, a PhD in Computer arithmetic, provides a response attached as Exhibit 2.
- **Ramsland Rebuttal.** Mr. Ramsland has submitted his rebuttal as Exhibit 3, which provides more detail on data and methodology.
- **Redacted Affiant Rebuttal.** DNC's response to the complaint at the bottom of pg. 15 "the purported analysis is wholly unexplained and conclusory" and does not lay out the data or methods. This critique fails to rebut the clearly described analysis with any form of evidence whatsoever. The Redacted Affiant provides a follow-up report to expand on his sources and methods that is attached as Exhibit 4.

### **C. Defendants and Defendant-Intervenors Have Failed Altogether to Address Dominion Testimony**

Defendants and Defendant-Intervenors have failed altogether to respond to evidence presented by Plaintiffs regarding Dominion voting fraud and manipulation, except to point and sputter, dismissing it as an "unfounded conspiracy theory," DNC Brief at 14, "bizarre", ECF No. 31-3, Brater aff. at ¶15, etc, without responding to, much less rebutting, Plaintiffs' allegation.

Defendant-Intervenors' only attempt to respond to Plaintiffs, other than non-responsive ridicule and insults, is by attaching *Dominion press release* as if it were an objective authority to whom this Court should refer, rather than a co-conspirator in Defendants' fraudulent scheme alleged in great detail by Plaintiffs. ECF No. 36-11.

### **III. PLAINTIFFS ARE ENTITLED TO INJUNCTIVE RELIEF**

"To determine whether to grant a preliminary injunction or temporary restraining order, a district court must consider: (i) whether the movant has a strong likelihood of success on the merits; (ii) whether the movant would suffer irreparable injury without the injunction; (iii) whether issuance of the injunction would cause substantial harm to others; and (iv)

whether the public interest would be served by the issuance of the injunction.” *Stein v. Thomas*, 222 F.Supp.3d 539, 542 (E.D. Mich. 2016) (citing *Baker v. Adams Cnty./Ohio Valley Sch. Bd.*, 310 F.3d 927, 928 (6th Cir. 2002)); see also *City of Pontiac Retired Employees Ass’n v. Schimmel*, 751 F.3d 427, 430 (6th Cir. 2014).

All elements are met here, and Defendant and Defendant Intervenor responses have not shown otherwise.

**A. Plaintiffs have a substantial likelihood of success.**

Through detailed fact and expert testimony including documentary evidence contained in the Complaint and its exhibits, Plaintiffs have made a compelling showing that Defendants’ intentional actions jeopardized the rights of Michigan citizens to select their leaders under the process set out by the Michigan Legislature through the commission of election frauds that violated Michigan laws, including multiple provisions of the Michigan Election Code. These acts also violated the Equal Protection and Due Process Clauses of the United States Constitution. U.S. Const. Amend XIV.

Defendants and Defendant-Intervenors misrepresent Plaintiffs’ constitutional claims. Plaintiffs allege both vote dilution and voter disenfranchisement, both of which are claims under the Equal Protection and Due Process Clause, due to the actions of Defendants in collusion with public employees and voting systems like Dominion. The Complaint describes in great detail Defendants’ actions to dilute the votes of Republican voters through counting and even manufacturing hundreds of thousands of illegal, ineligible, duplicative or outright fraudulent ballots.

While the U.S. Constitution itself accords no right to vote for presidential electors, “[w]hen the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the

equal weight accorded to each vote and the equal dignity owed to each voter.” *Bush v. Gore*, 531 U.S. 98, 104 (2000) (emphasis added). The evidence shows not only that Defendants failed to administer the November 3, 2020 election in compliance with the manner prescribed by the Michigan Legislature in the Michigan Election Code, MCL §§ 168.730-738, but that Defendants committed a scheme and artifice to fraudulently and illegally manipulate the vote count to make certain the election of Joe Biden as President of the United States. This conduct violated Plaintiffs’ equal protection and due process rights as well their rights under the Michigan Election Code and Constitution. *See generally* MCL §§ 168.730-738 & Mich. Const. 1963, art. 2, §4(1).

But Defendants’ actions also disenfranchised Republican voters in violation of the U.S. Constitution’s “one person, one vote” requirement by:

- **Republican Ballot Destruction: “1 Person, 0 Votes.”** Fact and witness expert testimony alleges and provides strong evidence that tens or even hundreds of thousands of Republican votes were destroyed, thus completely disenfranchising that voter.
- **Republican Vote Switching: “1 Person, -1 Votes.”** Plaintiffs’ fact and expert witnesses further alleged and provided supporting evidence that in many cases, Trump/Republican votes were switched or counted as Biden/Democrat votes. Here, the Republican voter was not only disenfranchised by not having his vote counted for his chosen candidates, but the constitutional injury is compounded by adding his or her vote to the candidates he or she opposes.
- **Dominion Algorithmic Manipulation: For Republicans, “1 Person, 0.5 Votes,” while for Democrats “1 Person, 1.5 Votes.** Plaintiffs presented evidence in the Complaint regarding Dominion’s algorithmic manipulation of ballot tabulation, such that Republican voters in a given geographic region, received less weight per person, than Democratic voters in the same or other geographic regions. *See* ECF No. 6, Ex. 104. This unequal treatment is the 21st century of the evil that the Supreme Court sought to remedy in the apportionment cases beginning with *Baker v. Carr*, 369 U.S. 186 (1962), and *Reynolds v. Sims*, 377 U.S. 533 (1964). Further, Dominion has done so in collusion with State actors, including Defendants, so this form of discrimination is under color of law.

This Court, in considering Plaintiffs’ constitutional and voting rights claims under a “totality of the circumstances” and thus must consider the cumulative effect of the specific

instances or categories of Defendants’ voter dilution and disenfranchisement claims. Taken together, these various forms of unlawful and unconstitutional conduct destroyed or shifted tens or hundreds of thousands of Trump votes, and illegally added tens or hundreds of thousand of Biden votes, changing the result of the election, and **effectively disenfranchising the majority of Michigan voters.**

While Plaintiffs allege several categories of traditional “voting fraud”, Plaintiffs have also alleged new forms of voting dilution and disenfranchisement made possible by new technology. The potential for voter fraud inherent in electronic voting was increased as a direct result of Defendants’ and Defendant-Intervenors’ to transform traditional in-person paper voting – for which there are significant protections from fraud in place – to near universal absentee voting with electronic tabulation – while at the same time eliminating through legislation or litigation – and when that failed by refusing to enforce – traditional protections against voting fraud (voter ID, signature matching, witness and address requirements, etc.).

Thus, while Plaintiffs’ claims include novel elements due to changes in technology and voting practices, that does not nullify the Constitution or Plaintiffs’ rights thereunder. Defendants and Defendant-Intervenors have implemented likely the most wide-ranging and comprehensive scheme of voting fraud yet devised, integrating new technology with old fashioned urban machine corruption and skullduggery. The fact that this scheme is novel does not make it legal, or prevent this Court from fashioning appropriate injunctive relief to protect Plaintiffs’ right and prevent Defendants from enjoying the benefits of their illegal conduct.

**B. The Plaintiffs will suffer Irreparable Harm**

Plaintiffs will suffer an irreparable harm due to the Defendants’ myriad violations of Plaintiffs’ rights under the U.S. Constitution, the Michigan Constitution and the Michigan Election Code, and Defendant and Defendant Intervenors have not shown otherwise.

In this Response, Plaintiffs have refuted and rebutted their arguments in detail, in particular, regarding standing, equitable defenses, and jurisdictional claims, as well as establishing their substantial likelihood of success. Having disposed of those arguments, and shown a substantial likelihood of success, this Court should presume that the requirement to show irreparable injury has been satisfied.

When Constitutional rights are threatened or impaired, irreparable injury is presumed. A restriction on the fundamental right to vote therefore constitutes an irreparable injury.

*Obama for America vs. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (citations omitted). *See also Am. Civil Liberties Union of Kentucky v. McCreary Cnty., Ky.*, 354 F.3d 438, 445 (6th Cir. 2003) *aff'd sub nom., McCreary Cnty., Ky., v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844 (2005) (where a plaintiff's constitutional rights are at issue, the movant need only show that his rights are "threatened," from which showing "a finding of irreparable injury is mandated.").

**C. The Balance of Equities & The Public Interest**

Defendant and Defendant Intervenors make a few half-hearted attempts on this element, but add nothing new or that merits a response.

**D. Plaintiffs Reiterate Request for Emergency Injunctive Relief Prior to December 8, 2020.**

Under *Bush v. Gore*, 531 U.S. 98 (2000), Plaintiffs are entitled to emergency injunctive relief that must be granted in advance of December 8, 2020, which is the "safe harbor" date for States to submit their slates of electors under 3 U.S.C. § 5. There, the Supreme Court granting an emergency application for stay of Florida recount because there was "no recount procedure in place ... that comports with minimal constitutional safeguards," and any recount procedure that could meet constitutional requirements could not be completed by the 3 U.S.C. §5 safe harbor date. Accordingly,

this Court must schedule and complete any required hearings, briefings and responses in time to issue a decision before December 8, 2020.

#### **IV. RELIEF REQUESTED**

Plaintiffs seek a de-certification of Michigan's election results or a stay in the delivery of the certified results to the Electoral College to preserve the status quo while this case proceeds, as well as seeking the impounding of the voting machines made available and other equitable relief, on an emergency basis, due to the irreparable harm, and impending election voting for the electors, as stated in the Complaint.

Respectfully submitted, this 3<sup>rd</sup> day of December 2020.

/s/ Sidney Powell\*  
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\*Application for admission pro hac vice  
forthcoming

*Attorneys for Plaintiffs*

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gregoryrohl@yahoo.com

## CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Motion for Declaratory, Emergency, and Permanent Injunctive Relief and Memorandum in Support Thereof using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 29th day of November, 2020.

Governor Gretchen Whitmer  
P.O. Box 30013  
Lansing, Michigan 48909  
info@gretchenwhitmer.com

Secretary of State Jocelyn Benson  
Bureau of Elections  
Richard H. Austin Building, 4th Floor  
430 W. Allegan  
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Elections@Michigan.gov

Board of State Canvassers  
Bureau of Elections  
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430 W. Allegan  
Lansing, Michigan 48918  
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# Response to Stephen Ansolabehere's Comments Regarding Absentee Ballots Across Several States

William M. Briggs

December 3, 2020

## 1 Summary

The criticisms made by Stephen Ansolabehere in response to my original report on absentee ballots are not relevant, make simple errors in logic, and even, in part, work against him to show my original argument could be made even stronger.

Ansolabehere repeatedly charges that because I was brief in saying “I assume survey respondents are representative and the data is accurate” that therefore the respondents were not representative and the data not accurate. This is a silly error and a wholly unwarranted conclusion. Not only was this data entirely typical of phone surveys, and therefore the data having all the usual strengths and weaknesses of the genre, it was extraordinary in that calls with respondents were recorded. The designers of the survey evidently knew its quality would be attacked—and were prepared for it.

There were no fatal errors in the survey data or calculations, as the well-paid Ansolabehere falsely claims. (*Five hundred fifty* American dollars per hour for the many hours he spent on his comments? My work is entirely pro bono.) Instead, I took pains to put forward the most conservative case, interpreting the data in a way that actually reduced the number of troublesome ballots.

Although Ansolabehere made many mistakes, I thank him for the opportunity of allowing me to make a point I neglected to emphasize in my original presentation. This is the striking unity of results across several battleground states. The data shows either an amazing coincidence in accumulated troublesome ballots in just those places they were needed most for Biden, or the data shows something more interesting happened.

What follows are answers to specific criticisms.

## 2 Rebuttal

Ansolabehere pads his account with many extraneous words and arguments. I will be much briefer, while also answering every substantial criticism he made.

### 2.1 Error Definition

My original definition of errors were this:

**Error #1:** being recorded as sent an absentee ballot without requesting one.

**Error #2:** sending back an absentee ballot and having it recorded as not returned.

These followed directly from the survey design. The survey began by asking “Q1 - May I please speak to <lead on screen>?” If the person was available, they were asked “Q2 - Did you request an absentee ballot?”

Finally, if they said yes to that, respondents were asked “Q3 - Did you mail back that ballot?”

Ansolabehere finds ambiguity in these three simple questions via a wonderful display of specious argument, one he repeats in many places. He basically says that because the questions *could* have been

misinterpreted in the various ways he suggests, they therefore *were* misinterpreted by a sufficient number of respondents, thus rendering the survey useless.

My answer is that this is a dumb argument. He has no evidence misinterpretations were made in the way he suggests. He could have spent the same amount of (expensive) time and came up with reasons why the survey was *not* misinterpreted.

For instance, the election was in the news and people were riled. They therefore welcomed the chance to set the record straight, and to ensure their legal ballots were counted. They were thus even more honest than they normally would be with telephone pollsters.

Of course, I have no evidence this, or other similar stories, are true. Just as Ansolabehere has no evidence his charges are true. All we can do, then, is to treat this survey like we treat all surveys: analyze the data as it is presented.

## 2.2 Ambiguous Wording

I will give one specific example of Ansolabehere trying to discover ambiguity. They are all much the same. He says:

The wording of Question 3 is also very problematic. First, it does not ascertain whether the ballot was mailed back in a timely manner so as to be included in the record of ballots cast. Some or possibly all of the cases in question are late ballots, and thus not necessarily included in the absentee vote record. Second, Question 3 asks whether someone voted. Survey questions asking whether someone voted are notoriously subject to social desirability biases that lead to inflation in the estimated number of voters.

Again, Ansolabehere uses the possibility of a thing as proof the thing existed. There no evidence, not one bit, that ballots were sent back late. Indeed, as all news reports indicate, especially in Pennsylvania, certain late ballots were warmly accepted.

His second point is the same: because people lie on surveys, therefore they lied here in sufficient number. Would Ansolabehere apply this same reasoning to his own words? It is clearly nonsense. If accepted, his argument would toss out *all* surveys about voting.

## 2.3 Response Rate

Ansolabehere charges “The survey has extremely low response rates.” He must know that the response rate here was not atypical. That is, it was low like many telephone polls are. But low does not imply too low. He must know this. Further, the mathematical extrapolations I made accounted for the size of the data.

Perhaps because Ansolabehere is a specialist in government, he does not know that when samples are low the confidence we have in extrapolations is wider. I will give one example, using Georgia, though this works for data from any state.

The original estimates of Error #2 for Georgia were that between 31,559–38,866 ballots were sent back but recorded as not returned, a “plus or minus” window of 7,307 votes. If we suppose we had *double* the response rate on the survey, in the same proportions as the original, then the Error #2 estimate becomes 32,945–38,096, a window of 5,151 votes. The 95% prediction interval shrinks, as expected, as we become more confident.

It does not shrink by much, of course, showing the analysis method is robust. If instead we allow a full ten times the original response rate, the plus-or-minus window shrinks to 2,234 votes.

Response rate is not a problem, and has been fully accounted for.

## 2.4 Top line Number Interpretations

Ansolabehere produces a lot of quibbles about the survey numbers, and uses the possibility of different interpretations of the numbers to say my entire analysis can’t be trusted.

It is true that differences can exist in interpreting the top line numbers. I was aware of this when I did the analysis, which is why I everywhere used conservative interpretations. If I instead use one of the interpretations Ansolabehere suggests, the case about troublesome votes is made is even stronger.

I will use Georgia again as an example, though this applies to all states.

Again, the first question asked to speak to the relevant person. In Georgia, 767 were recorded as “Reached target”, and an additional 255 were recorded as “What is this about?/Uncertain [Go to Q2].” I summed these two numbers to reach a total of 1,022.

One quibble is that the 255 who were uncertain should not be used in the total. If not, the sample size is, of course, reduced to 767. Yet we still have 142 who said “No” when asked if they received an absentee ballot. The ratio 142/767 is larger than 142/1022, meaning it will look like even more errors were made (of type Error #1).

The original estimate of **Error #1** (being recorded as sent an absentee ballot without requesting one) for Georgia was the window of 16,938–22,771. If we reduce the sample to 767 by excluding the disputed 255, the new estimate is 22,481–30,042. It goes up in just the way we expect it to. This proves using the full 1,022 is the conservative choice.

Another way to interpret the top lines is to use all people who got to the point of Question 1. Ansolabehere disingenuously prefers this because it makes his case appear stronger.

Besides the two options to Question 1 already mentioned (reached target, uncertain), there were also “Refused” and “Hangup”. I treated these as non-responses, which is the usual interpretation. A person who hangs up without responding is the same as the person who never answers, as far as the answering the question goes.

In the spirit of generosity, though, let’s use all 1,175 who reached Question 1 (instead of the original 1,022), including the hangups and refusals. The window for Error #1 becomes 14,778–19,903. The window shrinks, as Ansolabehere desires. *But not by enough.* This is still a large and troublesome window. The same is true for each state investigated.

Even stronger, the window for Error #2, the more significant error, *does not change.* This is because the calculations for this window are conditional only on those who answered Question 2 and 3.

Lastly, Ansolabehere disputes whether the answers spouses or other household members gave should be allowed. I used them in the totals. Ansolabehere would exclude them. This is really a nitpicking point because the total of these answers were small.

Here is proof. Again, the original window for Error#2 in Georgia was 31,559–38,866. This was conditional on the 257 respondents or their spouses or household members who said they mailed a ballot back. If we remove the 17 spouses or household members, the window becomes 29,372–36,512. It shrinks a bit. But again, *not by enough.*

All comments made here hold for all states.

### 3 Conclusion

The doubts cast on my original analysis by Ansolabehere either fail simple tests of logic, or are so small as to make no practical difference in the conclusion.

All his logical errors can be dismissed. Suggesting, as he often does, that mistakes *can* be made or that ambiguity *might* exist in the survey, is not proof that either *does* exist. I could have spent an equal amount of (unremunerated in my case) time suggesting ways the survey was better than most political polls. For instance, people are aware now more than ever of the importance of this election and they took greater care with their answers. I did not do this in the original report because I, unlike Ansolabehere, know the true value of such speculations.

The various numerical quibbles Ansolabehere has with the survey numbers either strengthen my case, or they are so small as to make no practical difference. Even with his own difficult-to-justify assumptions, the analysis reveals there still exist very large numbers of troublesome ballots in each battleground state. There are enough suspicious ballots left, even using his numbers, that could have changed the outcome of the election.

Finally, I reemphasize the remarkable coincidence that the amount of troublesome ballots was important to the election outcome in each state.

#### 4 Declaration of William M. Briggs, PhD

1. My name is William M. Briggs. I am over 18 years of age and am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge.
2. I received a Ph.D of Statistics from Cornell University in 2004.
3. I am currently a statistical consultant. I make this declaration in my personal capacity.
4. I have analyzed data regarding responses to questions relating to mail ballot requests, returns and related issues.
5. I attest to a reasonable degree of professional certainty that the resulting analysis are accurate.

I declare under the penalty of perjury that the foregoing is true and correct.



3 December 2020

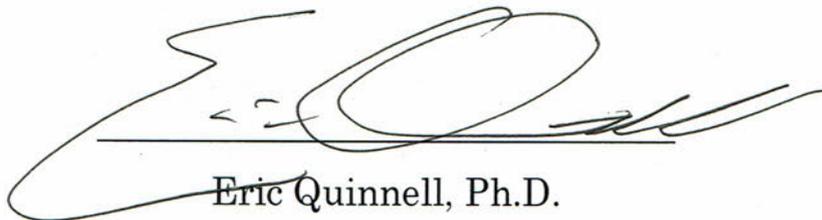
William M. Briggs

**December 3, 2020**

***King et al. v. Whitmer et al.*, Case No. 2:20-CV-13134**

**United States District Court for Eastern District of Michigan**

**Expert Response of Eric Quinnell, PhD**



Eric Quinnell, Ph.D.

## **I. SUMMARY**

Today I reviewed a report from Jonathan Rodden, PhD, which makes arguments and responses to initial declarations from my affidavit which used publicly available data sourced from the actual vote counts in 2020 and 2016 General Election in Wayne and Oakland County.

My data analysis identifies statistical anomalies in a large selection of precincts outside Detroit in both Wayne and Oakland County. Dr. Rodden's responses mainly involve questioning why I do not cite "relevant literature" in attempted explanations of the data, as well as why I bother using the standard normal distribution in precinct level comparisons and vote differences as compared to their extremely-localized precinct histories. Rather than arguing line-by-line pedantic points, for which I am not compensated directly, the timeframe required of this response is prohibitive. Instead, allow me to instead focus on the larger method.

## **II. THE NULL HYPOTHESIS**

Mathematically, the "null hypothesis" is defined that there is no quantitative relationship between two sampled populations and is by definition the default conclusion until proven otherwise. In this case, the null hypothesis states the large movement from Republican or moderate counties in 2016 that then in 2020 voted excessively Democrat is explained by experimental error or mere chance until proven otherwise.

In efforts to explain that phenomena exist with some sort of meaning or relationship, it is a scientific and engineering "standard" to compare against a "standard normal distribution" and apply a testable hypothesis to attempt explanations to any anomalous deviations or new observations. This is why we call it the "standard" method and use the "standard" models for comparison. A hypothesis that

provides a both a prediction and a repeatable test that is successfully mathematically verified will un-seat the null hypothesis and become the new default explanation. Only then do we no longer need the standard normal.

Dr. Rodden offers many hypotheses against the null hypothesis that may explain such a distribution visualization for the voter pattern data, such as self-sourced GIS data analysis, geographical distribution, or demographic shifts mainly focused around his own research. For example, Dr. Rodden claims that the democratic share of votes in the suburbs is a “national trend” and therefore should be expected – this theory is testably true in some places, but fails in places like San Francisco, Chicago, Philadelphia, and other democratic strongholds not located in “swing states”. Claiming a “national trend” based on self-referenced data without a hard-quantitative proof that has extremely present and available counter-examples is invalid speculation. This theory already certainly seems to immediately fail the requirement to overthrow the null hypothesis at a 3-sigma level. For non-Dr. Rodden sources, one can easily find analysis to the counter.

While Dr. Rodden is a presumed expert in the particular field of producing theories to describe voter pattern behaviors – allow me to contrast that against my field of engineering, where the burden of proving a hypothesis is exceedingly higher than that required for mere publication. Machines and devices that hypothesize without full 3-sigma proofs are presumed to fail unless proven beyond a probabilistic academic inference, with such failure presuming significant possibilities of harm and economic damage.

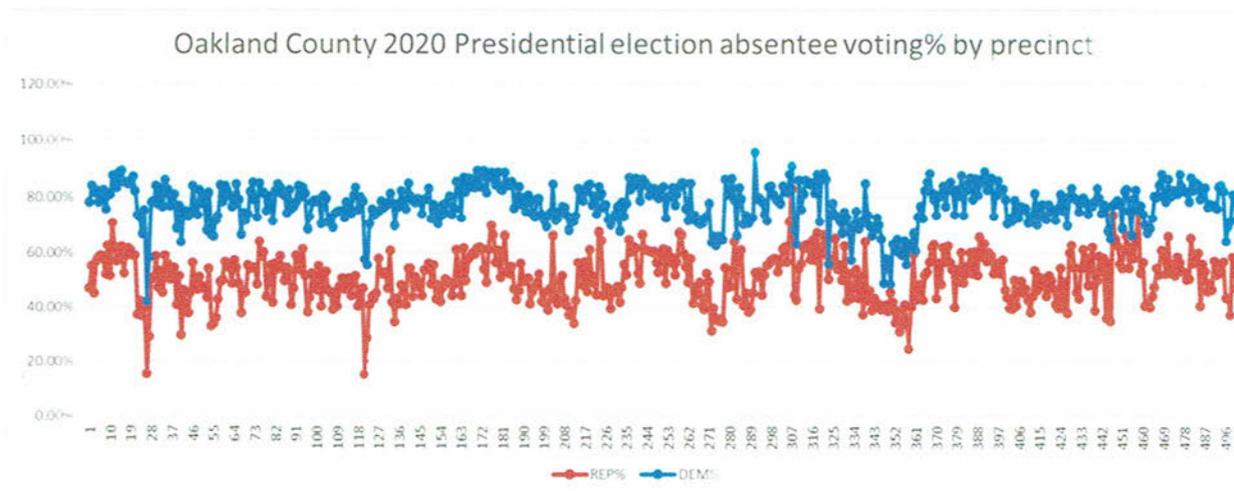
These mathematical anomalous vote gains, until explained and/or investigated, are of a large enough quantitative magnitude and consequence that the barrier of speculation should be held to engineering and mathematical standards, not to those of political science and editorial publications.

### III. TESTING THE HYPOTHESIS

Is Dr. Rodden able to test his hypothesis of Democratic suburban dominance with privileged access to ballots? Does he have population migration patterns in the Oakland County township of Troy, where not only did all voters that voted in 2016 again vote for their candidate, but both Trump and Biden benefitted from additional turnout? The additional turnout I cite as “new votes” are those above and beyond that from 2016. Here Trump gained 1,646 votes above 2016 (which 1<sup>st</sup> order seems like a shift directly from the losses in the Libertarian column), and Biden gained 6,677 votes above 2016. Note there were only 6,132 new registered voters above 2016.

In statistics, any “new population” may be added and absorbed to the whole – this population seems to have 8,000 voters who didn’t appear in 2016 that parachuted in and voted 80 Dem / 20 Rep – which is in complete opposition to Troy’s moderate voting history. In a technique called “resampling”, any new population that is added to an existing one is expected to behave and slightly change the behavior of the existing mass, testable by re-simulating the same dataset with the existing distribution mathematical qualities. Resampling in this case puts this new population deep into the tail of its own distribution, indicating again a completely new phenomena that needs explaining. Why would a populous increase its own turnout by 15% over 2016, and 98% of that turnout go to one candidate? Mathematically, this behavior is anomalous to its own dataset.

Furthermore, the null-hypothesis dataset in Oakland county currently sees the following to-the-precinct correlating behavior of each party’s participation in absentee ballot voting. An expert at such a rate should have no trouble generating (and likely already has) this graph with available data on absentee vote ratios of total:



What “literature” exists to explain that absentee ballot requests are a single variable – with a perfect scalar multiple of Democrats above Republicans – with a Pearson coefficient of 0.797? Every precinct where a Republican voted by absentee *guaranteed* roughly 1.7 Democrats to vote absentee, regardless of precinct. This “national phenomenon” of mathematically *non-independent variables* is not ubiquitous in all the Michigan counties nor in national data. Permit me to pile this onto the stack of “anomalies” we need to test for, as this sort of thing doesn’t happen in nature and certainly shows something non-normal (there’s that null hypothesis again).

#### IV. CONCLUSIONS

In other arguments, Dr. Rodden proceeds to cite a multitude of either unconnected or subjective historical data trends outside Michigan and mostly centered around his own research – including an overbearing litany of publications and curriculum vitae completely unrelated to the task at hand.

Finally, Dr. Rodden continues to say that my work alleged some sort of “fraud”. I allege no such thing in my affidavit – that would be the lawyer’s inference and theory in their brief, not my statement. I offer no hypothesis; I merely state the fact

that the null hypothesis currently shows abnormalities requiring an explanation to maintain faith in the fidelity of the vote.

Furthermore, my aim is that I may tell my descendants without doubt that not only does their vote actually matter, but that any behaviors that are statistically improbable are always properly investigated such that we may collectively always have faith in the fidelity of our vote.

## V. QUALIFICATIONS

I hold a PhD in Computer Arithmetic from The University of Texas at Austin. I am an electrical engineer that has built working silicon computation devices in the 100s of millions, perhaps billions, around the world. I hold a litany of patents and publications, which are likely irrelevant to this particular case, save for the declaration that my data is scrutinized to the highest level.

I welcome external cross-checking of my calculations which are, as aforementioned, applied to a publicly available data set. All my analysis is as a volunteer citizen wishing to apply my skills to help reconcile the voting situation at hand which, at least for myself, I identify as anomalies that need an attempted explanation.

**December 3, 2020**

*King et al. v. Whitmer et al.*, Case No. 2:20-CV-13134  
**United States District Court for Eastern District of  
Michigan**

**Expert Report of Russell J. Ramsland, Jr.**



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**Russell J. Ramsland, Jr.**

1) There are many reasons to be concerned about the Dominion Voting System and the results it produces. It is well documented and demonstrated that it's heritage and software origins are extremely unsettling, given its close relationship to Smartmatic and Scytl, facts that have only become clearer with the 4 redacted declarations I have now seen from Spider. For this reason, any analysis as to the integrity of any election conducted using Dominion should be executed with a healthy degree of skepticism, and evidence of abnormal results should be over-weighted, if anything.

Our team has extensive experience as white hat hackers and employ many methodologies and tools to trace and certify connections between servers, network nodes and other digital properties and probe for network system vulnerabilities. In addition to Robtex and Spiderfoot, we also employ such tools as Whois, GeolpLookup, nslookup, host, ipinfo.io, etc.

From our own company's work, I can attest to the credibility and veracity of the information contained in the four redacted declarations by Spider. Along with several others, we have found many of the same connections, relationships and vulnerabilities. Further, Clarity Elections and Scytl are integral to the network as well as Dominion and Edison Research and they too have multiple vulnerabilities and their vulnerabilities represent further vulnerabilities into Dominion.

For instance, inside the SCYTL System at a point called staging.scytl.us, malware called QSnatch is visible. QSnatch represents a deep vulnerability to any election system that touches it such as Dominion and Edison Research. QSnatch characteristics include:

- **CGI password logger** - This installs a fake version of the device admin login page, logging successful authentications and passing them to the legitimate login page.
- **Credential scraper** - This grabs the credentials of any administrator whose system loads any information into Scytl or Clarity Elections which includes Dominion and Edison Research. This means the credentials of every county election official of every state where Dominion manages elections in the U.S. are vulnerable to being compromised and utilized by unauthorized persons. This includes all counties in Georgia and the counties in Michigan which use Dominion.
- **SSH backdoor** - This allows the cyber actor to execute arbitrary code on a device.
- **Exfiltration** - When run, steals a predetermined list of files which includes system configuration & log files. Encrypted with hacker's public key and sent to their infrastructure over HTTPS.
- **Webshell functionality** - Allows an attacker remote access
- **Persistence & Mitigation** - The malware itself can make it impossible to run needed firmware updates. Once infected, a full factory reset must be done on the device prior to doing a firmware update to stop vulnerability.

**Here is its location:**

**Here it can be seen embedded:**

```
"iid": 14271845,
"type": "ip",
"indicator": "13.32.202.112",
"risk": "none",
"risk_recommended": "none",
>manualrisk": 0,
"retired": null,
"stamp_added": "2020-08-16 07:19:05",
"stamp_updated": "2020-09-21 18:57:23",
"stamp_seen": "2020-09-15 01:15:00",
"stamp_probed": "2020-09-21 18:57:23",
"stamp_retired": null,
```

Source code for Dominion can easily be obtained on the dark web so that an attacker knows all the vulnerable points and can plan and plant any malicious code the attacker desires. Here is a small sample of what can be seen on Pirates Bay TORR:

```
"ProductCode","ProductName","ProductVersion","OpSystemCode'
Type"
11818,"OpenElect","1.0","189","1422","English","Voting"
15134,"Hart Voting System Software Files
(BallotNow)","3.3.12","189","2049","English","Voting"
15134,"Hart Voting System Software Files
(BallotNow)","3.3.12","366","2049","English","Voting"
15542,"Open Elect Release","1.2","51","1422","English","Vo
16786,"OpenElect","1.3","51","1422","English","Voting"
17345,"Installed files for D-Suite 4.14-D,WinEDS 3.1.012, \
4.0.175","2016-01-12","786","2530","English","Voting"
17429,"Democracy Suite Election Event Designer (EED) Insta
File","4.14.37","365","2530","English","Voting"
17430,"Democracy Suite ImageCast Central (ICC) Installed
File","4.14.17","365","2530","English","Voting"
17431,"Democracy Suite Adjudication (ADJ) Installed
File","2.4.1.3201","365","2530","English","Voting"
```



2) The use of an algorithm being used in the vote counting is evident from a number of perspectives. First, there is the apparent product of decimal places being used in points instead of whole number votes that can be viewed from the NYT times Edison data. In the two-time series shown below, note the percentages in Series 357 that shows 3 decimal places displayed in the percentage distribution of the 3,616,879 votes. One might argue that the issue is simply due to the fact only 3 decimal places are displayed, and that if 20 or 30 decimal places were displayed, one would see whole numbers appear as votes instead of points with decimal places, and therefore there is no evidence in this illustration that an allocative algorithm was utilized. The problem with this is two-fold. The first is the percentages do not come close to 100% regardless of rounding. But the difference between the 98.2% displayed and 100% might be due to Jo Jorgenson. The presence of Jo Jorgenson as a third-party candidate is exactly the scenario for which RCV was supposedly concocted and contrary to Dr. Rodden assertion that Dominion RCV voting is incapable of producing non-integer vote totals, Dominion's own manual doesn't agree with him. See "Fixed Precision Decimals" in the manual page below:

**Source: Democracy Suite EMS Results Tally & Reporting User Guide  
Version: 5.11-CO::7 May 28, 2019**

separately. By leaving it unchecked all results will not be separated per precinct. This option is relevant for STV, because calculating surplus transfer for each precinct separately will create a higher total surplus transfer remainder than when surplus transfer is not separated per precinct.

- **Pause After Round:** When this option is selected the tabulation session will pause the tabulation session after each round. If it is not selected the session will continue until the end or until a manual tie break is required.
- **Fixed Precision Decimals:** This option allows you to specify how many decimals the votes should be represented during calculation, this is relevant only for the STV and Points IRV methods where votes and points are expressed as fractional values.
- **Skip Overvoted Rankings:** This option allows the algorithm to skip overvoted rankings and proceed to the next ranking. No over-votes will be recorded if this option is used and consequently not be shown in RCV reports. If this option is not selected, overvotes will be recorded for this contest when the algorithm reaches an overvoted ranking.
- **Votes to include in threshold calculation:** The user has the option between two variations of calculating the threshold value used to elect candidates:
  - **Continuing Ballots Per Round:** Each round the total number of ballots assigned to candidates is calculated and used in the division that calculates the threshold. This means the threshold will lower as an increasing amount of ballots are exhausted in subsequent rounds.
  - **Continuing Ballots 1st round:** Each round will re-use the total number of ballots assigned to candidates in the first round for each subsequent round. Therefore the threshold will remain the same throughout the tabulation.

**NOTE:** If first round suspension option is used, the suspended ballots will not be included in the threshold calculation.

- **Perform Elimination Transfer in Last round:** The tabulation system will stop early if it detects that the number of continuing candidates is equal to the number of positions left to be elected plus one. For example, if the number of positions to elect is one, and if the system detects that only two candidates remain at the start of the round, the candidate with the least amount of votes is eliminated and the remaining candidate is elected without going into another round. This option allows the algorithm to perform the elimination transfer for the elimination transfer to the winning candidate if that winning candidate did not yet reach the threshold. Note: This option only applies the IRV or Points IRV methods.
- **Assign Skipped Rankings to the set of Exhausted Ballots:** This option allows the algorithm to assign Skipped Rankings to the set of Exhausted Ballots. If this option is not selected, any rankings that are left

Further, from the NYT Edison data displayed below, it is also clear from Series 358 that with only 2 decimals showing in the Biden percentage of 0.45, the total fraction displayed cannot get anywhere near 100% regardless of any truncation in the Trump percentage.

<https://static01.nyt.com/elections-assets/2020/data/api/2020-11-03/race-page/michigan/president.json>

### Example:

/data/races/0/timeseries/357/

```

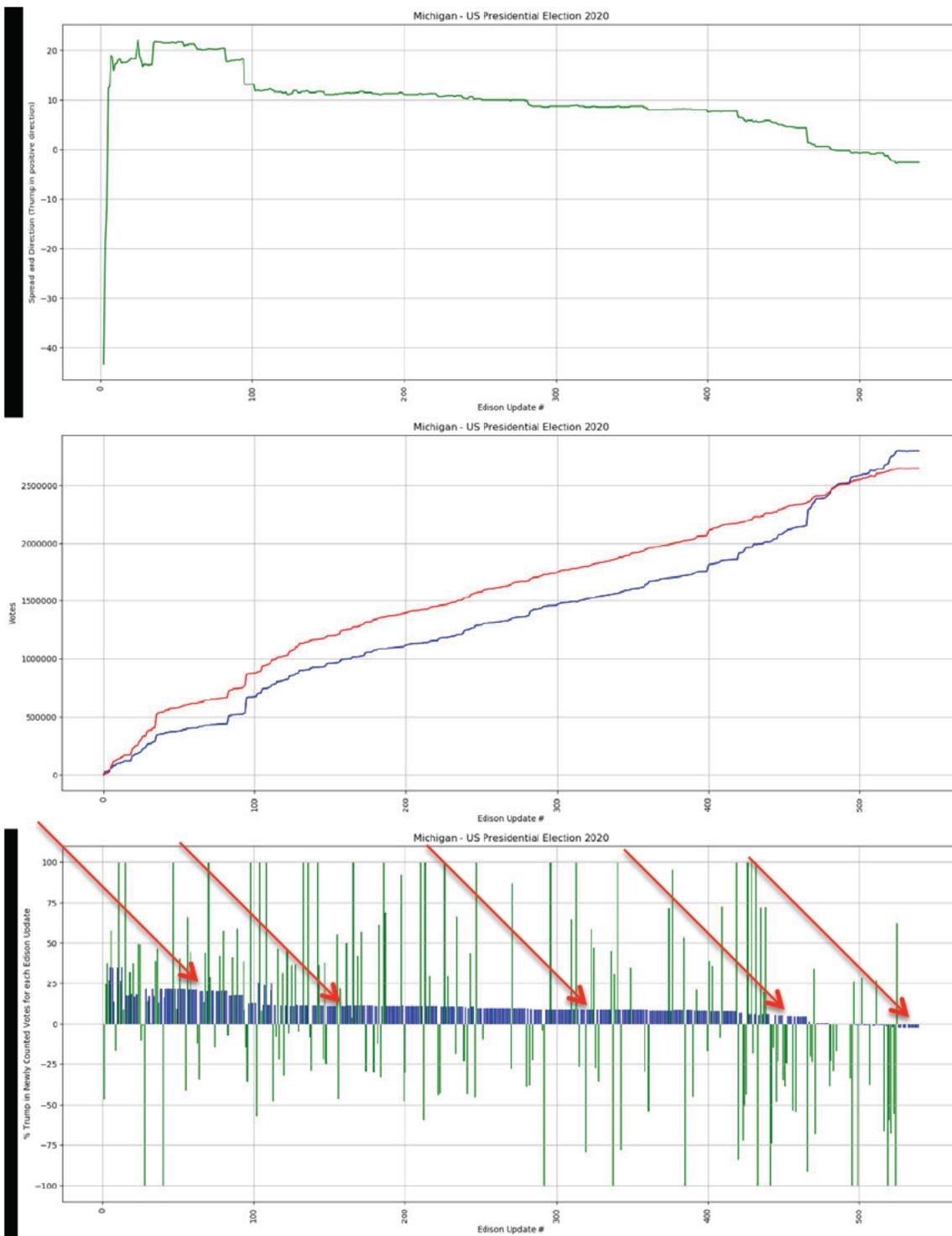
▼ 357:
  ▼ vote_shares:
    trumpd: 0.534
    bidenj: 0.448
    votes: 3616879
    eevp: 64
    eevp_source: "edison"
    timestamp: "2020-11-04T06:58:47Z"
▼ 358:
  ▼ vote_shares:
    trumpd: 0.533
    bidenj: 0.45
    votes: 3643075
    eevp: 64
    eevp_source: "edison"
    timestamp: "2020-11-04T07:00:37Z"

```

Hence, calculating the “points” for each candidate from the NYT Edison time series by multiplying the votes by the percentage to show the calculated votes/ (TV = Trump Votes) (BV = Biden Votes)

state	timestamp	eevp	trump	biden	TV	BV
michigan	2020-11-04T06:54:48Z	64	0.534	0.448	1925865.66	1615707.52
michigan	2020-11-04T06:56:47Z	64	0.534	0.448	1930247.664	1619383.808
michigan	2020-11-04T06:58:47Z	64	0.534	0.448	1931413.386	1620361.792
michigan	2020-11-04T07:00:37Z	64	0.533	0.45	1941758.975	1639383.75
michigan	2020-11-04T07:01:46Z	64	0.533	0.45	1945297.562	1642371.3
michigan	2020-11-04T07:03:17Z	65	0.533	0.45	1948885.185	1645400.25

3) The second piece of evidence that an algorithm is being utilized comes from our observation that the percentage of the votes submitted in each batch that went towards a candidate remain unchanged for a long series of time and for a number of *consecutive* batches is extremely concerning. Further, the percentage for Trump decreases in a mathematically extremely consistent pattern. The red arrows indicate the impossible consistencies. The statistical impossibility of the consistent percentage reported to Biden approaches zero. This makes clear an algorithm in the election system is allocating votes based on a percentage.



**The top graph:**

The cumulative spread in percentage between Trump and Biden at any point in time during the vote counting is shown in this graph, where Trump is positive percentage. In other words, a point on the line in this graph represents which candidate is in the lead at any point in time, and by how much. Movement of the line in this graph indicates change in the magnitude a candidate is winning by. If the line slopes up, the votes are moving in a direction that favors Trump. If the line slopes down, the votes are moving in a direction that favors Biden.

**The middle graph:**

The total accumulated votes counted at any point in time for each candidate is represented in this graph. Red is Trump. Blue is Biden.

**The lower graph:**

Each bar on this graph represents what percentage of the votes submitted in each batch went towards a candidate, where Trump is positive and Biden is negative.

**Analysis:**

There are multiple highly anomalous features in this visualization of the Michigan, USA 2020 General Election vote count data. It is important to understand the context of the lower graph and analysis. Every batch of vote counts released represents various groups of people and their votes. These groups of people's votes are expected to have variance, even if multiple batches were produced out of the same geographic area. Large numbers of votes between multiple candidates are unlikely to have the same percentage of going towards a candidate multiple times in different batches.

What we see in the lower graph instead of the expected variance in percentage of votes going to Trump or Biden in each batch are easily distinguishable trends, which are realistically improbable. The statistical probability of that pattern occurring throughout the graph approaches zero.

The observation of these trends not only strongly suggests fraud, but also suggests automated and algorithmic tampering of vote counts.

There is a mechanical correlation between the suspected algorithmically generated vote count releases (labeled in blue on the bottom graph) and the relative difference between the line in the upper graph and zero (an intersection with the line at  $y=0$  in the upper graph indicates a change in which candidate is leading). Furthermore, as soon as the line in the upper graph intersects with  $y=0$ , the algorithmically generated vote count releases switch to the opposing side - possibly to either maintain or eek in a Biden victory. Once the majority of apparent real and organic votes ceased to be counted, we are left with large swaths of released vote counts that repeatedly have the same exact percentage of votes in each release going to Biden. By exact, I mean exact. That is until stray batches of apparent organic votes are released, and then the percentage of votes in each release from the apparent algorithmically generated vote counts going to Biden seem to adjust slightly to account for the change, which then continue to repeat in each release, until the next stray organic batch, and the cycle repeats. It is difficult to come up with a realistic scenario where this described phenomenon is not the result of an algorithm behind the scenes.

4) The suggestion that the information included in the "Spike Chart" of my original affidavit could be simply tabulated votes that were suddenly all reported is erroneous. The spike data came from Edison Research data and Oakland, the largest spike, was for November 7<sup>th</sup>, well past any "pent up" tabulated vote batches. Later data we found direct from Dominion to the NYT that did not pass through Edison confirms this and even adds further granularity.

5) That there are problems in the Dominion System is clear from a visit our team made to Central Lake Township in Antrim Michigan on behalf of a local lawsuit filed by Michigan attorney Robert Marsh. Below is the field report submitted to me by our team.

## **ASOG Forensics Report on Central Lake Township in Antrim Michigan**

**Report Date 11/29/2020**

**Report Version 1.4**

On 11/27/2020 the ASOG forensics team visited Central Lake Township in Antrim Michigan on behalf of a local lawsuit filed by Michigan attorney Robert Marsh.

The clerk of Central Lake Township – at around 10:30am – Ms. Judith L. Kosloski, presented to us “two separate paper totals tape” from Tabulator ID 2.

One dated “Poll Opened Nov. 03/2020 06:38:48” (Roll 1)  
Another dated “Poll Opened Nov. 06/2020 09:21:58” (Roll 2)

We were then told by her that on November 5, 2020, Ms. Kosloski was notified by Connie Wing of the County Clerk’s Office and asked to bring the tabulator and ballots to the County Clerk’s office for re-tabulation. They ran the ballots and printed “Roll 2”. She noticed a difference in the votes and brought it up to the clerk, but canvassing still occurred, and her objections were not addressed.

Our team analyzed both rolls and compared the results.

Roll 1 had 1,494 total votes

Roll 2 had 1,491 votes (Roll 2 had 3 less ballots because 3 ballots were damaged in the process.)

“Statement of Votes Cast from Antrim” shows that only 1,491 votes were counted, and the 3 ballots that were damaged were not entered into final results.

Ms. Kosloski stated that she and her assistant manually refilled out the three ballots, curing them, and ran them through the ballot counting system - but the final numbers do not reflect the inclusion of those 3 damaged ballots.

[http://www.antrimcounty.org/downloads/official\\_results\\_2nd\\_amended.pdf](http://www.antrimcounty.org/downloads/official_results_2nd_amended.pdf)

Source: <http://www.antrimcounty.org/elections.asp>

In comparing the numbers on both rolls, *we estimate 1,474 votes changed* across the two rolls, between the first and the second time the exact same ballots were run through the County Clerk’s vote counting machine - *which is almost the same number of voters that voted in total.*

The five most significant changes in vote totals are in the screenshots below:

- On Election night, Trump received 566 votes, Biden received 340. On the recount, Trump had 1 less vote at 565 while Biden was unchanged at 340. This is particularly odd since 3 votes less were tabulated. So

potentially Trump could have lost between 3 and 4 votes overall on a very small sample – but that did not happen.

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	340
Donald J. Trump / Michael R. Pence (Republican):	565
Jo Jorgensen / Jeremy Cohen (Libertarian):	8
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Angela Walker (Green):	5
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	3
Total Votes:	922

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	340
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**Recount 11/6**                      **Election 11/3**

- A Proposed Initiated Ordinance to Authorize One (1) Marihuana (sic) Retailer Establishment Within the Village of Central Lake (1). – On election night, it was a tie vote. Then, on the recount, when 3 ballots were not counted, the proposal passed with 1 vote being removed from the No vote.

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Total Votes:</td> <td style="width: 20%; text-align: right;">1372</td> </tr> <tr> <td colspan="2" style="text-align: center;">A Proposed Initiated Ordinance to Authorize One (1) Marihuana Retailer Establishment Within the Village of Central Lake (1)</td> </tr> <tr> <td>Yes:</td> <td style="text-align: right;">262</td> </tr> <tr> <td>No:</td> <td style="text-align: right;">261</td> </tr> <tr> <td>Total Votes:</td> <td style="text-align: right;">523</td> </tr> </table>	Total Votes:	1372	A Proposed Initiated Ordinance to Authorize One (1) Marihuana Retailer Establishment Within the Village of Central Lake (1)		Yes:	262	No:	261	Total Votes:	523	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">A Proposed Initiated Ordinance to Authorize One (1) Marihuana Retailer Establishment Within the Village of Central Lake (1)</td> </tr> <tr> <td>Yes:</td> <td style="text-align: right;">262</td> </tr> <tr> <td>No:</td> <td style="text-align: right;">262</td> </tr> <tr> <td>Total Votes:</td> <td style="text-align: right;">524</td> </tr> </table>	A Proposed Initiated Ordinance to Authorize One (1) Marihuana Retailer Establishment Within the Village of Central Lake (1)		Yes:	262	No:	262	Total Votes:	524
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Recount 11/6
Election 11/3

- For the School Board Member for Central Lake Schools (3) there were 742 votes added to this vote total. Since multiple people were elected, this did not change the result of both candidates being elected, but you do see a change in who had more votes. If it were a single person election, this would have changed the outcome, but this goes to the fact that votes can be and were changed during the second machine counting.

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">School Board Member for Central Lake Schools (3)</td> </tr> <tr> <td>Melanie Eckhardt:</td> <td style="text-align: right;">852</td> </tr> <tr> <td>Keith Shafer:</td> <td style="text-align: right;">846</td> </tr> <tr> <td>Write-in:</td> <td style="text-align: right;">112</td> </tr> <tr> <td>Total Votes:</td> <td style="text-align: right;">1810</td> </tr> </table>	School Board Member for Central Lake Schools (3)		Melanie Eckhardt:	852	Keith Shafer:	846	Write-in:	112	Total Votes:	1810	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">School Board Member for Central Lake Schools (3)</td> </tr> <tr> <td>Melanie Eckhardt:</td> <td style="text-align: right;">519</td> </tr> <tr> <td>Keith Shafer:</td> <td style="text-align: right;">525</td> </tr> <tr> <td>Write-in:</td> <td style="text-align: right;">24</td> </tr> <tr> <td>Total Votes:</td> <td style="text-align: right;">1068</td> </tr> </table>	School Board Member for Central Lake Schools (3)		Melanie Eckhardt:	519	Keith Shafer:	525	Write-in:	24	Total Votes:	1068
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Recount 11/6
Election 11/3

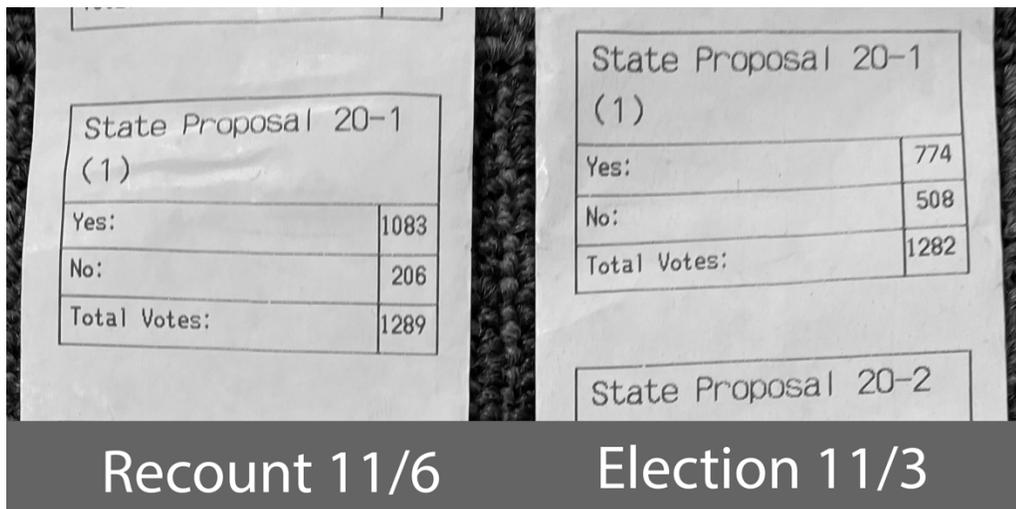
- For the School Board Member for Ellsworth Schools (2) it shows 657 votes *being removed* from this election. In this case, only 3 people who were eligible to vote actually voted. Since there were 2 votes allowed for each voter to cast, the recount is correct to have 6 votes. But on election night, there is a major calculation issue:



- In State Proposal 20-1 (1), there is a major change in votes in this category.

Proposal 1 is a fairly technical and complicated proposed amendment to the Michigan Constitution to change the disposition and allowable uses of future revenue generated from oil and gas bonuses, rentals and royalties from state-owned land. There were 774 votes for YES during the election, to 1,083 votes for YES on the recount.

Information about the proposal: <https://crcmich.org/publications/statewide-ballot-proposal-20-1-michigan-natural-resources-trust-fund>



**Process**

Our team interviewed Ms. Kosloski on the process of tabulation and how the system works.

Essentially, the Township Clerk is given two Compact Flash Cards and a Security Key. One CF card (also known as ISD Card) goes into the

“ADMINISTRATOR” in the “CF CARD 2” Slot and the other in the “POLL WORKER” in the “CF CARD 1” Slot. The security key is used on the “SECURITY KEY” connector on top.

Pre-election, Ms. Kosloski was given the cards by the County Clerk’s office. The County Clerk is Sheryl Guy.

Once the printed ballots are hand-marked by voters, they are run through the machine. At the close of the polls, they run the totals on the print and bring the two CF Cards and security key back to the County Clerk for loading into the server. The cards and keys are not given back to the Township Clerk – these essential technical data sources for the Townships are thereafter held by the County Clerk.

On November 6<sup>th</sup>, at the request of the County Clerk, and with no explanation, Ms. Kosloski was told to bring the tabulator serial number AAFAJHX0226 and sealed ballots to the Country Clerk’s office. There, she was presented with two CF Cards and a security key. Then, they re-ran the original election day ballots. During this process, 3 ballots were damaged and not tabulated on the “Roll 2” results. Again, under the oversight of the canvassing board, Ms. Kowloski cured those ballots, and re-ran them, but they appear to have not been counted in the final vote totals.

## **Conclusion**

The ASOG forensics team believes that a software change loaded into Tabulator ID 2 on November 6th did occur, and this caused the vote totals to change. The change happened on the Tabulator unit, but did so using software configurations from the Country Clerk. The Clear Lake Township Clerk Ms. Kosloski has never been told why they needed to re-tabulate the ballots.

The forensics team would like access to the CF Cards and Security Key for Roll 1 and the CF Cards and Security Key for Roll 2. We also request unrestricted access to the machine that programs the CF Cards, which we believe is called the “Election Event Designer” software of Dominion Democracy Suite – or like-software that was used to program these CF Cards.

We do not believe that the Secretary of State report addresses this, and states the issue at the time was not on the printed totals tape. The Secretary even states “Because the Clerk correctly updated the media drives for the tabulators with changes to races, and because the other tabulators did not have changes to races, all tabulators counted ballots correctly.” This is not the case.

We believe this directly contradicts the Sectary of State fact check document. (Link below.)

November 7, 2020 Isolated User Error in Antrim County Does Not Affect Election Results, Has no Impact on Other Counties or States - Jocelyn Benson – Secretary of State of Michigan

[https://www.michigan.gov/documents/sos/Antrim\\_Fact\\_Check\\_707197\\_7.pdf](https://www.michigan.gov/documents/sos/Antrim_Fact_Check_707197_7.pdf)

Excerpt from document:

“These errors can always be identified and corrected because every tabulator prints a paper totals tape showing how the ballots for each race were counted. After discovering the error in reporting the unofficial results, the clerk worked diligently to report correct unofficial results by reviewing the printed totals tape on each tabulator and hand-entering the results for each race, for each precinct in the county. Again, all ballots were properly tabulated. The user error affected only how the results from the tabulators communicated with the election management system for unofficial reporting.

Even if the error had not been noticed and quickly fixed, it would have been caught and identified during the county canvass when printed totals tapes are reviewed. This was an isolated error, there is no evidence this user error occurred elsewhere in the state, and if it did it would be caught during county canvasses, which are conducted by bipartisan boards of county canvassers.”

## Summary

If this had been a user setup issue, then the test ballots they run to verify the results they get by comparing them with the test matrix should have caught that. When they made the software change that that used to tabulate the 11/6/20 re-run, there should be a log of the test ballots run through the system and verified against the test matrix. This alone might not show fraud, but it is a crucial part of the software configuration validation process and apparently was not done.

We believe to a reasonable degree of professional certainty that this shows fraud and that vote changing at the local tabulator level has occurred due to a software change in all precincts where Dominion software was used in Michigan. This small sample amplified in a large population area would have major results. Without the explanation of why there was a re-tabulation, why the issue of numbers being off to a significant degree when a vote change was noted, and no further investigation occurred – and when 3 ballots were removed from the totals that changed the final outcome of one proposal, constitutes a definitive indication of fraud.

6) Finally, Dr. Rodden was correct in his noting of excessive turnout figures listed in my affidavit for some precincts in MI based on new data from Michigan. The source of that original data was State level data that no longer exists or some unexplained reason. It existed at

<https://data.michigan.gov/>

[https://mielections.us/election/results/2020GEN\\_CENR.html](https://mielections.us/election/results/2020GEN_CENR.html)

Currently, new data published by the various counties does change. However, at this point we see the current State of Michigan published data as follows:

<b>County</b>	<b>Precinct</b>	<b>Turnout</b>
Ottawa	Spring Lake Township, Precinct 6 - B	120.00%
	City of South Haven, Ward 3, Precinct 2 (Van Buren County)	100.00%
Allegan	Grand Island Town Prec 1	96.77%
Ottawa	Tallmadge Charter Township, Precinct 3 - C	95.24%
Macomb	GROSSE POINTE SHORES-3	94.00%
Oakland	Fenton, Precinct 2	93.33%
Ottawa	Zeeland Charter Township, Precinct 4 - D	90.59%
Muskegon	Ravenna Township Precinct 1	89.72%
Barry	Thornapple Township, Precinct 1	89.23%
Oakland	Novi Township, Precinct 1	89.13%
Kent	Byron Township Precinct 4	89.08%
Ottawa	Jamestown Charter Township, Precinct 2	88.88%
Barry	Thornapple Township, Precinct 2	88.88%
Oakland	Lyon Township, Precinct 8	88.78%
Livingston	Oceola Township, Precinct 5	88.53%
Ottawa	Holland Charter Township, Precinct 4 - B	88.28%
Oakland	Lake Angelus, Precinct 1	88.21%
Ottawa	Port Sheldon Township, Precinct 1 - A	88.19%
	Grand Blanc Township, Precinct 10	87.96%
Genesee		
Ottawa	Blendon Township, Precinct 2 - B	87.91%
Kent	Vergennes Township Precinct 1	87.75%
Washtenaw	York Township, Precinct 2	87.69%
Oakland	Oakland Township, Precinct 3	87.68%
Livingston	City of Brighton, Precinct 4	87.60%
Sanilac	Flynn Township, Precinct 1	87.37%
Ottawa	Blendon Township, Precinct 1 - B	87.04%
Oakland	Southfield Township, Precinct 4	87.03%
Oakland	Huntington Woods, Precinct 3	87.00%
Washtenaw	York Township, Precinct 3	86.97%
Sanilac	Delaware Township, Precinct 1	86.95%
Sanilac	Wheatland Township, Precinct 1	86.90%
Washtenaw	City of Dexter, Precinct 2	86.84%
Kent	Cascade Charter Township Precinct 8	86.83%
Oakland	Lyon Township, Precinct 6	86.81%
Oakland	Southfield Township, Precinct 3	86.79%

The data shows 469 precincts with voter turn-out above 80%, according to current Michigan county records. Normalizing the current public data votes to 80% turnout (still 15%+/- above normal), the excess votes are at least 27,599 over the maximum that could be expected.

Declaration of NAME {redacted}.

Pursuant to 28 U.S.C Section 1746, I, {redacted}, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305<sup>th</sup> Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside at {redacted} location in the United States of America.
4. The following link analysis was gathered through open source methodologies and are easily verifiable.
5. As Dominion and Smartmatic makes claims that they are not connected in any way, not only are they connected but their business registration was in the same building on a foreign island to obfuscate their business dealings.

001051

<https://offshoreleaks.icij.org/nodes/101732449>

LEVEL 1

# DOMINION VOTING SYSTEMS INTERNATIONAL CORPORATION



Connected to **2 addresses**

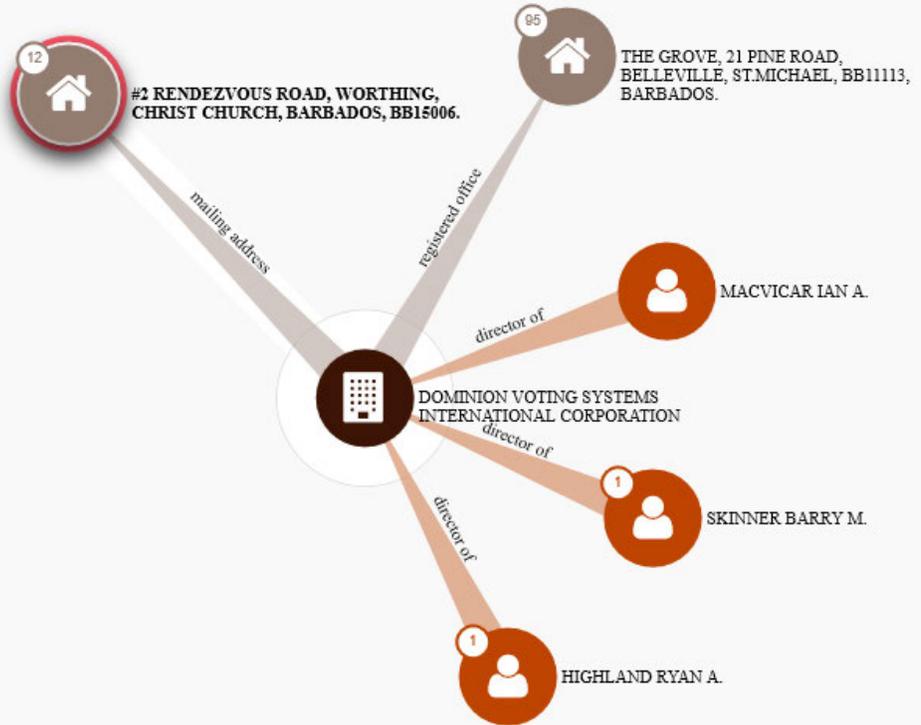
Connected to **3 officers**

- Incorporated: 06-OCT-2009
- Registered in: [Barbados](#)
- Linked countries: [Barbados](#)

- Data from: [Paradise Papers - Barbados corporate registry](#)
- Barbados corporate registry data is current through 2016
- Search in [opencorporates](#)
- Got a tip? Help ICIJ investigate: [contact us](#) or [leak to us securely](#)



## OFFSHORE LEAKS DATABASE



### Category

- Officer
- Address
- Entity

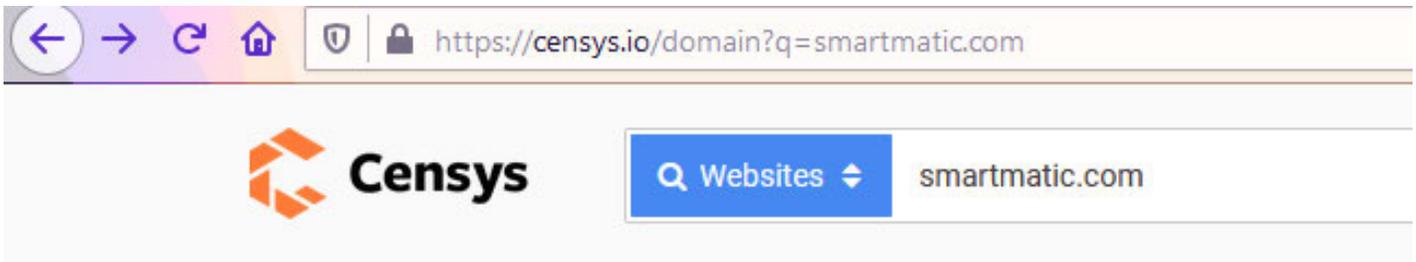


## Smartmatic SSL Certificate

Declaration of NAME {redacted}.

Pursuant to 28 U.S.C Section 1746, I, {redacted}, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305<sup>th</sup> Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside at {redacted} location in the United States of America.
4. Researching Smartmatic's website and reading their public manuals about the reuse of SSL certificate's, I started to investigate Smartmatic's SSL certificates. Upon searching their website is currently behind Cloudflare yet using the same SSL certificate it made it easy to locate where Smartmatic's website was located. Smartmatic's website is in the Philippine's on their Election commission's server (Comelec.gov.ph).



### Quick Filters

For all fields, see [Data Definitions](#)

#### Protocol:

1 25/smtp

#### Tag:

1 smtp

### Websites

Page: 1/1 Results: 1 Time: 18ms

[comelec.gov.ph \(172.67.165.108\)](#)

★ 117,344 ⚙ 25/smtp

001054



Search Websites comelec.gov.ph

# comelec.gov.ph

## Summary

### Basic Information

Alexa Rank 117,344

Protocols 25/SMTP

Tags SMTP

## 443 /HTTPS

DETAILS

GO

## 25/SMTP

### Banner Grab and StartTLS Initiation

DETAILS

**Banner** 220 sulat.comelec.gov.ph ESMTP ready.

**EHLO** 250-sulat.comelec.gov.ph Hello worker-04.s fj.censys-scanner.com [192.35.168.64]  
250-SIZE 52428800  
250-8BITMIME  
250-PIPELINING  
250-STARTTLS  
250 HELP

**STARTTLS** 220 TLS go ahead



Search Websites comelec.gov.ph

STARTTLS 220 TLS go ahead

### TLS Handshake

**Version** TLSv1.2

**Cipher Suite** TLS\_RSA\_WITH\_AES\_128\_CBC\_SHA (0x002F)

### Certificate Chain

**ea6217e8b940ce5d847dc3867767eaf9134034024c185978a77a3f58691c68fe**

C=ph, L=Manila, O=Comelec, CN=cntfw02

C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com

001055

**Censys** Certificates ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe Expand J

### cntfw02

Certificate PEM Raw Data Explore

**Basic Information**

- Subject DN** C=ph, L=Manila, O=Comelec, CN=cntfw02
- Issuer DN** C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com
- Serial** Decimal: 12281028647573638623  
Hex: 0xaa6efa7cbf05cddf
- Validity** 2016-04-09 12:33:00 to 2038-01-01 00:00:01 (7936 days, 11:27:01)
- Names** cntfw02

**Fingerprint**

- SHA-256** ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe
- SHA-1** 60dfffa9506646ee1960426659a4c68b1fa2a72f5
- MD5** ced388f1476a851937cb1f8b8bd3d12a

**Public Key**

- Key Type** 2048-bit RSA, e = 65,537 ✔ STRONG
- Modulus** d9:8e:aa:86:b0:6c:91:7b:09:5d:65:10:e6:bd:38:8f:c4:5e:16:1d: [v]

**Browser Trust**

- Apple ▲ Untrusted
- Microsoft ▲ Untrusted
- Mozilla NSS ▲ Untrusted

**Key Usage and Constraints**

- Key Usage** Content Commitment, Digital Signature, Key Encipherment

**Censys Metadata**

- Updated At** 2018-09-01 21:55:09
- Source** Scan
- Tags** unknown, untrusted, unexpired

SPKI SHA-256 4039e3117b53c6736957eab9ce578e88b0bf19b5cf5d6d5228107ac44d1e064f

**Censys** Certificates ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe Expand J

SPKI SHA-256 4039e3117b53c6736957eab9ce578e88b0bf19b5cf5d6d5228107ac44d1e064f

**Signature**

- Algorithm** SHA256-RSA (1.2.840.113549.1.1.11)
- Signature** 48:29:0a:64:fb:21:2c:b9:05:90:8c:f3:94:9d:f0:3a:7f:9e:c0:fa: [v]

**Extensions**

- Auth Key ID** 3908b6e1f2c747e4e55fd65f27d31a77d31640c0 [parents] [siblings]
- Subject Key ID** 81e2a59750341e0c3e0bb2fa2d46b5e30c9c0d2d [children]
- Key Usage** Content Commitment, Digital Signature, Key Encipherment
- Constraints** Is CA: False
- SANs** cntfw02

5. As can be seen in the images above the SSL certificate used was registered by the email address jesus.suarez@smartmatic.com on the 9<sup>th</sup> of April 2016.

001056

Browser window showing Censys.io domain/comelec.gov.ph/table#25. The page displays a table of attributes and values for the domain.

Attribute	Value
25.smtp.starttls.banner	220 sulat.comelec.gov.ph ESMTP ready.
25.smtp.starttls.ehlo	250-sulat.comelec.gov.ph Hello worker-04.sfj.censys-scanner.com [192.35.168.64] 250-SIZE 52428800 250-8BITMIME 250-PIPELINING 250-STARTTLS 250 HELP
25.smtp.starttls.starttls	220 TLS go ahead
25.smtp.starttls.tls.certificate.parsed.extensions.authority_key_id	3908b6e1f2c747e4e55fd65f27d31a77d31640c0
25.smtp.starttls.tls.certificate.parsed.extensions.basic_constraints.is_ca	False
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.content_commitment	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.digital_signature	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.key_encipherment	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.value	7
25.smtp.starttls.tls.certificate.parsed.extensions.subject_alt_name.dns_names	cntfw02
25.smtp.starttls.tls.certificate.parsed.extensions.subject_key_id	81e2a59750341e0c3e0bb2fa2d46b5e30c9c0d2d
25.smtp.starttls.tls.certificate.parsed.fingerprint_md5	ced388f1476a851937cb1f8b8bd3d12a

Browser window showing Censys.io domain/comelec.gov.ph/table#25. The page displays a table of attributes and values for the domain, continuing from the previous screenshot.

25.smtp.starttls.tls.certificate.parsed.fingerprint_sha1	60dff9506646ee1960426659a4c68b1fa2a72f5
25.smtp.starttls.tls.certificate.parsed.fingerprint_sha256	ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe
25.smtp.starttls.tls.certificate.parsed.issuer.common_name	Comelec WebAdmin CA
25.smtp.starttls.tls.certificate.parsed.issuer.country	ph
25.smtp.starttls.tls.certificate.parsed.issuer.email_address	jesus.suarez@smartmatic.com
25.smtp.starttls.tls.certificate.parsed.issuer.locality	Manila
25.smtp.starttls.tls.certificate.parsed.issuer.organization	Comelec
25.smtp.starttls.tls.certificate.parsed.issuer_dn	C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com
25.smtp.starttls.tls.certificate.parsed.names	cntfw02
25.smtp.starttls.tls.certificate.parsed.redacted	False
25.smtp.starttls.tls.certificate.parsed.serial_number	12281028647573638623
25.smtp.starttls.tls.certificate.parsed.signature.self_signed	False
25.smtp.starttls.tls.certificate.parsed.signature.signature_algorithm.name	SHA256WithRSA
25.smtp.starttls.tls.certificate.parsed.signature.signature_algorithm.oid	1.2.840.113549.1.1.11
25.smtp.starttls.tls.certificate.parsed.signature.valid	False
25.smtp.starttls.tls.certificate.parsed.signature.value	SCKkZPshLLkFkizzJ3w0n+ewPoSWC0Dv1IGHU2EdD5fZKQ7X+IdeWa8r16h6u6jTxs2/6rN5bE5qJ5cTILnd Gr8w4shgXTzoJyFpbnQ+nhod8KRnoKdHCGeg9uclJk0sp8i /RgPI/Jp4HN8N5v6f7r682r8lSdN5CuTalMLJa9TuyebDUWeGX3GhWARdgOQIDYh8dV/4E/bp7+Vt+IoS /qv10XR6b4wSV/2ErEtJlGnSaMDEhcAk /NsQa2k9NPj8E4prRbJIEAMywdjiGoR5rQxLtvdpIiOmmuF2JDgLuf7qulyPHGLadJ31td /qwWuHIQTLxvHVQQUwvxhw==

001057

Censys		Search Websites	comelec.gov.ph	Expand	J
25.smtp.starttls.tls.certificate.parsed.signature_algorithm.name	SHA256WithRSA				
25.smtp.starttls.tls.certificate.parsed.signature_algorithm.oid	1.2.840.113549.1.1.11				
25.smtp.starttls.tls.certificate.parsed.spki_subject_fingerprint	0d8951ea3bd17cb530a077c61ba8d761cae184b46d9c187d886613e669fabec7				
25.smtp.starttls.tls.certificate.parsed.subject.common_name	cntfw02				
25.smtp.starttls.tls.certificate.parsed.subject.country	ph				
25.smtp.starttls.tls.certificate.parsed.subject.locality	Manila				
25.smtp.starttls.tls.certificate.parsed.subject.organization	Comelec				
25.smtp.starttls.tls.certificate.parsed.subject_dn	C=ph, L=Manila, O=Comelec, CN=cntfw02				
25.smtp.starttls.tls.certificate.parsed.subject_key_info.fingerprint_sha256	4039e3117b53c6736957eab9ce578e88b0bf19b5cf5d6d5228107ac44d1e064f				
25.smtp.starttls.tls.certificate.parsed.subject_key_info.key_algorithm.name	RSA				
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.exponent	65537				
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.length	2048				
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.modulus	2Y6qhrBskXsJXWUQ5r04j8ReFh1OIL548KrTelKr9F6H5HCJ72o4/HV9D6Wx9ToidoKOCxn019YbOMQ7rW GkiZot5+VcHJ6QbKVPIMDPdFJ36XcQy2oAB9zt3A9yuREBWwuBuW1ctkVNHK+Jgau+H1am08ncaCFaZ FxyWCryITTrkVke/X4uX6uzT+4sNN9rso /OMIAyebVyG2zsk1bBfOQYU6AcE7LLjO6RXidMx5KUpXZGqykUISgE5OijRWFcpnv8wWodn6FfoETXZ1YO wJbPeV0zJd3TffiwJCEcC7oyD4AyEVEVyAXgehOz44AEs3bcRuMdiejKzk4tG97uw==				
25.smtp.starttls.tls.certificate.parsed.tbs_fingerprint	ea91132986addf5da6e2c00954b27eaf6da981e17d39e74b4c8cf4aa6c673e44				
25.smtp.starttls.tls.certificate.parsed.tbs_noct_fingerprint	ea91132986addf5da6e2c00954b27eaf6da981e17d39e74b4c8cf4aa6c673e44				
25.smtp.starttls.tls.certificate.parsed.validation_level	unknown				
25.smtp.starttls.tls.certificate.parsed.validity.end	2038-01-01T00:00:01Z				

Censys		Search Websites	comelec.gov.ph	Expand	J
25.smtp.starttls.tls.certificate.parsed.validity.length	685711621				
25.smtp.starttls.tls.certificate.parsed.validity.start	2016-04-09T12:33:00Z				
25.smtp.starttls.tls.certificate.parsed.version	3				
25.smtp.starttls.tls.cipher_suite.id	0x002F				
25.smtp.starttls.tls.cipher_suite.name	TLS_RSA_WITH_AES_128_CBC_SHA				
25.smtp.starttls.tls.ocsp_stapling	False				
25.smtp.starttls.tls.validation.browser_error	x509: certificate signed by unknown authority				
25.smtp.starttls.tls.validation.browser_trusted	False				
25.smtp.starttls.tls.version	TLSv1.2				
443.https.dhe.support	False				
443.https.dhe_export.support	False				
443.https.rsa_export.support	False				
alexa_rank	117344				
domain	comelec.gov.ph				
ports	25				
protocols	25/smtp				
tags	smtp				
updated_at	2020-11-30T12:20:01+00:00				

001058



People ▼

Jesús Alberto

Suárez Méndez



## Jesús Alberto Suárez Méndez

Senior Consultant at VISEO IBERIA

Alcorcón, Community of Madrid, Spain · 500+ connections

[Join to Connect](#)

 **VISEO IBERIA**

 **Universidad de los Andes (VE)**

 **Blog** 

### About

DevOps SysAdmin and Information Security Professional with more than 20 years of experience. Specialized in Security and IT Management, IT Risk Assessment and Management, IT architecture, automatized deployments on Linux environment and cloud using DevOps tools. Very interested in

001059

001059

← → ↻ 🏠 🔒 https://es.linkedin.com/in/jesusalbertosuarez

**LinkedIn** People ▼ Jesús Alberto Suárez Méndez

 **Master Information Security Specialist**  
Smartmatic  
Aug 2008 - Mar 2017 · 8 years 8 months  
Caracas, Venezuela  
Design, deployment, operation and support on security of network and infrastructure in Smartmatic projects. Provide Security Architecture based on Risk Assessment. Develop Business Continuity and Disaster Recovery Plan. Perform Vulnerability assessment, ethical hacking and penetration testing. Advisor on information security issues.

 **Bancaribe**  
9 years 11 months

- **Security Specialist**  
Aug 2003 - Aug 2008 · 5 years 1 month  
Caracas, Venezuela  
Planification and Management of Information Security System. Vulnerability and Risk Management. Leader of risk assessment and security evaluation team on Software Development Life Cycle projects. Advisor on information security issues and methodologies. Support on Incident Response Team.
- **Information Security Administrator**  
May 2001 - Aug 2003 · 2 years 4 months  
Caracas, Venezuela

6. As seen from Jesus' LinkedIn profile, he was employed by Smartmatic as their Master Information Security Specialist from August 2008 – March 2017, within the time frame of the registered SSL certificate for Smartmatic and within Venezuela.
7. This evidence shows that Smartmatic was indeed connected to Venezuela as well as shows that their dealings with the Philippine's is still on-going as their website is in their election commission servers with matching and current SSL certificates.

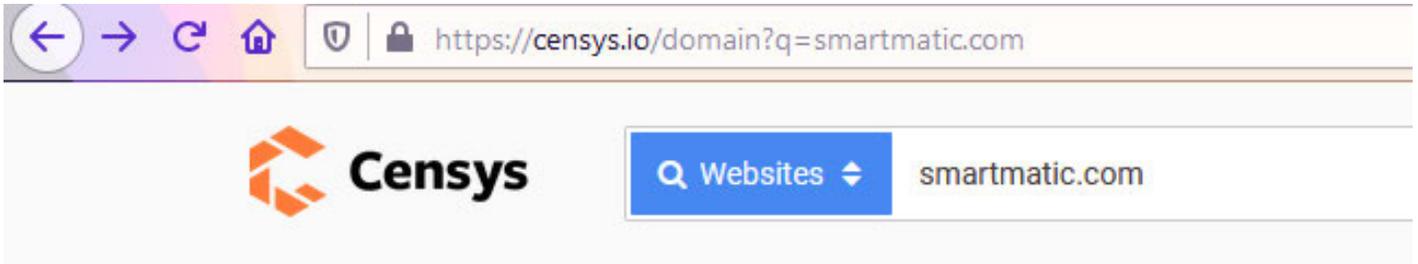
I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed this November 23<sup>th</sup>, 2020.

## Smartmatic SSL Certificate

Declaration of [REDACTED]

Pursuant to 28 U.S.C Section 1746, I, [REDACTED], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305<sup>th</sup> Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside at [REDACTED] location in the United States of America.
4. Researching Smartmatic's website and reading their public manuals about the reuse of SSL certificate's, I started to investigate Smartmatic's SSL certificates. Upon searching their website is currently behind Cloudflare yet using the same SSL certificate it made it easy to locate where Smartmatic's website was located. Smartmatic's website is in the Philippine's on their Election commission's server (Comelec.gov.ph), as seen below:



001061



Search Websites

comelec.gov.ph

# comelec.gov.ph

Summary

## Basic Information

Alexa Rank 117,344

Protocols 25/SMTP

Tags SMTP

## 443 /HTTPS

DETAILS

GO

## 25/SMTP

### Banner Grab and StartTLS Initiation

DETAILS

**Banner** 220 sulat.comelec.gov.ph ESMTP ready.

**EHLO** 250-sulat.comelec.gov.ph Hello worker-04.sfj.censys-scanner.com [192.35.168.64]  
250-SIZE 52428800  
250-8BITMIME  
250-PIPELINING  
250-STARTTLS  
250 HELP

**STARTTLS** 220 TLS go ahead

001062

### TLS Handshake

**Version** TLSv1.2

**Cipher Suite** TLS\_RSA\_WITH\_AES\_128\_CBC\_SHA (0x002F)

### Certificate Chain

[ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe](#)

C=ph, L=Manila, O=Comelec, CN=cntfw02

C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com

**Basic Information**

- Subject DN** C=ph, L=Manila, O=Comelec, CN=cntfw02
- Issuer DN** C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com
- Serial** Decimal: 12281028647573638623  
Hex: 0xaa6efa7cbf05cddf
- Validity** 2016-04-09 12:33:00 to 2038-01-01 00:00:01 (7936 days, 11:27:01)
- Names** cntfw02

**Fingerprint**

- SHA-256** ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe
- SHA-1** 60dfffa9506646ee1960426659a4c68b1fa2a72f5
- MD5** ced388f1476a851937cb1f8b8bd3d12a

**Public Key**

- Key Type** 2048-bit RSA, e = 65,537 ✔ STRONG
- Modulus** d9:8e:aa:86:b0:6c:91:7b:09:5d:65:10:e6:bd:38:8f:c4:5e:16:1d:

**Browser Trust**

- Apple** ▲ Untrusted
- Microsoft** ▲ Untrusted
- Mozilla NSS** ▲ Untrusted

**Key Usage and Constraints**

- Key Usage** Content Commitment, Digital Signature, Key Encipherment

**Censys Metadata**

- Updated At** 2018-09-01 21:55:09
- Source** Scan
- Tags** unknown, untrusted, unexpired

001063

The screenshot shows the Censys Certificates page for a specific certificate. The URL in the browser is <https://censys.io/certificates/ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe>. The certificate details are as follows:

- SPKI SHA-256:** 4039e3117b53c6736957eab9ce578e88b0bf19b5cf5d6d5228107ac44d1e064f
- Signature:**
  - Algorithm:** SHA256-RSA (1.2.840.113549.1.1.11)
  - Signature:** 48:29:0a:64:fb:21:2c:b9:05:90:8c:f3:94:9d:f0:3a:7f:9e:c0:fa:
- Extensions:**
  - Auth Key ID:** 3908b6e1f2c747e4e55fd65f27d31a77d31640c0 [parents] [siblings]
  - Subject Key ID:** 81e2a59750341e0c3e0bb2fa2d46b5e30c9c0d2d [children]
  - Key Usage:** Content Commitment, Digital Signature, Key Encipherment
  - Constraints:** Is CA: False
  - SANs:** cntfw02

5. As can be seen in the images above the SSL certificate used was registered by the email address [jesus.suarez@smartmatic.com](mailto:jesus.suarez@smartmatic.com) on the 9<sup>th</sup> of April 2016.

The screenshot shows the Censys Websites page for the domain [comelec.gov.ph](https://censys.io/domain/comelec.gov.ph/table#25). The URL in the browser is <https://censys.io/domain/comelec.gov.ph/table#25>. The page displays a table of attributes and values for the website.

Attribute	Value
25.smtp.starttls.banner	220 sulat.comelec.gov.ph ESMTP ready.
25.smtp.starttls.ehlo	250-sulat.comelec.gov.ph Hello worker-04.sjf.censys-scanner.com [192.35.168.64] 250-SIZE 52428800 250-8BITMIME 250-PIPELINING 250-STARTTLS 250 HELP
25.smtp.starttls.starttls	220 TLS go ahead
25.smtp.starttls.tls.certificate.parsed.extensions.authority_key_id	3908b6e1f2c747e4e55fd65f27d31a77d31640c0
25.smtp.starttls.tls.certificate.parsed.extensions.basic_constraints.is_ca	False
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.content_commitment	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.digital_signature	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.key_encipherment	True
25.smtp.starttls.tls.certificate.parsed.extensions.key_usage.value	7
25.smtp.starttls.tls.certificate.parsed.extensions.subject_alt_name.dns_names	cntfw02
25.smtp.starttls.tls.certificate.parsed.extensions.subject_key_id	81e2a59750341e0c3e0bb2fa2d46b5e30c9c0d2d
25.smtp.starttls.tls.certificate.parsed.fingerprint_md5	ced388f1476a851937cb1f8b8bd3d12a

001064

Browser address bar: <https://censys.io/domain/comelec.gov.ph/table#25>

Censys Search: Websites  Expand

25.smtp.starttls.tls.certificate.parsed.fingerprint_sha1	60dff9506646ee1960426659a4c68b1fa2a72f5
25.smtp.starttls.tls.certificate.parsed.fingerprint_sha256	ea6217e8b940ce5d847dc3067767eaf9134034024c185978a77a3f58691c68fe
25.smtp.starttls.tls.certificate.parsed.issuer.common_name	Comelec WebAdmin CA
25.smtp.starttls.tls.certificate.parsed.issuer.country	ph
25.smtp.starttls.tls.certificate.parsed.issuer.email_address	jesus.suarez@smartmatic.com
25.smtp.starttls.tls.certificate.parsed.issuer.locality	Manila
25.smtp.starttls.tls.certificate.parsed.issuer.organization	Comelec
25.smtp.starttls.tls.certificate.parsed.issuer_dn	C=ph, L=Manila, O=Comelec, CN=Comelec WebAdmin CA, emailAddress=jesus.suarez@smartmatic.com
25.smtp.starttls.tls.certificate.parsed.names	cntfw02
25.smtp.starttls.tls.certificate.parsed.redacted	False
25.smtp.starttls.tls.certificate.parsed.serial_number	12281028647573638623
25.smtp.starttls.tls.certificate.parsed.signature.self_signed	False
25.smtp.starttls.tls.certificate.parsed.signature.signature_algorithm.name	SHA256WithRSA
25.smtp.starttls.tls.certificate.parsed.signature.signature_algorithm.oid	1.2.840.113549.1.1.11
25.smtp.starttls.tls.certificate.parsed.signature.valid	False
25.smtp.starttls.tls.certificate.parsed.signature.value	SCKKZPshLLkFkizzLJ3w0n+ewPoSWCODv1IGHU2EdD5fZKQ7X+IdeWa8rl6h6u6jTxs2/6rN5bE5qJ5cTILNdGr8w4shgXTzoJyFpbnQ+nhod8KRnoKdHCGeg9uclJk0sp8l/RgPI/JP4HN8N5v6f7r682r8lSdN5CuTalMLJa9TuyebDUWeGX3GhWArDgOQIDYh8dV/4e/3p7+Vt+IoS/qvI0XR6b4wSV/2ErEtJlGnSaMDEhcAk/NsQa2k9NPj8E4prRbJIEAMYwcdjjiGoR5rQxLtvdpIiOmnuf2JDgLf7qulyPHGLadJ3i1d/qwWuHiQTLxvHVQQUwvxhw==

Browser address bar: <https://censys.io/domain/comelec.gov.ph/table#25>

Censys Search: Websites  Expand

25.smtp.starttls.tls.certificate.parsed.signature_algorithm.name	SHA256WithRSA
25.smtp.starttls.tls.certificate.parsed.signature_algorithm.oid	1.2.840.113549.1.1.11
25.smtp.starttls.tls.certificate.parsed.spki_subject_fingerprint	0d8951ea3bd17cb530a077c61ba8d761cae184b46d9c187d886613e669fabec7
25.smtp.starttls.tls.certificate.parsed.subject.common_name	cntfw02
25.smtp.starttls.tls.certificate.parsed.subject.country	ph
25.smtp.starttls.tls.certificate.parsed.subject.locality	Manila
25.smtp.starttls.tls.certificate.parsed.subject.organization	Comelec
25.smtp.starttls.tls.certificate.parsed.subject_dn	C=ph, L=Manila, O=Comelec, CN=cntfw02
25.smtp.starttls.tls.certificate.parsed.subject_key_info.fingerprint_sha256	4039e3117b53c6736957eab9ce578e88b0bf19b5cf5d6d5228107ac44d1e064f
25.smtp.starttls.tls.certificate.parsed.subject_key_info.key_algorithm.name	RSA
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.exponent	65537
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.length	2048
25.smtp.starttls.tls.certificate.parsed.subject_key_info.rsa_public_key.modulus	2Y6qhrBskXsJXWUQ5r04j8ReFh1OIL548KrTelKr9F6H5HCJ72o4/HV9D6Wx9ToidoKOCxn019YbOMQ7rWGkIZot5+VcHJ6QbKVPIMDPdFJ36XcQy2oAB9zt3A9yuREBwWuBuW1ctkVnKH+Jgau+th1am08ncaCFaZFxYWCryITTrkVke/X4uX6uzT+4sNN9rso/0MIAyebVyG2zsk1bBfOQYu6AcE7LLjO6RXidMx5KUpXZGqykUISgE50ijRWFcpnv8wWodn6FfoETXZ1YOwJbPeV0zJd3TffiwJCEcC7oyD4AyEVEVyAXgehOz44Aes3bcRuMdiejKz4tG97uw==
25.smtp.starttls.tls.certificate.parsed.tbs_fingerprint	ea91132986addf5da6e2c00954b27eaf6da981e17d39e74b4c8cf4aa6c673e44
25.smtp.starttls.tls.certificate.parsed.tbs_noct_fingerprint	ea91132986addf5da6e2c00954b27eaf6da981e17d39e74b4c8cf4aa6c673e44
25.smtp.starttls.tls.certificate.parsed.validation_level	unknown
25.smtp.starttls.tls.certificate.parsed.validity.end	2038-01-01T00:00:01Z

001065

Browser address bar: <https://censys.io/domain/comelec.gov.ph/table#25>

Censys Websites  Expand J

25.smtp.starttls.tls.certificate.parsed.validity.length	685711621
25.smtp.starttls.tls.certificate.parsed.validity.start	2016-04-09T12:33:00Z
25.smtp.starttls.tls.certificate.parsed.version	3
25.smtp.starttls.tls.cipher_suite.id	0x002F
25.smtp.starttls.tls.cipher_suite.name	TLS_RSA_WITH_AES_128_CBC_SHA
25.smtp.starttls.tls.ocsp_stapling	False
25.smtp.starttls.tls.validation.browser_error	x509: certificate signed by unknown authority
25.smtp.starttls.tls.validation.browser_trusted	False
25.smtp.starttls.tls.version	TLSv1.2
443.https.dhe.support	False
443.https.dhe_export.support	False
443.https.rsa_export.support	False
alexa_rank	117344
domain	comelec.gov.ph
ports	25
protocols	25/smtp
tags	smtp
updated_at	2020-11-30T12:20:01+00:00

001066



People ▾

Jesús Alberto

Suárez Méndez



## Jesús Alberto Suárez Méndez

Senior Consultant at VISEO IBERIA

Alcorcón, Community of Madrid, Spain · 500+ connections

[Join to Connect](#)

VISEO [VISEO IBERIA](#)

 [Universidad de los Andes \(VE\)](#)

 [Blog](#)

### About

DevOps SysAdmin and Information Security Professional with more than 20 years of experience. Specialized in Security and IT Management, IT Risk Assessment and Management, IT architecture, automatized deployments on Linux environment and cloud using DevOps tools. Very interested in

001067

Navigation: Back, Forward, Refresh, Home, Lock, URL: https://es.linkedin.com/in/jesusalbertosuarez

**LinkedIn** | People ▾ | Jesús Alberto | Suárez Méndez

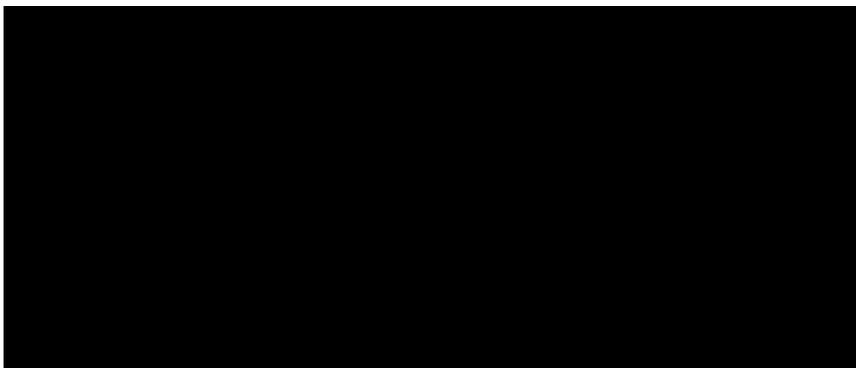
**Master Information Security Specialist**  
Smartmatic  
Aug 2008 - Mar 2017 · 8 years 8 months  
Caracas, Venezuela  
Design, deployment, operation and support on security of network and infrastructure in Smartmatic projects. Provide Security Architecture based on Risk Assessment. Develop Business Continuity and Disaster Recovery Plan. Perform Vulnerability assessment, ethical hacking and penetration testing. Advisor on information security issues.

**Bancaribe**  
9 years 11 months

- Security Specialist**  
Aug 2003 - Aug 2008 · 5 years 1 month  
Caracas, Venezuela  
Planification and Management of Information Security System. Vulnerability and Risk Management. Leader of risk assessment and security evaluation team on Software Development Life Cicle projects. Advisor on information security issues and methodologies. Support on Incident Response Team.
- Information Security Administrator**  
May 2001 - Aug 2003 · 2 years 4 months  
Caracas, Venezuela

- As seen from Jesus’ LinkedIn profile, he was employed by Smartmatic as their Master Information Security Specialist from August 2008 – March 2017, within the time frame of the registered SSL certificate for Smartmatic and within Venezuela.
- This evidence shows that Smartmatic was indeed connected to Venezuela as well as shows that their dealings with the Philippine’s is still on-going as their website is in their election commission servers with matching and current SSL certificates.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this December 3<sup>rd</sup>, 2020.



**Declaration of [REDACTED]**

Pursuant to 28 U.S.C Section 1746, I, [REDACTED], make the following declaration.

1. I am over the age of 21 years and am a resident of Monroe County, Florida.

2. I am under no legal disability that would prevent me from giving this declaration.

3. I hold a Bachelor of Science degree in Mathematics and a Master of Science degree in Statistics.

4. For thirty years, I have conducted statistical data analysis for companies in various industries, including aerospace, consumer packaged goods, disease detection and tracking, and fraud detection.

5. From November 13<sup>th</sup>, 2020 through November 28<sup>th</sup>, 2020, I conducted in-depth statistical analysis of publicly available data on the 2020 U.S. Presidential Election. This data included vote counts for each county in the United States, U.S. Census data, and type of voting machine data provided by the U.S. Election Assistance Committee.

6. The analysis yielded several “red flags” concerning the percentage of votes won by candidate Biden in counties using voting

machines provided by Dominion Voting Systems. These red flags occurred in several States in the country, including Michigan.

7. I began by using Chi-Squared Automatic Interaction Detection (CHAID), which treats the data in an agnostic way—that is, it imposes no parametric assumptions that could otherwise introduce bias. Here, I posed the following question: “Do any voting machine types appear to have unusual results?” The answer provided by the statistical technique/algorithm was that machines from Dominion Voting Systems (Dominion) produced abnormal results.

8. Subsequent graphical and statistical analysis shows the unusual pattern involving machines from Dominion occurs in at least 100 counties and multiple States, including Michigan.

9. For this statistical analysis I conducted multi-variable stepwise regression analysis using US Census data to develop a predictive model. The model predicts the percentage of votes candidate Biden “should” receive in any county based on the social, economic, ethnic, and demographic make-up of the county. Development of the model used the actual results from the 2020 US Election, as provided by Edison Research. This regression technique is a common tool used in

many industries, and I have successfully used this technique and US census data for many clients across many years.

10. For any one county, the actual percentage of votes won by candidate Biden will not perfectly match the value predicted by the model. However, a good model gives estimates that are too high (compared to actual results) approximately half the time, and too low approximately half the time. My model underestimates candidate Biden's actual results in 45% of US counties, and overestimates Biden's actual performance in 55% of US counties. This is statistical evidence of a good and useful model.

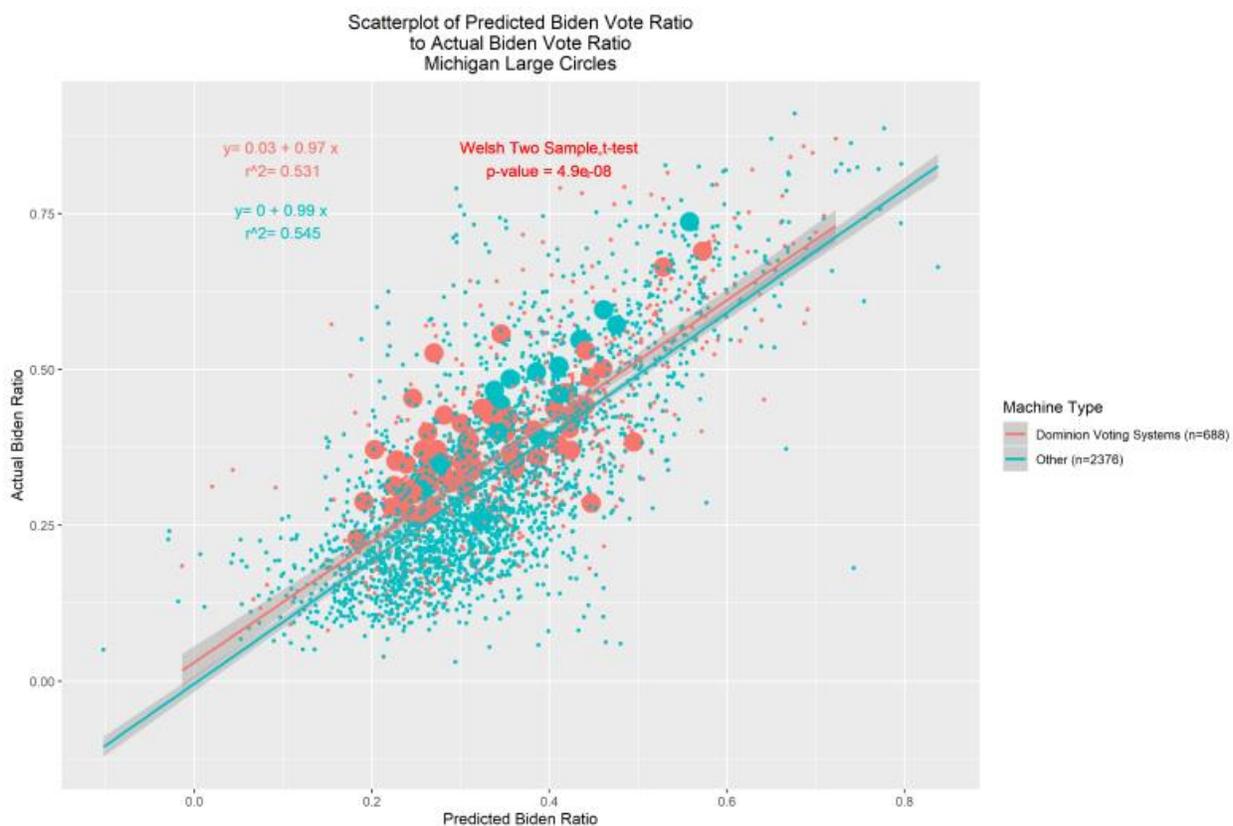
11. The predictions from this model, based on US census data, allow us to examine if actual results from Dominion machines show an unusual pattern. By comparing actual Biden results against our predictions, we can see whether the differences are "random" – or if they follow any unusual patterns. Random chance variation will cause the actual results from any one county to be above or below our prediction. But the Dominion machines show variation of Biden over-performing too often for it to be considered random chance. In fact, the actual results from counties with Dominion machines follow a very predictable

mathematical pattern compared to our predicted values (see point 17 below). The unusual aspect of the actual results from counties with Dominion machines is not random. That is why we conclude some external, non-random force is in effect in conjunction with Dominion machines.

12. The results from most, if not all counties using the Dominion machines is three to five point six percentage points higher in favor of candidate Biden than the results should be. This pattern is seen easily in graphical form when the results from “Dominion” counties are overlaid against results from “non-Dominion” counties. The results from “Dominion” counties do not match the results from the rest of the counties in the United States. The results are certainly statistically significant, with a p-value of  $< 0.00004$ . This translates into a statistical impossibility that something unusual involving Dominion machines is *not* occurring. This pattern appears in multiple States, including Michigan, and the margin of votes implied by the unusual activity would easily sway the election results.

13. The following graph shows the pattern. The large red dots are counties in Michigan that use Dominion voting machines. Almost all

of them are above the blue prediction line, when in normal situations approximately half of them would be below the prediction line (as evidence by approximately half the counties in the U.S. (blue dots) that are below the blue centerline). The p-value of statistical analysis regarding the centerline for the red dots (Michigan counties with Dominion machines) is 0.000000049, pointing to a statistical impossibility that this is a “random” statistical anomaly. Some external force caused this anomaly.



14. To confirm that Dominion machines were the source of the pattern/anomaly, I conducted further analysis using propensity scoring using U.S. census variables (Including ethnicities, income, professions, population density and other social/economic data) , which was used to place counties into paired groups. Such an analysis is important because one concern could be that counties with Dominion systems are systematically different from their counterparts, so abnormalities in the margin for Biden are driven by other characteristics unrelated to the election.

15. After matching counties using propensity score analysis, the only difference between the groups was the presence of Dominion machines. This approach again showed a highly statistically significant difference between the two groups, with candidate Biden again averaging three percentage points higher in Dominion counties than in the associated paired county. The associated p-value is  $< 0.00005$ , against indicating a statistical impossibility that something unusual is not occurring involving Dominion machines.

16. The results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was

enacted by an outside agent, causing the results of Michigan's vote tallies to be inflated by somewhere between three and five point six percentage points.

17. To estimate the percentage of votes impacted in Michigan, I developed a separate regression analysis equation for only counties using Dominion machines. Surprisingly (and this was another red flag) this equation is almost identical to our prediction equation, except for the y-intercept value.

The two equations are:

National Model:  $\text{Actual Biden} = 0 + 1x(\text{Predicted Biden})$

Dominion County Model:  $\text{Actual Biden} = 0.056 + 1.02 (\text{Predicted Biden})$

These equations are almost identical, except the model for Dominion counties is 0.056 (5.6 percentage points) above our predicted results. This means our original predictive model predicts *just as well* for Dominion counties as it does for non-Dominion counties – if you simply *add 5.6 percentage points to our prediction value when predicting Biden results in Dominion counties*. For this reason, the best estimate of the impact of Dominion machines is 5.6 percentage points.

18. If some external force influenced votes by some set percentage, this is exactly the pattern we would expect to see in the data. The actual results on those machines would follow my predictive model with actual results varying randomly above or below those predictions, except the actual results would all be adjusted up or down by whatever was the set percentage. This is exactly what I see in the data.

19. I have updated my estimate of the number of votes impacted, and its associated confidence interval. To estimate the number of votes impacted in Michigan I take the 5.6% value and calculate:

$(0.056) \times (\text{Total Trump and Biden Presidential Votes in Michigan in Dominion Counties}) =$

$(0.056) \times (4,639,192) = 259,794$  votes impacted

A 95% confidence interval calculated on the 0.056 value yields an upper bound of 0.072, so a 95% confidence interval on estimate votes impacted in Michigan has an upper bound of:

$(0.072) \times (4,639,192) = 334,022$  votes impacted

20. The empirical specification exploits variation in counties with and without voting system vulnerabilities. My focus is on Dominion machines because it is the best proxy for vulnerabilities that have been

exploited (e.g., see the other cited affidavits that provide technical evidence that foreign adversaries accessed the unencrypted Edison network during the election and before). However, I could also expand the proxy to include counties with ES&S machines, which also have many of the same vulnerabilities. To the extent my proxy omits variation in other counties that also have vulnerabilities, I will underestimate the number of fraudulent votes for Biden. I opted for this approach for simplicity to focus exclusively on Dominion and highlight the unique role that these machines played in systematically swaying votes

21. United States Attorney General Barr's comments are not germane to the analysis presented here on the broader case. My results show that there is an economically and statistically significant margin for Biden that would easily flip the election results in the battleground states, especially Michigan. This evidence does not explain how the manipulation of votes may have occurred—just that there is a meaningful difference between counties with and without Dominion machines even after accounting for many cross-sectional differences across these areas.

I declare under penalty of perjury that the forgoing is true and correct.  
Executed this December 3rd, 2020.

[REDACTED]

[REDACTED]

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID  
HOOPER and DAREN WADE RUBINGH,**

**CASE NO. 20-cv-13134**

**Plaintiffs**

**v.**

**GRETCHEN WHITMER, in her official capacity  
as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, the Michigan  
BOARD OF STATE CANVASSERS,**

**Defendants.**

**PLAINTIFFS' SUBMISSION OF SUPPLEMENTAL AUTHORITY TO RESPONSES IN  
OPPOSITION TO MOTION FOR DECLARATORY, EMERGENCY, AND  
PERMANENT INJUNCTIVE RELIEF AND MEMORANDUM IN SUPPORT THEREOF**

As supplemental authority for Plaintiffs' motion for a TRO , Plaintiffs respectfully submit the attached "Order Granting in Part and Deferring Ruling in Part on Amended Motion for Temporary Restraining Order and Preliminary Injunction to Be Heard in an Expedited Manner," issued on December 4, 2020, in *William Feehan v. Wisconsin Elections Commission*, et al., Case No. 20-cv-1771-pp (E.D. Wis. Dec. 4, 2020) ("*Feehan*"). (Exh 1).

*Feehan* addresses a complaint that deals with largely identical federal claims as those presented in the current proceeding. (Exh. 2). In the *Feehan* Complaint, Plaintiffs requested an expedited briefing schedule, as "time was of the essence because the College of Electors was schedule to meet December 8," which "is the 'safe harbor' deadline under 3 U.S.C. § 5." *Id.* at 7.

The *Feehan* court found that Plaintiffs' interpretation "is not correct," because "the electors will meet and vote on December 14, 2020. *Id.* (citing Congressional Research Service, "The Electoral College: A 2020 Presidential Election Timeline," available at: <https://crsreports.congress.gov/product/pdf/IF/IF11641>).

Under 3 U.S.C. § 5, if a state has provided "by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of

such State,” and that final determination has been made “at least six days before the time fixed for the meeting of the electors,” that determination—if it is made under the state’s law at least six days prior to the day the electors meet—“shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution . . . .” *Id.* (quoting 3 U.S.C. § 5).

Of relevance here, the *Feehan* court held that, while December 8 is a critical date for resolution of any state court litigation," or state law claims, it is not the deadline for federal courts. *Feehan* at 8. The applicable date for resolution of federal claims is December 14, 2020, the date on which the electors meet and vote. *Id.* The court then set a "less truncated" briefing schedule in light of the additional time.

Also of relevance here, the *Feehan* court's decision rebuts Defendant and Defendant Intervenors’ assertion of laches and abstention as grounds for dismissal of the Complaint and denial of Plaintiffs' TRO motion. The *Feehan* court correctly recognized that there is a distinct, and later deadline for resolution of federal vs. state claims, demonstrating that: (1) Plaintiffs have not unreasonably delayed filing, and that the delay could not have prejudiced Defendants; and, (2) there are no grounds for federal abstention because the federal and state claims are distinct and may be resolved by state and federal courts on different dates.

Respectfully submitted, this 4th day of December 2020.

/s Sidney Powell\*

Sidney Powell PC

Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300

Dallas, Texas 75219

\*Application for admission pro hac vice  
forthcoming

Attorneys for Plaintiffs

/s/ Sidney Powell\*

Sidney Powell PC

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\*Application for admission pro hac vice  
Forthcoming

/s/ Scott Hagerstrom

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/s/ Gregory J. Rohl P39185

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41850 West 11 Mile Road, Suite 110  
Novi, MI 48375  
248-380-9404  
[gregoryrohl@yahoo.com](mailto:gregoryrohl@yahoo.com)

#### CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Motion for Declaratory, Emergency, and Permanent Injunctive Relief and Memorandum in Support Thereof on all defendants using the CM/ECF system:

This 4th day of December, 2020.

/s/ Scott Hagerstrom  
Michigan State Bar No. 57885  
222 West Genesee  
Lansing, MI 48933  
(517) 763-7499  
Scotthagerstrom @yahoo.com

/s/ Gregory J. Rohl P39185  
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41850 West 11 Mile Road, Suite 110  
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248-380-9404  
gregoryrohl@yahoo.com

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

WILLIAM FEEHAN,

Plaintiff,

Case No. 20-cv-1771-pp

v.

WISCONSIN ELECTIONS COMMISSION, *et al.*,

Defendants.

---

**ORDER GRANTING IN PART AND DEFERRING RULING IN PART ON  
AMENDED MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION TO BE HEARD IN AN EXPEDITED MANNER  
(DKT. NO. 10)**

---

At 10:30 a.m. on December 3, 2020, the plaintiff filed an “Amended Motion For Temporary Restraining Order And Preliminary Injunction To Be Considered In An Expedited Manner.” Dkt. No. 10. The amended motion seeks a temporary restraining order or, in the alternative, a preliminary injunction, “to be considered in an expedited manner.” *Id.* at 1. It states that the motion is being submitted pursuant to Fed. R. Civ. P. 65 “and Civil L.R. 7.” *Id.*

The motion asserts that the plaintiff will suffer irreparable harm if the court does not grant a temporary restraining order. *Id.* at 2. The plaintiff states that he will suffer irreparable harm if various actions he describes “are not immediately enjoined across the state of Wisconsin pursuant to 52 U.S.C. § 20701 (preservation of voting records)” to prevent destruction or alteration of evidence. *Id.* at ¶5. He asserts that the amended complaint (Dkt. No. 9, filed

the same day as this motion) and the motion present “material dispositive issues which are questions of law that may be resolved without factual investigation or determination.” Id. at ¶6.

The plaintiff attached to the motion a proposed briefing schedule. Dkt. No. 10-1. The schedule indicates that the plaintiff’s counsel had conferred with defense counsel (and planned to speak with them again later that day) and anticipated proposing that the defendants file their response to the motion for injunctive relief by 8:00 p.m. on Friday, December 4, 2020, that the plaintiff file his reply by 8:00 p.m. on Saturday, December 5, 2020 and that the schedule conclude with a “[h]earing as directed by the Court. Plaintiff proposes to submit the matter on briefs without argument.” Id. at 1. Neither the amended motion nor the briefing schedule indicated whether the plaintiff needed a decision from the court by a date certain.

At 5:13 p.m. on December 3, the plaintiff filed a brief in opposition to defendant Tony Evers’s motion to reassign Trump v. Wisconsin Elections Commission, et al., Case No. 20-cv-1785, from U.S. District Court Judge Brett H. Ludwig to this court. Dkt. No. 18. The brief stated that “[w]ith the College of Electors scheduled to meet December 8, there could never be a clearer case of ‘justice delayed is justice denied.’” Id. at 1. The plaintiff stated that the court should deny the motion to reassign and “immediately order briefing and issue its decision no later than 5 p.m. Sunday evening, December 6 so that Plaintiff may have even a few hours to prepare for and seek whatever further relief may

be then available in the one day left before the December 8 meeting of electors.”  
Id. at 2.

The plaintiff reported that the parties had met and conferred regarding a briefing schedule for the motion for injunctive relief, but that the defendants had “refused to agree to the schedule proposed by Plaintiffs, and in fact, refused to offer a proposed schedule of their own,” indicating that they would be seeking reassignment of Case No. 20-cv-1785. Id. at 3. The plaintiff said the defendants also indicated that they could not stipulate to a TRO “to preserve electronic and physical data, materials, and equipment (voting machines in particular) for inspection by Plaintiff’s experts” because the defendants said they had “no control or influence whatsoever over preservation of evidence by local jurisdictions and elections clerks.” Id. The plaintiff concluded the brief by reiterating his request that the court immediately order briefing and that the court issue its decision no later than 5:00 p.m. Sunday evening, December 6.

First thing on December 4, 2020, defendant Tony Evers responded to the request for an expedited briefing schedule. Dkt. No. 25. The defendant noted that although the plaintiff had asserted that the court needed to decide the motion before the electors meet, that meeting was not scheduled until December 14. Id. at 2 n.2. The defendant proposed an alternative schedule by which the defendants would file their briefs in opposition to the motion for injunctive relief by 5:00 p.m. on Monday, December 7; the plaintiff would file his reply brief by 5:00 p.m. on Tuesday, December 8; and the court could

exercise its discretion regarding whether to hold an evidentiary hearing or hear argument. Id. at 1-2.

Minutes later, defendants the Wisconsin Elections Commission and its members filed their brief in opposition to the request for an expedited briefing schedule. Dkt. No. 26. They, too, stated that the meeting of electors will not take place until December 14, 2020. Id. at 26. They propose a schedule whereby the defendants will file their opposition briefs to the motion for injunctive relief by 11:59 p.m. on Tuesday, December 8, 2020 and the plaintiff will file his reply brief by 11:59 p.m. on Wednesday, December 9, 2020. Id. at 2,

In seeking an expedited briefing schedule, the plaintiff's December 3, 2020 amended motion for injunctive relief cites Civil Local Rule 7 (E.D. Wis.), but identifies no subsection of that rule. Rule 7(b) gives a non-moving party twenty-one days to respond to a motion and Rule 7(c) gives the moving party fourteen days to reply. Given the plaintiff's repeated use of the word "expedited" and the briefing schedule he proposes, the court concludes that he is asking the court for shorter turnaround time than that provided in Rules 7(b) and (c).

There is a provision of Civil L.R. 7 that allows a party to seek expedited briefing. Civil L.R. 7(h), which allows a party to seek non-dispositive relief by expedited motion if the party designates the motion as a "Civil L.R. 7(h) Expedited Non-Dispositive Motion." When the court receives a motion with that designation, it may schedule the motion for a hearing or decide the motion on the papers and may order an expedited motion schedule. Civil L.R. 7(h)(1). The

rule limits such motions to three pages in length, requires the respondent to file its three-page opposition memorandum within seven days unless the court orders otherwise and allows the respondent to attach an affidavit or declaration of no more than two pages. Civil L.R. 7(h)(2).

Although the plaintiff did not designate it as such, the court construes the plaintiff's request for the motion for injunctive relief to be heard in an "expedited manner"—Dkt. No. 10—as a Civil L.R. 7(h) Expedited Non-Dispositive Motion for an Expedited Briefing Schedule. The court will grant that motion (although it will not order the briefing schedule the plaintiff suggests).

The other part of the plaintiff's motion seeks immediate temporary injunctive relief—a temporary restraining order or a preliminary injunction. The motion states that the amended complaint and the motion “present material dispositive issues which are questions of law that may be resolved without factual investigation or determination.” Dkt. No. 10 at 3. The plaintiff never has requested a hearing, either in writing or by contacting chambers by phone with the adverse parties on the line. The anticipated briefing schedule the plaintiff attached to the amended motion for injunctive relief, while mentioning a hearing “as directed by the Court,” states that the plaintiff proposes to “submit the matter on briefs without argument.” Dkt. No. 10-1 at 1. In his brief in opposition to a motion to reassign another case, the plaintiff proposes briefing through the weekend and a ruling from this court on Sunday evening; because court generally is not in session on weekends, the court deduces that the plaintiff does not anticipate a hearing on the motion.

The United States Supreme Court has held that injunctive relief is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” Winter v. Nat. Res. Defense Counsel, Inc., 555 U.S. 7, 22 (2008) (citing Mazurek v. Armstrong, 520 U.S. 968, 972 (1997)). Because it is an extraordinary remedy, injunctive relief never is awarded as of right. Id. (citing Munaf v. Geren, 553 U.S. 674, 689-90 (2008)). Courts considering requests for such extraordinary relief must, in every case, “balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.” Id. (quoting Amoco Prod. Co. v. Gambell, 480 U.S. 531, 542 (1987)).

In this court’s experience it is unusual for a party seeking the extraordinary remedy of preliminary injunctive relief to ask the court to issue a decision on the pleadings, without presentation of evidence or argument. But because that is what the plaintiff—the movant—has asked, the court will rule on the pleadings.

As for the expedited briefing schedule, the schedule the plaintiff has proposed severely limits the time available to the defendants to respond to his pleadings and to the court to rule. The plaintiff created this limitation by waiting two days to confer with defense counsel and by waiting until late yesterday afternoon to mention a date by which it appears he seeks a ruling from the court. The court disagrees that the plaintiff will be denied his right to redress if the court does not rule by Sunday evening, December 6.

The plaintiff stated in his opposition brief to the motion to reassign that time was of the essence because the College of Electors was scheduled to meet December 8. Dkt. No. 18 at 1. That is not correct. According to an October 22, 2020 white paper from the Congressional Research Service titled “The Electoral College: A 2020 Presidential Election Timeline,” the electors will meet and vote on December 14, 2020. <https://crsreports.congress.gov/product/pdf/IF/IF11641>.

December 8, 2020—six days prior to the date the College of Electors is scheduled to meet—is the “safe harbor” deadline under 3 U.S.C. §5. That statute provides that if a state has provided, “by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State,” and that final determination has been made “at least six days before the time fixed for the meeting of the electors,” that determination—if it is made under the state’s law at least six days prior to the day the electors meet—“shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution . . . .” Wisconsin has enacted such a law. It is Wis. Stat. §9.01. That statute provides for an aggrieved candidate to petition for a recount. It provides specific procedures for the recount, as well as appeal to the circuit court and the court of appeals. Wis. Stat. §9.01(11) states that it is “the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process.”

It appears, therefore, that December 8 is a critical date for resolution of any *state court* litigation involving an aggrieved candidate who is contesting the outcome of an election. The state courts<sup>1</sup> either will or will not resolve allegations of violations of Wis. Stat. §9.01 by the December 8, 2020 “safe harbor” deadline. The plaintiff has not explained why it is necessary for this federal court to grant or deny the injunctive relief he seeks—orders requiring the defendants to de-certify the election results; enjoining defendant Evers from transmitting certified election results to the Electoral College; requiring defendant Evers to transmit certified election results stating that President Donald Trump is the winner of the election; seizing and impounding voting machines, ballots and other election materials; requiring production of security camera recordings for voting facilities—before the safe harbor deadline for *state courts* to resolve alleged violations of Wis. Stat. §9.01.

Because the electors do not meet and vote until December 14, 2020, the court will impose a less truncated briefing schedule than the one the plaintiff proposes, to give the defendants slightly more time to respond. The court will require the defendants to file their opposition brief to the Plaintiff’s Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by 5:00 p.m. on **Monday, December 7, 2020**. The court will require the plaintiff to file his reply brief in support of the Plaintiff’s Amended Motion for Temporary Restraining Order and

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<sup>1</sup> The plaintiff has alleged in this federal suit that the defendants violated the “Wisconsin Election Code.” Dkt. No. 9 at 11. This court has made no determination regarding whether it has jurisdiction to resolve that claim.

Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by 5:00 p.m. on **Tuesday, December 8, 2020**.

The court directs the parties' attention to Civil L.R. 7(f), which provides that memoranda in opposition to motions are limited to **thirty pages** and reply briefs in support of motions are limited to **fifteen pages**.

Finally, an administrative note: On December 2, 2020 a document was docketed as a notice of appearance for lead counsel Sidney Powell. Dkt. No. 8. The document is blank (except for the designation of the court); the court does not have a completed notice of appearance on file for Attorney Powell.

The court **GRANTS** the plaintiff's amended motion to the extent that it is a Civil L.R. 7(h) Expedited Non-Dispositive Motion for an Expedited Briefing Schedule. Dkt. No. 10.

The court **ORDERS** that the defendants' opposition brief to the Plaintiff's Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by must be filed by 5:00 p.m. on **Monday, December 7, 2020**.

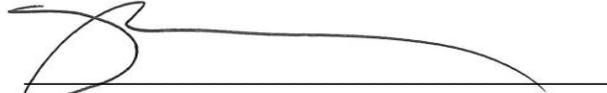
The court **ORDERS** that the plaintiff's reply brief in support of the Plaintiff's Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) must be filed by 5:00 p.m. on **Tuesday, December 8, 2020**.

The court **DEFERS RULING** on the amended motion to the extent that it

asks the court to issue a temporary restraining order or a preliminary injunction.

Dated in Milwaukee, Wisconsin this 4th day of December, 2020.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**WILLIAM FEEHAN,**

**Plaintiff,**

**CASE NO. 2:20-cv-1771**

**v.**

**WISCONSIN ELECTIONS COMMISSION,  
and its members ANN S. JACOBS,  
MARK L. THOMSEN, MARGE  
BOSTELMAN, JULIE M. GLANCEY,  
DEAN KNUDSON, ROBERT F.  
SPINDELL, JR., in their official  
capacities, GOVERNOR TONY EVERS,  
in his official capacity,**

**Defendants.**

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**AMENDED COMPLAINT FOR  
DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF**

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**NATURE OF THE ACTION**

1. This civil action brings to light a massive election fraud, multiple violations of Wisconsin Statutes Chapters 5 – 12 (hereafter, “Wisconsin Election Code”), *see, e.g.*, Wis. Stat. §§ 5.03, *et seq.*, in addition to the Election and Electors Clauses and Equal Protection Clause of the U.S. Constitution. These violations occurred during the 2020 General Election in the City of Milwaukee, southeastern Wisconsin counties, and throughout the State of Wisconsin, as set forth in the affidavits of dozens of eyewitnesses and the statistical anomalies and mathematical impossibilities detailed in the affidavits of expert witnesses. *See* Exh. 19, Declaration of affiant presenting statistical analysis prediction of 105,639 fraudulent ballots cast for Joe Biden in the

City of Milwaukee and Exh. 17, Declaration of Russell James Ramsland, Jr. wherein he demonstrates it is statistically impossible for Joe Biden to have won Wisconsin.

2. The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to manufacture an election of Joe Biden as President of the United States, and also of various down ballot democrat candidates in the 2020 election cycle. The fraud was executed by many means, but the most fundamentally troubling, insidious, and egregious ploy was the systemic adaptation of old-fashioned “ballot-stuffing” techniques. *See* Exh. 16, U. S. Senator Elizabeth Warren (D. Mass.) letter of December 6, 2019 concerning the dangers of private equity control and censorship of election technology in the United States.

3. The fraud has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. *See* Exh. 18, Joint Cybersecurity Advisory issued on October 30, 2020 by the U.S. Department of Justice Federal Bureau of Investigation (FBI) and the Cybersecurity & Infrastructure Security Agency (CISA) warning election officials about actual election system hacking events by Iranian agents in an attempt to manipulate the November 3, 2020 election. This Amended Complaint details an especially egregious range of conduct in Milwaukee County and the City of Milwaukee, along with Dane County, La Crosse County, Waukesha County, St. Croix County, Washington County, Bayfield County, Ozaukee County and various other counties throughout Wisconsin employing Dominion Systems, though this conduct occurred throughout the State at the direction of Wisconsin state election officials.

4. The multifaceted schemes and artifices implemented by Defendants and their collaborators to defraud resulted in the unlawful counting, or fabrication, of hundreds of thousands of illegal, ineligible, duplicate or purely fictitious ballots in the State of Wisconsin, that collectively

add up to multiples of Biden's purported lead in the State of 20,565 votes.

5. While this Amended Complaint, and the eyewitness and expert testimony incorporated herein, identify with specificity sufficient ballots required to set aside the 2020 General Election results, the entire process is so riddled with fraud, illegality, and statistical impossibility that this Court, and Wisconsin's voters, courts, and legislators, cannot rely on, or certify, any numbers resulting from this election. Accordingly, this Court must set aside the results of the 2020 General Election and grant the declaratory and injunctive relief requested herein.

### **Dominion Voting Systems Fraud and Manipulation**

6. The fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") used by the Wisconsin Elections Commission. The Dominion systems derive from the software designed by Smartmatic Corporation, which became Sequoia in the United States.

7. Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. See Exh. 1, Redacted Declaration of Dominion Venezuela Whistleblower ("Dominion Whistleblower Report") and Exh. 8, Statement by Ana Mercedes Diaz Cardozo outlining actual examples of election manipulation by hacking and misuse of technology in Venezuelan elections. Notably, Chavez "won" every election thereafter.

8. As set forth in the Dominion Whistleblower Report, the Smartmatic software was contrived through a criminal conspiracy to manipulate Venezuelan elections in favor of dictator Hugo Chavez:

Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the

leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic. The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government. In mid-February of 2009, there was a national referendum to change the Constitution of Venezuela to end term limits for elected officials, including the President of Venezuela. The referendum passed. This permitted Hugo Chavez to be re-elected an unlimited number of times. . . .

Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system. *Id.* ¶¶ 10 & 14.

9. A core requirement of the Smartmatic software design ultimately adopted by Dominion for Wisconsin's elections was the software's ability to hide its manipulation of votes from any audit. As the whistleblower explains:

Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez. *Id.* ¶15.

10. The design and features of the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows

an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people.<sup>1</sup> *See* Ex. 14, Declaration of Ronald Watkins regarding manipulation of Dominion software and built-in optical ballot scanning systems to contrive an election outcome in multiple states.

11. This Amended Complaint will show that Dominion violated physical security standards by connecting voting machines to the Internet, allowing Dominion, domestic third parties or hostile foreign actors to access the system and manipulate election results, and moreover potentially to cover their tracks due to Dominion's unprotected log. Accordingly, a thorough forensic examination of Dominion's machines and source code (pursuant to Wisconsin Statute § 5.905) is required to document these instances of voting fraud, as well as Dominion's systematic violations of the Voting Rights Act record retention requirements through manipulation, alteration, destruction and likely foreign exfiltration of voting records. *See* 52 U.S.C. § 20701.

12. These and other problems with Dominion's software have been widely reported in the press and been the subject of investigations. In certifying Dominion Voting Systems Democracy Suite, Wisconsin officials disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of elections in 2020 because it was deemed vulnerable to undetected and non-auditable manipulation. Texas denied Certification because of concerns that it was not safe from fraud or unauthorized manipulation. *See* Ex. 11.

13. An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and

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<sup>1</sup> *See* Ex. 7, August 24, 2020 Declaration of Harri Hursti, ¶¶45-48 (expert testimony in Case 1:17-cv-02989 in the U.S. District Court for the Northern District of Georgia). The Texas Secretary of State refused to certify Dominion for similar reasons as those cited by Mr. Hursti. *See* Ex. 9, State of Texas Secretary of State, Elections Division, Report of Review of Dominion Voting Systems Democracy Suite 5.5-A at 2 (Jan. 24, 2020).

Election Security Expert has recently observed, with reference to Dominion Voting machines: “I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with a screwdriver.”<sup>2</sup>

14. In addition to the Dominion computer fraud, this Amended Complaint identifies several additional categories of “traditional” voting fraud that occurred as a direct result of Defendant Wisconsin Election Commission (“WEC”) and other Defendants directing Wisconsin clerks and other election officials to ignore or violate the express requirements of the Wisconsin Election Code. First, the WEC issued “guidance” to county and municipal clerks not to reject “indefinitely confined” absentee voters, even if the clerks possess “reliable information” that the voter is no longer indefinitely confined, in direct contravention of Wisconsin Statute § 6.86(2)(6), which states that clerks must remove such voters. Second, the WEC issued further guidance directing clerks – in violation of Wisconsin Statute § 6.87(6)(d), which states that an absentee envelope certification “is missing the address of a witness, the ballot may not be counted” – to instead fill in the missing address information.

15. This Amended Complaint presents expert witness testimony demonstrating that several hundred thousand illegal, ineligible, duplicate or purely fictitious votes must be thrown out, in particular:

- A. A report from Dr. William Briggs, showing that there were approximately 29,594 absentee ballots listed as “unreturned” by voters that either never requested them, or that requested and returned their ballots;
- B. Reports from Redacted Expert Witnesses who can show an algorithm was used

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<sup>2</sup> Andrew W. Appel, *et al.*, “Ballot Marking Devices (BMDs) Cannot Assure the Will of the Voters” at (Dec. 27, 2019),( attached hereto as Exh. 10 (“Appel Study”)).

to pick a winner.

16. In the accompanying redacted declaration of a former electronic intelligence analyst with 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. *See* Exh. 12 (copy of redacted witness affidavit).

17. These and other “irregularities” demonstrate that at least 318,012 illegal ballots were counted in Wisconsin. This provides the Court with sufficient grounds to set aside the results of the 2020 General Election and provide the other declaratory and injunctive relief requested herein.

#### **JURISDICTION AND VENUE**

18. This Court has subject matter under 28 U.S.C. § 1331 which provides, “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

19. This Court also has subject matter jurisdiction under 28 U.S.C. § 1343 because this action involves a federal election for President of the United States. “A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question.” *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

20. The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. §§ 2201 and 2202 and by Rule 57, Fed. R. Civ. P.

21. This Court has jurisdiction over the related Wisconsin constitutional claims and state-law claims under 28 U.S.C. § 1367.

22. Venue is proper because a substantial part of the events or omissions giving rise to the

claim occurred in the Eastern District. 28 U.S.C. § 1391(b) & (c).

23. Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for the President, state executive officers have no authority to unilaterally exercise that power, much less flout existing legislation.

### **THE PARTIES**

24. Plaintiff William Feehan, is a registered Wisconsin voter and a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Wisconsin. Mr. Feehan is a resident of the City of La Crosse and La Crosse County, Wisconsin.

25. Presidential Electors “have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast,” as “[a]n inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors.” *Carson v. Simon*, 978 F.3d 1051, 1057 (8<sup>th</sup> Cir. 2020) (affirming that Presidential Electors have Article III and prudential standing to challenge actions of state officials implementing or modifying State election laws); *see also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000) (*per curiam*).

26. Plaintiff Feehan has standing to bring this action as a voter and as a candidate for the office of Elector under Wis. Stat. §§ 5.10, et seq (election procedures for Wisconsin electors). As such, Presidential Electors “have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast,” as “[a]n inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors.” *Carson v. Simon*, 978 F.3d 1051, 1057 (8<sup>th</sup> Cir. 2020) (affirming that Presidential Electors have Article III and prudential standing to challenge actions of state officials in implementing or modifying State election laws); *see also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000)

(per curiam).

27. Plaintiff brings this action to prohibit certification of the election results for the Office of President of the United States in the State of Wisconsin and to obtain the other declaratory and injunctive relief requested herein. Those results were certified by Defendants on November 30, 2020, indicating a plurality for Mr. Biden of 20,565 votes out of 3,240,867 cast.

28. The Defendants are Wisconsin Elections Commission (“WEC”), a state agency, and its members Ann S. Jacobs, Mark L. Thomsen, Marge Bostelman, Julie M. Glancey, Dean Knudson, and Robert F. Spindell, Jr., in their official capacities

29. Defendant Governor Tony Evers is named as a defendant in his official capacity as Wisconsin’s governor.

30. Defendant WEC was created in 2015 by the Wisconsin Legislature as an independent agency under the Executive branch to administer Wisconsin’s election laws. Wis. Stat. §§ 5.03 & 15.61. The WEC is authorized to adopt administrative rules pursuant to Chapter 227 of the Wisconsin Statutes, but nothing under Wisconsin’s election laws authorizes the WEC to issue any documents, make any oral determinations or instruct governmental officials administering elections to perform any act contrary to Wisconsin law governing elections.

31. Furthermore, the Wisconsin Legislature also created municipal elections commissions for municipalities with a population greater than 500,000 and a county elections commissions for counties with a population greater than 750,000. Wis Stat. § 7.20. As a result, the City of Milwaukee Elections Commission was created as well as the Milwaukee County Elections Commission and the Dane County Elections Commission. These county and municipal elections commissions are responsible for administering the elections in their respective jurisdictions.

## STATEMENT OF FACTS

32. Plaintiff brings this action under 42 U.S.C. §§ 1983 and 1988, to remedy deprivations of rights, privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results, and the corollary provisions under the Wisconsin Constitution.

33. The United States Constitution sets forth the authority to regulate federal elections. With respect to the appointment of presidential electors, the Constitution provides:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

U.S. CONST. art. II, § 1 (“Electors Clause”).

34. None of Defendants is a “Legislature” as required under the Elections Clause or Electors Clause to set the rules governing elections. The Legislature is ““the representative body which ma[kes] the laws of the people.”” *Smiley*, 285 U.S. 365. Regulations of presidential elections, thus, “must be in accordance with the method which the state has prescribed for legislative enactments.” *Id.* at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

35. The WEC certified the Presidential Election results on November 30, 2020. The Presidential election results in Wisconsin show a difference of 20,565 “tallied” votes in favor of former Vice-President Joe Biden over President Trump.

36. Based upon all the allegations of fraud, statutory violations, and other misconduct, as stated herein and in the attached affidavits, it is necessary to enjoin the certification of the election results pending a full investigation and court hearing, and to order an independent audit of the November 3, 2020 election to ensure the accuracy and integrity of the election.

## I. VIOLATIONS OF WISCONSIN ELECTION CODE

### A. WEC Directed Clerks to Violate Wisconsin Election Code Requirements for Absentee Voting by “Indefinitely Confined” without Photo ID.

37. The Wisconsin State Legislature adopted Act 23 in 2011 to require Wisconsin electors to present an identification containing a photograph, such as a driver’s license, to either a municipal or county clerk, when registering to vote and when voting. Wis. Stat. §§ 6.34; 6.79 (2). The Wisconsin State Legislature adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *League of Women Voters of Wisconsin Education Network, Inc. v. Walker*, 851 N.W.2d 302, 314 (Wis. 2014).

38. Wisconsin’s absentee voting is governed by Wisconsin Statutes § 6.84 - § 6.89. Under Wisconsin Statutes § 6.86, every absentee elector applicant must present a photo ID when registering to vote absentee except absentee voters who registered as “indefinitely confined,” Wis. Stat. § 6.86 (ac), meaning someone confined “because of age, physical illness or infirmity or is disabled for an indefinite period.” Wis. Stat. § 6.86(2)(a). As a result, Wisconsin election procedures for voting absentee based on “indefinitely confined” status circumvent the photo ID requirement, creating an avenue for fraudulent voting.

39. In order to ensure that only those who are “indefinitely confined” may use the “indefinitely confined” absentee ballot in an election, Wisconsin Statutes § 6.86 provides that any elector who files an application for an absentee ballot based on indefinitely confined status may not use the absentee ballot if the elector is no longer “indefinitely confined.” Wisconsin Statutes § 6.86(2)(b) further provides that the municipal clerk “shall remove the name of any other elector from the list upon request of the elector or upon receipt of reliable information that an elector no longer qualifies for the service.”

40. Despite this clear statutory requirement, the Administrator of the Wisconsin Election

Commission, Meagan Wolfe, issued a written directive on May 13, 2020 to the clerks across the State of Wisconsin stating that the clerks cannot remove an allegedly “indefinitely confined” absentee voter from the absentee voter register if the clerk had “reliable information” that an allegedly “indefinitely confined” absentee voter is no longer “indefinitely confined.” The directive specifically stated:

Can I deactivate an absentee request if I believe the voter is not indefinitely confined? No. All changes to status must be made in writing and by the voter’s request. Not all medical illnesses or disabilities are visible or may only impact the voter intermittently. (*See* WEC May 13, 2020 Guidance Memorandum).

41. The WEC’s directive thus directly contradicts Wisconsin law, which specifically provides that clerks “shall” remove an indefinitely confined voter from the absentee voter list if the clerk obtains “reliable information” that the voter is no longer indefinitely confined.

42. As a result of the directive, clerks did not remove from the absentee voter lists maintained by their jurisdictions the absentee voters who claimed “indefinitely confined” status but who in fact were no longer “indefinitely confined.” This resulted in electors who were allegedly “indefinitely confined” absentee voters casting ballots as “indefinitely confined” absentee voters who were not actually “indefinitely confined” absentee voters.

**B. WEC Directed Clerks to Violate Wisconsin Law Prohibiting Counting of Absentee Ballot Certificates Missing Witness Addresses.**

43. In 2015, the Wisconsin Legislature passed Act 261, amending Wisconsin’s election laws, including a requirement, codified as Wisconsin Statute § 6.87(d), that absentee ballots include both elector and witness certifications, which must include the address of the witness. If the address of the witness is missing from the witness certification, however, “the ballot may not be counted.” *Id.*

44. On October 18, 2016, WEC reacted to this legislation by issuing a memorandum, which,

among other things, permitted clerks to write in the witness address onto the absentee ballot certificate itself, effectively nullifying this express requirement. (*See* WEC October 18, 2016 Guidance Memorandum). Wisconsin election officials reiterated this unlawful directive in publicly posted training videos. For example, in a Youtube video posted before the November 3, 2020 General Election by Clarie Woodall-Voog of the Milwaukee Elections Commission, Ms. Woodall-Voog advised clerks that missing items “like witness address may be written in red.”<sup>3</sup>

**C. WEC Directed Clerks to Illegally Cure Absentee Ballots by Filling in Missing Information on Absentee Ballot Certificates and Envelopes.**

45. On October 19, 2020, WEC instructed its clerks that, without any legal basis in the Wisconsin Election Code, they could simply fill in missing witness or voter certification information using, e.g., personal knowledge, voter registration information, or calling the voter or witness. The WEC further advised that voters or witnesses could cure any missing information at the polling place, again without citing any authority to do so under Wisconsin Election Code.

**II. EXPERT WITNESS TESTIMONY:  
EVIDENCE OF WIDESPREAD VOTER FRAUD**

**A. Approximately 15,000 Wisconsin Mail-In Ballots Were Lost, and Approximately 18,000 More Were Fraudulently Recorded for Voters who Never Requested Mail-In Ballots.**

46. The attached report of William M. Briggs, Ph.D., Exh. 2 (“Dr. Briggs Report”) summarizes the multi-state phone survey that includes a survey of Wisconsin voters collected by Matt Braynard, which was conducted from November 15-17, 2020. *See* Exh. 3 (“Braynard Survey”). The Briggs analysis identified two specific errors involving unreturned mail-in ballots that are indicative of voter fraud, namely: “**Error #1:** those who were recorded as receiving absentee ballots *without* requesting them;” and “**Error #2:** those who returned absentee ballots

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<sup>3</sup> *See* <https://www.youtube.com/watch?v=hbm-pPaYiqk> (video a 10:43 to 11:07).

but whose votes went missing (*i.e.*, marked as unreturned).” Exh. 2. Dr. Briggs then conducted a parameter-free predictive model to estimate, within 95% confidence or prediction intervals, the number of ballots affected by these errors out of a total of 96,771 unreturned mail-in ballots for the State of Wisconsin.

47. With respect to **Error #1**, Dr. Briggs’ analysis estimated that **16,316-19,273 ballots** out of the total 96,771 unreturned ballots were recorded for voters who had **not** requested them. *Id.* With respect to **Error #2**, he found **13,991 – 16,757 ballots** out of 96,771 unreturned ballots recorded for voters who **did return their ballots were recorded as being unreturned**. *Id.* Taking the average of the two types of errors together, **29,594 ballots, or 31% of the total, are “troublesome.”**

48. These errors are not only conclusive evidence of widespread fraud by the State of Wisconsin, but they are fully consistent with the fact witness statements cited above regarding the evidence about Dominion presented below insofar as **these unreturned absentee ballots represent a pool of blank ballots that could be filled in by third parties to shift the election to Joe Biden**, and also present the obvious conclusion that there must be absentee ballots unlawfully ordered by third parties that were returned.

49. With respect to **Error #1**, Dr. Briggs’ analysis demonstrates that approximately **17,795 absentee ballots were sent to someone besides the registered voter named in the request**, and thus could have been filled out by anyone and then submitted in the name of another voter. Regarding ballots ordered by third parties that were voted, those would no longer be in the unreturned pool and therefore cannot be estimated from this data set.

50. With respect to **Error #2**, Dr. Briggs’ analysis indicates that approximately **15,374 absentee ballots were either lost or destroyed** (consistent with allegations of Trump ballot

destruction) and/or were replaced with blank ballots filled out by election workers, Dominion or other third parties. Dr. Briggs’ analysis shows that 31% of “unreturned ballots” suffer from one of the two errors above – which is consistent with his findings in the four other States analyzed (Arizona 58%, Georgia 39%, Pennsylvania 37%, and Wisconsin 45%) – and provides further support that these widespread “irregularities” or anomalies were one part of a much larger multi-state fraudulent scheme to rig the 2020 General Election for Joe Biden.

**B. Nearly 7,000 Ineligible Voters Who Have Moved Out-of-State Illegally Voted in Wisconsin.**

51. Evidence compiled by Matt Braynard using the National Change of Address (“NCOA”) Database shows that 6,207 Wisconsin voters in the 2020 General Election moved out-of-state prior to voting, and therefore were ineligible. Exh. 3. Mr. Braynard also identified 765 Wisconsin voters who subsequently registered to vote in another state and were therefore ineligible to vote in the 2020 General Election. The merged number is 6,966 ineligible voters whose votes must be removed from the total for the 2020 General Election.<sup>4</sup> *Id.*

**C. A Statistical Study Reveals that Biden Overperformed in those Precincts that Relied on Dominion Voting Machines**

52. From November 13<sup>th</sup>, 2020 through November 28<sup>th</sup>, 2020, the Affiant conducted in-depth statistical analysis of publicly available data on the 2020 U.S. Presidential Election. This data included vote counts for each county in the United States, U.S. Census data, and type of voting machine data provided by the U.S. Election Assistance Committee. The Affiant’s analysis yielded several “red flags” concerning the percentage of votes won by candidate Biden in counties using voting machines provided by Dominion Voting Systems. These red flags occurred in several

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<sup>4</sup> Mr. Braynard posted the results of his analysis on Twitter. See <https://twitter.com/MattBraynard/status/1329700178891333634?s=20>. This Complaint includes a copy of his Report, (attached hereto as Exh. 3).

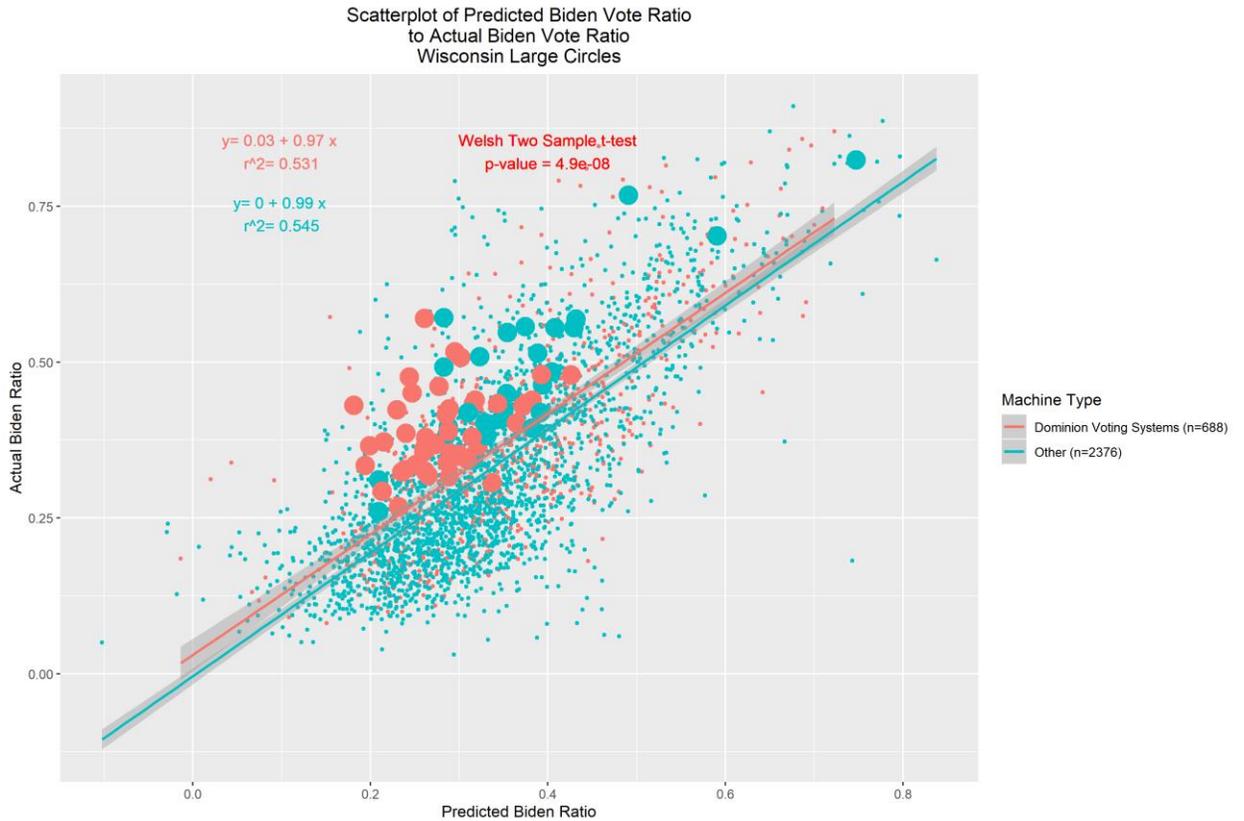
States in the country, including Wisconsin. (See attached hereto as Exh. 4, copy of redacted Affiant, B.S. Mathematics and M.S. Statistics).

53. The Affiant began by using Chi-Squared Automatic Interaction Detection (CHAID), which treats the data in an agnostic way—that is, it imposes no parametric assumptions that could otherwise introduce bias. Affiant posed the following question: “Do any voting machine types appear to have unusual results?” The answer provided by the statistical technique/algorithm was that machines from Dominion Voting Systems (Dominion) produced abnormal results. *Id.*

54. Subsequent graphical and statistical analysis shows the unusual pattern involving machines from Dominion occurs in at least 100 counties and multiple States, including Wisconsin. The results from the vast majority of counties using the Dominion machines is 3 to 5.6 percentage points higher in favor of candidate Biden. This pattern is seen easily in graphical form when the results from “Dominion” counties are overlaid against results from “non-Dominion” counties. The results from “Dominion” counties do not match the results from the rest of the counties in the United States. The results are clearly statistically significant, with a p-value of  $< 0.00004$ . This translates into a statistical impossibility that something unusual involving Dominion machines is *not* occurring. This pattern appears in multiple States, including Wisconsin, and the margin of votes implied by the unusual activity would easily sway the election results. *Id.*

55. The following graph shows the pattern. The large red dots are counties in Wisconsin that use Dominion voting machines. Almost all of them are above the blue prediction line, when in normal situations approximately half of them would be below the prediction line (as evidence by approximately half the counties in the U.S. (blue dots) that are below the blue centerline). The p-value of statistical analysis regarding the centerline for the red dots (Wisconsin counties with Dominion machines) is 0.000000049, pointing to a statistical impossibility that this is a “random”

statistical anomaly. Some external force caused this anomaly:



*Id.*

56. To confirm that Dominion machines were the source of the pattern/anomaly, Affiant conducted further analysis using propensity scoring using U.S. census variables (including ethnicities, income, professions, population density and other social/economic data), which was used to place counties into paired groups. Such an analysis is important because one concern could be that counties with Dominion systems are systematically different from their counterparts, so abnormalities in the margin for Biden are driven by other characteristics unrelated to the election.

*Id.*

57. After matching counties using propensity score analysis, the only difference between the groups was the presence of Dominion machines. This approach again showed a highly statistically

significant difference between the two groups, with candidate Biden again averaging three percentage points higher in Dominion counties than in the associated paired county. The associated p-value is  $< 0.00005$ , against indicating a statistical impossibility that something unusual is not occurring involving Dominion machines. *Id.*

58. The results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Wisconsin's vote tallies to be inflated by somewhere between three and five point six percentage points. **Statistical estimating yields that in Wisconsin, the best estimate of the number of impacted votes is 181,440.** *Id.*

59. The summation of sections A through C above provide the following conclusions for the reports cited above, respectively.

- returned ballots that were deemed unreturned by the state: 15,374
- unreturned mail ballots unlawfully ordered by third parties: 17,795
- votes by persons that moved out of state or subsequently registered to vote in another state for the 2020 election: 6,966
- Votes that were improperly relying on the "indefinitely confined" exemption to voter ID: 96,437
- And excess votes arising from the statistically significant outperformance of Dominion machines on behalf of Joe Biden: 181,440

***In Conclusion, the Reports cited above show a total amount of illegal votes identified that amount to 318,012 or over 15 times the margin by which candidate Biden leads President Trump in the state of Wisconsin.***

### **III. FACTUAL ALLEGATIONS REGARDING DOMINION VOTING SYSTEMS**

60. The State of Wisconsin, in many locations, used either Sequoia, a subsidiary of Dominion Systems, and or Dominion Systems, Democracy Suite 4.14-D first, and then included Dominion

Systems Democracy Suite 5.0-S on or about January 27, 2017, which added a fundamental modification: “dial-up and wireless results transmission capabilities to the ImageCast Precinct and results transmission using the Democracy Suite EMS Results Transfer Manager module.” (See Exh. 5, attached hereto, a copy of the Equipment for WI election systems).

**A. Dominion’s Results for 2020 General Election Demonstrate Dominion Manipulated Election Results.**

61. Affiant Keshel’s findings that reflect the discussion cited above:

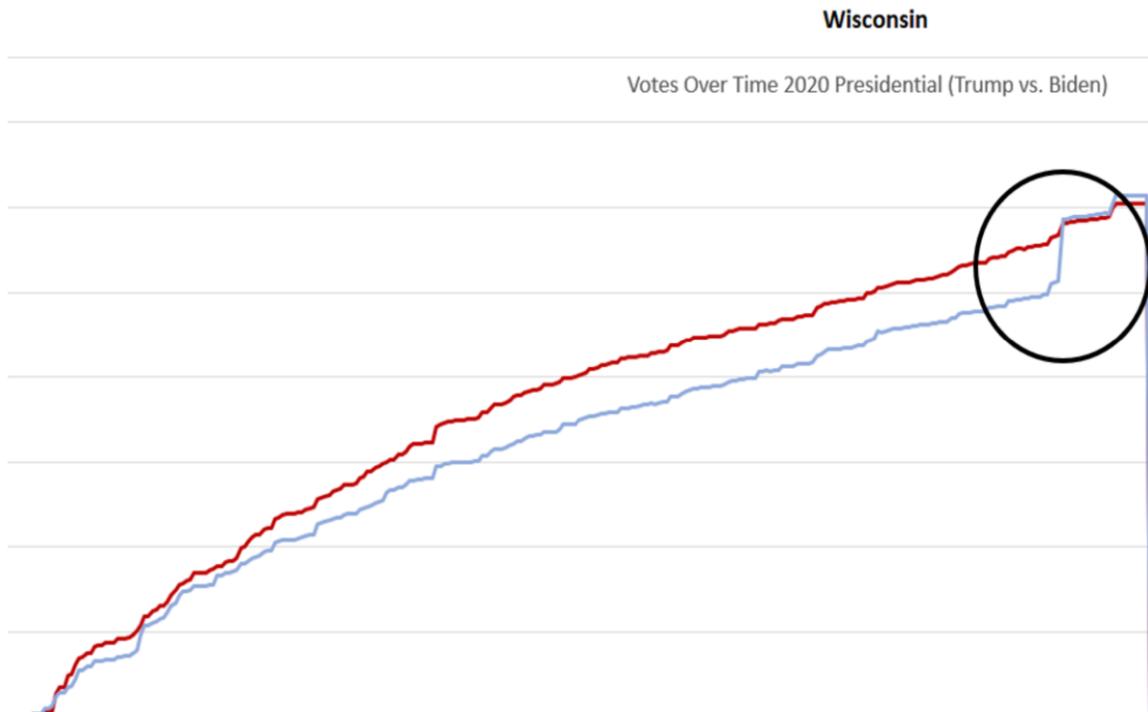
While Milwaukee County is focal for transparency and observation violations, including reporting statistically impossible vote counts in the early morning hours away from scrutiny, Dane County has surged far past support totals for President Obama, despite expected difficulties mobilizing student voters to polls. President Trump has reconsolidated the Republican base in suburban Milwaukee and far surpassed his 2016 support levels but has been limited in margin growth by historically improbable Democratic support in these strongholds, which defy years of data in Wisconsin in which the Republican party surged as the Democratic Party plunged. Finally, in strong Trump counties showing a double inversion cycle (one party up, the other down), particularly in rural and exurban Wisconsin, Trump’s totals are soaring, and against established trends, Biden’s totals are at improbable levels of support despite lacking registration population (See attached hereto, Exh. 9, Aff. of Seth Keshel, MBA)

County	Rep '08	Dem '08	Rep '12	Dem '12	Rep '16	Dem '16	Rep '20	Dem '20	Dem Percentage of Obama 2008 Votes
Ozaukee	32,172	20,579	36,077	19,159	30,464	20,170	33,912	26,515	128.8%
% Increase	N/A	N/A	12.1%	(6.9%)	(15.6%)	5.3%	11.3%	31.5%	
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Dane	73,065	205,984	83,644	216,071	71,275	217,697	78,789	260,157	126.3%
% Increase	N/A	N/A	14.5%	4.9%	(14.8%)	0.8%	10.5%	19.5%	
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Waukesha	145,152	85,339	162,798	78,779	142,543	79,224	159,633	103,867	121.7%
% Increase	N/A	N/A	12.2%	(7.7%)	(12.4%)	0.6%	12.0%	31.1%	
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Racine	45,954	53,408	49,347	53,008	46,681	42,641	54,475	50,154	117.6%
% Increase	N/A	N/A	7.4%	(0.7%)	(5.4%)	(19.6%)	16.7%	17.6%	

*Id.*

62. Keshel provides a graph reflecting the voter returns in a time-series. The highly unlikely

and remarkably convenient attainment of this block of votes provides for a stunning depiction of the election and generates many questions. The analysis provided by Plaintiff’s multiple experts, including data, statistics and cyber, will reveal clear evidence of the multiple frauds that combined to change the outcome of the 2020 election.



*See Id.*

**B. Administrative and Judicial Decisions Regarding Dominion’s Security Flaws.**

63. **Wisconsin.** In 2018, Jill Stein was in litigation with Dominion Voting Systems (“DVS”) after her 2016 recount request pursuant to WISCONSIN STAT.§5.905(4) wherein DVS obtained a Court Order requiring confidentiality on information including *voting counting source code*, which Dominion claims is proprietary – and must be kept secret from the public. (*See unpublished decision, Wisconsin Court of Appeals, No. 2019AP272 issued April 30, 2020*). Rather than engaging in an open and transparent process to give credibility to Wisconsin’s

Dominion-Democracy Suite voting system, the processes were hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Wisconsin's Election Code and Federal law.

64. **Texas.** The same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020, specifically because the “examiner reports raise concerns about whether Democracy Suite 5.5-A system ... **is safe from fraudulent or unauthorized manipulation.**”<sup>5</sup>

65. **Georgia.** Substantial evidence of this vulnerability was discussed in Judge Amy Totenberg's October 11, 2020 Order in the USDC N.D. Ga. case of *Curling, et al. v. Kemp, et. al*, Case No. 1:17-cv-02989 Doc. No. 964. *See*, p. 22-23 (“This array of experts and subject matter specialists provided a huge volume of significant evidence regarding the security risks and deficits in the system as implemented in both witness declarations and live testimony at the preliminary injunction hearing.”); p. 25 (“In particular, Dr. Halderman's testing indicated the practical feasibility through a cyber attack of causing the swapping or deletion of specific votes cast and the compromise of the system through different cyber attack strategies, including through access to and alteration or manipulation of the QR barcode.”) The full order should be read, for it is eye-opening and refutes many of Dominion's erroneous claims and talking points.

66. A District Judge found that Dominion's BMD ballots are not voter verifiable, and they cannot be audited in a software independent way. The credibility of a BMD ballot can be no greater than the credibility of Dominion's systems, which copious expert analysis has shown is deeply compromised. Similar to the issues in Wisconsin, Judge Totenberg of the District Court of Georgia

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<sup>5</sup> See attached hereto, as Exh. 11, State of Texas Secretary of State, Elections Division, *Report of Review of Dominion Voting Systems Democracy Suite 5.5-A* at 2 (Jan. 24, 2020) (emphasis added).

Northern District held:

Georgia's Election Code mandates the use of the BMD system as the uniform mode of voting for all in-person voters in federal and statewide elections. O.C.G.A. § 21-2-300(a)(2). The statutory provisions mandate voting on "electronic ballot markers" that: (1) use "electronic technology to independently and privately mark a paper ballot at the direction of an elector, interpret ballot selections, ... such interpretation **for elector verification**, and print **an elector verifiable paper ballot;**" and (2) "produce paper ballots which are marked with the elector's choices **in a format readable by the elector**" O.C.G.A. § 21-2-2(7.1); O.C.G.A. § 21-2-300(a)(2). Plaintiffs and other voters who wish to vote in-person are required to vote on **a system that does none of those things**. Rather, the evidence shows that the Dominion BMD system does **not produce a voter-verifiable paper ballot or a paper ballot marked with the voter's choices in a format readable by the voter because the votes are tabulated solely from the unreadable QR code**.

*See* Order, pp. 81-82. (Emphasis added).

67. This case was later affirmed in a related case, in the Eleventh Circuit in 2018 related to Georgia's voting system in *Common Cause Georgia v. Kemp*, 347 F. Supp. 3d 1270 (11<sup>th</sup> Cir. 2018). The Court found,

**In summary, while further evidence will be necessary in the future, the Court finds that the combination of the statistical evidence and witness declarations in the record here (and the expert witness evidence in the related *Curling* case which the Court takes notice of) persuasively demonstrates the likelihood of Plaintiff succeeding on its claims. Plaintiff has shown a substantial likelihood of proving that the Secretary's failure to properly maintain a reliable and secure voter registration system has and will continue to result in the infringement of the rights of the voters to cast their vote and have their votes counted.**

*Id.* at 1294-1295.

68. The expert witness in the above litigation in the United States District Court of Georgia, Case 1:17-cv-02989-AT, Harri Hursti, specifically testified to the acute security vulnerabilities, *see* Exh. 107, wherein he testified or found:

A. "The scanner and tabulation software settings being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes to be counted" "The voting system is being operated in Fulton County in a manner that escalates

the security risk to an extreme level” “Votes are not reviewing their BMD printed ballots, which causes BMD generated results to be un-auditable due to the untrustworthy audit trail.” 50% or more of voter selections in some counties were visible to poll workers. Dominion employees maintain near exclusive control over the EMS servers. “In my professional opinion, the role played by Dominion personnel in Fulton County, and other counties with similar arrangements, should be considered an elevated risk factor when evaluating the security risks of Georgia’s voting system.” *Id.* ¶26.

- B. A video game download was found on one Georgia Dominion system laptop, suggesting that multiple Windows updates have been made on that respective computer.
- C. There is evidence of remote access and remote troubleshooting which presents a grave security implication.
- D. Certified identified vulnerabilities should be considered an “extreme security risk.”
- E. There is evidence of transfer of control the systems out of the physical perimeters and place control with a third party off site.
- F. USB drives with vote tally information were observed to be removed from the presence of poll watchers during a recent election.
- G. “The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system.” *Id.* ¶49.

**C. Foreign Interference/Hacking and/or Manipulation of Dominion Results.**

**1. Evidence of Vulnerability to Foreign Hackers.**

69. In October of 2020 The FBI and CISA issued a JOINT CYBERSECURITY ADVISORY ON October 30, 2020 titled: **Iranian Advanced Persistent Threat Actor Identified Obtained Voter Registration Data**

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT)

actor targeting U.S. state websites to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.<sup>1</sup> (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

(See CISA and FBI Joint Cyber Security Advisory of October 30, 2020, a copy attached hereto as Exh. 18.)

70. An analysis of the Dominion software system by a former US Military Intelligence expert subsequently found that the Dominion Voting system and software are accessible - and was compromised by rogue actors, including foreign interference by Iran and China. (See Exh. 12, Spider Declaration, (who remains redacted for security reasons).)

71. The expert does an analysis and explains how by using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion allowed foreign adversaries to access data and intentionally provided access to Dominion's infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See Exh. 12, Spider Declaration. Several facts are set forth related to foreign members of Dominion Voting Systems and foreign servers as well as foreign interference.).

72. Another Declarant first explains the foundations of her opinion and then addresses the concerns of foreign interference in our elections through hardware components from companies based in foreign countries with adverse interests. She explains that Dominion Voting Systems works with SCYTL, and that votes on route, before reporting, go to SCYTL in foreign countries. On the way, they get mixed and an algorithm is applied, which is done through a secretive process.

The core software used by ALL SCYTL related Election Machine/Software manufacturers ensures "anonymity" Algorithms within the area of this "shuffling"

to maintain anonymity allows for setting values to achieve a desired goal under the guise of “encryption” in the trap-door...

(See Exh. 13, Aff. of Computer analysis, at par. 32).

73. The Affiant goes on to explain the foreign relationships in the hardware used by Dominion Voting Systems and its subsidiary Sequoia and explains specifically the port that Wisconsin uses, which is called Edge Gateway and that is a part of Akamai Technologies based in Germany:

“Wisconsin has EDGE GATEWAY port which is AKAMAI TECHNOLOGIES based out of GERMANY. Using AKAMAI Technologies is allowing .gov sites to obfuscate and mask their systems by way of HURRICANE ELECTRIC (he.net)”

74. This Declarant further explains the foundations of her opinion and then addresses the concerns of foreign interference in our elections through hardware components from companies based in foreign countries with adverse interests.

The concern is the HARDWARE and the NON – ACCREDITED VSTLs as by their own admittance use COTS. The purpose of VSTL’s being accredited and their importance is ensuring that there is no foreign interference / bad actors accessing the tally data via backdoors in equipment software. The core software used by ALL SCYTL related Election Machine/Software manufacturers ensures “anonymity”. **Algorithms within the area of this “shuffling” to maintain anonymity allows for setting values to achieve a desired goal under the guise of “encryption” in the trap-door...**

(See *Id.* at ¶32).

75. This Declarant goes on to explain the foreign relationships in the hardware used by Dominion Voting Systems and its subsidiary Sequoia and specifically the port that Wisconsin uses:

“Wisconsin has EDGE GATEWAY port which is AKAMAI TECHNOLOGIES based out of GERMANY. Using AKAMAI Technologies is allowing .gov sites to obfuscate and mask their systems by way of HURRICANE ELECTRIC (he.net) Kicking it to anonymous (AKAMAI Technologies) offshore servers. Wisconsin Port.

China is not the only nation involved in COTS provided to election machines or the networking but so is Germany via a LAOS founded Chinese linked cloud service

company that works with SCYTL named Akamai Technologies that have offices in China and are linked to the server [for] Dominion Software.

(*See Id.* at par. 21).

76. The Affiant explains the use of an algorithm and how it presents throughout the statement, but specifically concludes that,

**The “Digital Fix” observed with an increased spike in VOTES for Joe Biden can be determined as evidence of a pivot.** Normally it would be assumed that the algorithm had a Complete Pivot. Wilkinson’s demonstrated the guarantee as:

$$\frac{\|U\|_{\infty}}{\|A\|_{\infty}} \leq n^{\frac{1}{2} \log(n)}$$

Such a conjecture allows the growth factor the ability to be upper bound by values closer to n. Therefore, complete pivoting can’t be observed because there would be too many floating points. Nor can partial as the partial pivoting would overwhelm after the “injection” of votes. Therefore, external factors were used which is evident from the “DIGITAL FIX.” (*See Id.* at pars. 67-69)

“The algorithm looks to have been set to give Joe Biden a 52% win even with an initial 50K+ vote block allocation was provided initially as tallying began (as in case of Arizona too). In the am of November 4, 2020 the algorithm stopped working, therefore another “block allocation” to remedy the failure of the algorithm. This was done manually as ALL the SYSTEMS shut down NATIONWIDE to avoid detection.”

(*See Id.* at par. 73)

## **2. Background of Dominion Connections to Smartmatic and Hostile Foreign Governments.**

77. An expert analysis by Russ Ramsland agrees with the data reflecting the use of an algorithm that causes the spike in the data feed, which is shown to be an injection of votes to change the outcome, because natural reporting does not appear in such a way.

78. And Russ Ramsland can support that furtherby documenting the data feed that came from Dominion Voting Systems to Scytl -- and was reported with decimal points, which is contrary to one vote as one ballot: **“The fact that we observed raw vote data coming directly that includes**

**decimal places establishes selection by an algorithm, and not individual voter's choice. Otherwise, votes would be solely represented as whole numbers (votes cannot possibly be added up and have decimal places reported)."**

79. The report concludes that "Based on the foregoing, I believe these statistical anomalies and impossibilities compels the conclusion to a reasonable degree of professional certainty that the vote count in Wisconsin, in particular for candidates for President contain at least 119,430 (Para. 13) up to 384,085 (Para. 15) illegal votes that must be disregarded. In my opinion, it is not possible at this time to determine the true results of the Wisconsin vote for President of the United States."

### **The History of Dominion Voting Systems**

80. Plaintiff can also show Smartmatic's incorporation and inventors who have backgrounds evidencing their foreign connections, including Serbia, specifically its identified inventors:

Applicant: SMARTMATIC, CORP.

Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso<sup>6</sup>

81. Another Affiant witness testifies that in Venezuela, she was in official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was summarily dismissed. She explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Exh. 17, Cardozo Aff. ¶8).

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<sup>6</sup> See Patents Assigned to Smartmatic Corp., *available at*: <https://patents.justia.com/assignee/smartmatic-corp>

### **3. US Government Warnings Regarding Hacking by Hostile Foreign Governments.**

82. In October of 2020 The FBI and CISA issued a JOINT CYBERSECURITY ADVISORY ON October 30, 2020 titled: **Iranian Advanced Persistent Threat Actor Identified Obtained Voter Registration Data**

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.<sup>1</sup> (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

(See Exh. 18, CISA and FBI Joint Cyber Security Advisory of October 30, 2020)

#### **D. Additional Independent Findings of Dominion Flaws.**

83. Further supportive of this pattern of incidents, reflecting an absence of mistake, Plaintiff has since learned that the “glitches” in the Dominion system, that have the uniform effect of hurting Trump and helping Biden, have been widely reported in the press and confirmed by the analysis of independent experts.

##### **1. Central Operator Can Remove, Discard or Manipulate Votes.**

84. Mr. Watkins further explains **that the central operator can remove or discard batches of votes.** “After all of the ballots loaded into the scanner’s feed tray have been through the scanner, the “ImageCast Central” operator will remove the ballots from the tray then have the option to either “Accept Batch” or “Discard Batch” on the scanning menu .... “ (Exh. 106, Watkins aff. ¶11). ¶8.

85. Mr. Watkins further testifies that the user manual makes clear that the system allows for

threshold settings to be set to find all ballots get marked as “problem ballots” for discretionary determinations on where the vote goes stating:

9. During the ballot scanning process, the “ImageCast Central” software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a “problem ballot” and may be set aside into a folder named “NotCastImages”.

10. Through creatively tweaking the oval coverage threshold settings, and advanced settings on the ImageCase Central scanners, it may be possible to set thresholds in such a way that a non-trivial amount of ballots are marked “problem ballots” and sent to the “NotCastImages” folder.

11. The administrator of the ImageCast Central work station may view all images of scanned ballots which were deemed “problem ballots” by simply navigating via the standard “Windows File Explorer” to the folder named “NotCastImages” which holds ballot scans of “problem ballots”. It may be possible for an administrator of the “ImageCast Central” workstation to view and delete any individual ballot scans from the “NotCastImages” folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. *Id.* ¶¶ 9-11.

## **2. Dominion – By Design – Violates Federal Election & Voting Record Retention Requirements.**

86. The Dominion System put in place by its own design violates the intent of Federal law on the requirement to preserve and retain records – which clearly requires preservation of all records requisite to voting in such an election.

**§ 20701.** Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election**, except that, when required by law, such records and papers may be delivered to another officer of election and except that,

if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

*See* 52 USC § 20701.

### **3. Dominion Vulnerabilities to Hacking.**

87. Plaintiff has since learned that the “glitches” in the Dominion system -- that have the uniform effect of hurting Trump and helping Biden -- have been widely reported in the press and confirmed by the analysis of independent experts, a partial summary of which is included below.

- (1) Users on the ground have full admin privileges to machines and software. The Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector’s office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, is not counted and is handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for improper vote adjudication. (Exh. 106 Watkins aff. ¶¶8 & 11).
- (2) Affiant witness (name redacted for security reasons), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation:

I was witness to the creation and operation of a sophisticated electronic voting system that permitted the leaders of the Venezuelan government to manipulate the tabulation of votes for national and local elections and select the winner of those elections in order to gain and maintain their power. Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included ... The purpose of this conspiracy was

to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government. (*Id.* ¶¶6, 9, 10).

88. Specific vulnerabilities of the systems in question that have been well documented or reported include:

- A. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-case votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection." (*See* Exh. 2, Appel Study).
- B. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.
- C. October 6, 2006 – **Congresswoman Carolyn Maloney calls on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela.** (*See* Exh. 15). Congresswoman Maloney wrote that "It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia ... Smartmatic now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatica, but the company has not revealed who all other Smartmatic owners are. *Id.*
- D. Dominion "got into trouble" with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company "that has played a significant role in the U.S. market over the last decade."<sup>7</sup> Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election, the biggest automated election run by a private company. The automation of that first election in the Philippines was hailed by the international community and by the critics of the automation. The results transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be

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<sup>7</sup> *Voting Technology Companies in the U.S. – Their Histories and Present Contributions*, Access Wire, (Aug. 10, 2017), available at: <https://www.accesswire.com/471912/Voting-Technology-Companies-in-the-US--Their-Histories>.

- their new president on Election Day. In keeping with local Election law requirements, Smartmatic and Dominion were required to provide the source code of the voting machines prior to elections so that it could be independently verified. *Id.*
- E. Litigation over Smartmatic “glitches” alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, “The software inventory provided by Smartmatic is inadequate, ... which brings into question the software credibility.”<sup>8</sup>
- F. Dominion acquired Sequoia Voting Systems as well as Premier Election Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion). This map illustrates 2016 voting machine data—meaning, these data do not reflect geographic aggregation at the time of acquisition, but rather the machines that retain the Sequoia or Premier/Diebold brand that now fall under Dominion’s market share. Penn Wharton Study at 16.
- G. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden and House Member Mark Pocan wrote about their ‘particularized concerns that secretive & “trouble -plagued companies”‘ “have long skimped on security in favor of convenience,” in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S.” (*See* Exh. 16).
- H. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are “yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy.” It’s also an indictment, he said, “of the notion that important cybersecurity decisions should be left entirely to county election offices, many of whom do not employ a single cybersecurity specialist.”<sup>9</sup>

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<sup>8</sup> *Smartmatic-TIM Running Out of Time to Fix Glitches*, ABS-CBN News (May 4, 2010), available at: <https://news.abs-cbn.com/nation/05/04/10/smartmatic-tim-running-out-time-fix-glitches>.

<sup>9</sup> Kim Zetter, *Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials*, VICE (Aug. 8, 2019) (“VICE Election Article”), available at:

89. The House of Representatives passed H.R. 2722 in an attempt to address these very risks on June 27, 2019:

This bill addresses election security through grant programs and requirements for voting systems and paper ballots.

The bill establishes requirements for voting systems, including that systems (1) use individual, durable, voter-verified paper ballots; (2) make a voter's marked ballot available for inspection and verification by the voter before the vote is cast; (3) ensure that individuals with disabilities are given an equivalent opportunity to vote, including with privacy and independence, in a manner that produces a voter-verified paper ballot; (4) be manufactured in the United States; and (5) meet specified cybersecurity requirements, including the prohibition of the connection of a voting system to the internet.

*See* H.R. 2722.

**E. Because Dominion Senior Management Has Publicly Expressed Hostility to Trump and Opposition to His Election, Dominion Is Not Entitled to Any Presumption of Fairness, Objectivity or Impartiality, and Should Instead Be Treated as a Hostile Partisan Political Actor.**

90. Dr. Eric Coomer is listed as the co-inventor for several patents on ballot adjudication and voting machine-related technology, all of which were assigned to Dominion.<sup>10</sup> He joined Dominion in 2010, and most recently served as Voting Systems

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<https://www.vice.com/en/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials>.

<sup>10</sup> *See* "Patents by Inventor Eric Coomer," *available at*: <https://patents.justia.com/inventor/eric-coomer>. This page lists the following patents issued to Dr. Coomer and his co-inventors: (1) U.S. Patent No. 9,202,113, Ballot Adjudication in Voting Systems Utilizing Ballot Images (issued Dec. 1, 2015); (2) U.S. Patent No. 8,913,787, Ballot Adjudication in Voting Systems Utilizing Ballot Images (issued Dec. 16, 2014); (3) U.S. Patent No. 8,910,865, Ballot Level Security Features for Optical Scan Voting Machine Capable of Ballot Image Processing, Secure Ballot Printing, and Ballot Layout Authentication and Verification (issued Dec. 16, 2014); (4) U.S. Patent No. 8,876,002, Systems for Configuring Voting Machines, Docking Device for Voting Machines, Warehouse Support and Asset Tracking of Voting Machines (issued Nov. 4, 2014); (5) U.S. Patent No. 8,864,026, Ballot Image Processing System and

Officer of Strategy and Director of Security for Dominion. Dr. Coomer first joined Sequoia Voting Systems in 2005 as Chief Software Architect and became Vice President of Engineering before Dominion Voting Systems acquired Sequoia. Dr. Coomer's patented ballot adjudication technology into Dominion voting machines sold throughout the United States, including those used in Wisconsin. *See* Exh. 6 (Jo Oltmann Affidavit).

91. In 2016, Dr. Coomer admitted to the State of Illinois that Dominion Voting machines can be manipulated remotely.<sup>11</sup> He has also publicly posted videos explaining how Dominion voting machines can be remotely manipulated. *See Id.*<sup>12</sup>

92. Dr. Coomer has emerged as Dominion's principal defender, both in litigation alleging that Dominion rigged elections in Georgia and in the media. An examination of his previous public statements has revealed that Dr. Coomer is highly partisan and even more anti-Trump, precisely the opposite of what would expect from the management of a company charged with fairly and impartially counting votes (which is presumably why he tried to scrub his social media history). (*See Id.*)

93. Unfortunately for Dr. Coomer, however, a number of these posts have been captured for perpetuity. Below are quotes from some of his greatest President Trump and Trump voter hating hits to show proof of motive and opportunity. (*See Id.*)

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Method for Voting Machines (issued Oct. 21, 2014); (6) U.S. Patent No. 8,714,450, Systems and Methods for Transactional Ballot Processing, and Ballot Auditing (issued May 6, 2014), available at: <https://patents.justia.com/inventor/eric-coomer>.

<sup>11</sup> Jose Hermosa, *Electoral Fraud: Dominion's Vice President Warned in 2016 That Vote-Counting Systems Are Manipulable*, The BL (Nov. 13, 2020), available at: <https://thebl.com/us-news/electoral-fraud-dominions-vice-president-warned-in-2016-that-vote-counting-systems-are-manipulable.html>.

<sup>12</sup> *See, e.g.*, "Eric Coomer Explains How to Alter Votes in the Dominion Voting System" (Nov. 24, 2020) (excerpt of presentation delivered in Chicago in 2017), available at: <https://www.youtube.com/watch?v=UtB3tLaXLJE>.

If you are planning to vote for that autocratic, narcissistic, fascist ass-hat blowhard and his Christian jihadist VP pic, UNFRIEND ME NOW! No, I'm not joking. ... Only an absolute F[\*\*]KING IDIOT could ever vote for that wind-bag fuck-tard FASCIST RACIST F[\*\*]K! ... I don't give a damn if you're friend, family, or random acquaintance, pull the lever, mark an oval, touch a screen for that carnival barker ... UNFRIEND ME NOW! I have no desire whatsoever to ever interact with you. You are beyond hope, beyond reason. You are controlled by fear, reaction and bullsh[\*]t. Get your shit together. F[\*\*]K YOU! Seriously, this f[\*\*]king ass-clown stands against everything that makes this country awesome! You want in on that? You [Trump voters] deserve nothing but contempt. *Id.* (July 21, 2016 Facebook post).<sup>13</sup>

94. In a rare moment of perhaps unintentional honesty, Dr. Coomer anticipates this Amended Complaint and many others, by slandering those seeking to hold election riggers like Dominion to account and to prevent the United States' descent into Venezuelan levels of voting fraud and corruption out of which Dominion was born:

Excerpts in stunning Trump-supporter logic, "I know there is a lot of voter fraud. I don't know who is doing it, or how much is happening, but I know it is going on a lot." This beautiful statement was followed by, "It happens in third world countries, this the US, we can't let it happen here." *Id.* (October 29, 2016 Facebook post); (*See* also Exh. 6)

95. Dr. Coomer, who invented the technology for Dominion's voting fraud and has publicly explained how it can be used to alter votes, seems to be extremely hostile to those who would attempt to stop it and uphold the integrity of elections that underpins the legitimacy of the United States government:

And in other news... There be some serious fuckery going on right here fueled by our Cheeto-in-Chief stoking lie after lie on the flames of [Kris] Kobach... [Linking Washington Post article discussing the Presidential Advisory Commission on Election Integrity, of which former Kansas Secretary of State Kris Kobach was a member, entitled, "The voting commission is a fraud itself. Shut it down."] *Id.* (September 14, 2017 Facebook post.) (*Id.*)

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<sup>13</sup> In this and other quotations from Dr. Coomer's social media, Plaintiff has redacted certain profane terms.

96. Dr. Coomer also keeps good company, supporting and reposting ANTIFA statements slandering President Trump as a “fascist” and by extension his supporters, voters and the United States military (which he claims, without evidence, Trump will make into a “fascist tool”). *Id.* (June 2, 2020 Facebook post). Lest someone claims that these are “isolated statements” “taken out of context”, Dr. Coomer has affirmed that he shares ANTIFA’s taste in music and hatred of the United States of America, *id.* (May 31, 2020 Facebook post linking “F[\*\*]k the USA” by the exploited), and the police. *Id.* (separate May 31, 2020 Facebook posts linking N.W.A. “F[\*\*]k the Police” and a post promoting phrase “Dead Cops”). *Id.* at 4-5.

97. Affiant and journalist Joseph Oltmann researched ANTIFA in Colorado. *Id.* at 1. “On or about the week of September 27, 2020,” he attended an Antifa meeting which appeared to be between Antifa members in Colorado Springs and Denver Colorado,” where Dr. Coomer was present. In response to a question as to what Antifa would do “if Trump wins this ... election?”, Dr. Coomer responded “Don’t worry about the election. Trump is not going to win. I made f[\*\*]king sure of that ... Hahaha.” *Id.* at 2.

98. By putting an anti-Trump zealot like Dr. Coomer in charge of election “Security,” and using his technology for what should be impartial “ballot adjudication,” Dominion has given the fox the keys to the hen house ***and has forfeited any presumption of objectivity, fairness, or even propriety.*** It appears that Dominion does not care about even an appearance of impropriety, as its most important officer has his fingerprints all over a highly partisan, vindictive, and personal vendetta against the Republican nominee both in 2016 and 2020, President Donald Trump. Dr. Coomer’s highly partisan anti-Trump rages show clear motive on the part of Dominion to rig the election in favor of Biden, and may well explain why for each of the so-called “glitches”

uncovered, it is always Biden receiving the most votes on the favorable end of such a “glitch.”  
(*Id.*)

99. In sum, as set forth above, for a host of independent reasons, the Wisconsin election results concluding that Joe Biden received 20,608 more votes than President Donald Trump must be set aside.

## COUNT I

### **Defendants Violated the Elections and Electors Clauses and 42 U.S.C. § 1983.**

100. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

101. The Electors Clause states that “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors” for President. U.S. Const. art. II, §1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by *the Legislature* thereof.” U.S. Const. art. I, § 4, cl. 1 (emphasis added).

102. The Legislature is “the representative body which ma[kes] the laws of the people.” *Smiley v. Holm*, 285 U.S. 355, 365 (1932). Regulations for presidential elections, thus, “must be in accordance with the method which the state has prescribed for legislative enactments.” *Id.* at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 135 S. Ct. 2652, 2668 (2015).

103. Defendants are not part of the Wisconsin Legislature and cannot exercise legislative power. Because the United States Constitution reserves for the Wisconsin Legislature the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict

with existing legislation.

104. Section I details three separate instances where Defendants violated the Wisconsin Election Code. First, WEC May 23, 2020 “guidance” on the treatment of “indefinitely confined” voters, who are exempt from Wisconsin’s photo ID requirement for absentee ballot application, that directly contravened the express requirement in Wisconsin Election Code that clerks “shall” remove an allegedly “indefinitely confined” voter if the clerk has “reliable information” that that voter is not, or is no longer, “indefinitely confined.”

105. Second, the WEC’s October 18, 2016 guidance directed clerks to violate the express requirements of Wisconsin Statutes § 6.87(6)(d), which states “[i]f a certificate is missing the address of a witness the ballot may not be counted,” when it directed clerks to fill in missing information on absentee ballot envelopes.

106. Third, WEC and Wisconsin election officials violated Wisconsin Election Code, or acted *ultra vires*, insofar as they filled in missing witness or voter information on absentee ballots and permitted voters to cure ballots without statutory authorization. Section II provides expert witness testimony quantifying the number of illegal or ineligible ballots that were counted, and lawful ballots that were not, as a result of these and Defendants’ other violations.

107. A report from Dr. William Briggs, shows that there were approximately 29,594 absentee ballots listed as “unreturned” by voters that either never requested them, or that requested and returned their ballots.

108. Evidence compiled by Matt Braynard, Exh. 3, using the National Change of Address (“NCOA”) Database shows that 6,207 Wisconsin voters in the 2020 General Election moved out-

of-state prior to voting, and therefore were ineligible. Mr. Braynard also identified 765 Wisconsin voters who subsequently registered to vote in another state and were therefore ineligible to vote in the 2020 General Election. The merged number is 6,966 ineligible voters whose votes must be removed from the total for the 2020 General Election.

109. Plaintiff has no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted. Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clause.

110. Accordingly, the results for President in the November 3, 2020 election must be set aside, the State of Wisconsin should be enjoined from transmitting the certified the results thereof, and this Court should grant the other declaratory and injunctive relief requested herein.

## COUNT II

### **Governor Evers and Other Defendants Violated The Equal Protection Clause of the Fourteenth Amendment U.S. Const. Amend. XIV & 42 U.S.C. § 1983**

### **Invalid Enactment of Regulations & Disparate Treatment of Absentee vs. Mail-In Ballots**

111. Plaintiff refers to and incorporate by reference each of the prior paragraphs of this Amended Complaint as though the same were repeated at length herein.

112. The Fourteenth Amendment of the United States Constitution provides “nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104 (2000) (having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over the value of another’s). *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 665 (1966) (“Once the

franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.”). The Court has held that to ensure equal protection, a problem inheres in the absence of specific standards to ensure its equal application. *Bush*, 531 U.S. at 106 (“The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary.”).

113. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

114. The disparate treatment of Wisconsin voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because “the right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Reynolds v. Sims*, 377 U.S. 533, 555 (1964); *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc.*, 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at \*4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co.*, 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

115. In statewide and federal elections conducted in the State of Wisconsin, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation Plaintiff, in having the election laws enforced fairly and uniformly.

116. As set forth in Section I above, Defendants failed to comply with the requirements

of the Wisconsin Election Code and thereby diluted the lawful ballots of the Plaintiff and of other Wisconsin voters and electors in violation of the United States Constitution guarantee of Equal Protection. Further, Defendants enacted regulations, or issued guidance, that had the intent and effect of favoring one class of voters – Democratic absentee voters – over Republican voters. Further, all of these invalidly enacted rules by Defendant Wisconsin executive and administrative agencies, had the intent and effect of eliminating protections against voter fraud, and thereby enabled and facilitated the counting of fraudulent, unlawful and ineligible votes, which were quantified in Section II. Finally, Section III details the additional voting fraud and manipulation enabled by the use Dominion voting machines, which had the intent and effect of favoring Biden and Democratic voters and discriminating against Trump and Republican voters.

117. Defendants have acted and will continue to act under color of state law to violate Plaintiff’s right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment, the corollary provisions of the Wisconsin Constitution, and the Wisconsin Election Code.

118. Plaintiff seeks declaratory and injunctive relief forbidding Defendants from certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden through the unlawful use of Dominion Democracy Suite software and devices.

119. The Briggs analysis identified two specific errors involving unreturned mail-in ballots that are indicative of voter fraud, namely: “**Error #1:** those who were recorded as receiving

absentee ballots *without* requesting them;” and “**Error #2:** those who returned absentee ballots but whose votes went missing (*i.e.*, marked as unreturned).” Clearly the dilution of lawful votes violates the Equal Protection clause; and the counting of unlawful votes violates the rights of lawful Citizens.

120. In addition, Plaintiff asks this Court to order that no ballot processed by a counting board in the Wisconsin Counties can be included in the final vote tally unless a challenger was allowed to meaningfully observe the process and handling and counting of the ballot, or that were unlawfully switched from Trump to Biden.

121. Plaintiff has no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted. Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Wisconsin law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately.

### **COUNT III**

#### **Fourteenth Amendment, Amend. XIV & 42 U.S.C. § 1983**

##### **Denial of Due Process On The Right to Vote**

122. Plaintiff refers to and incorporate by reference each of the prior paragraphs of this Amended Complaint as though the same were repeated at length herein.

123. The right of qualified citizens to vote in a state election involving federal

candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at 665. *See also Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the “the right of all qualified citizens to vote, in state as well as in federal elections.”). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges and Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to vote in federal elections. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (citing *Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

124. The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it “is preservative of other basic civil and political rights.” *Reynolds*, 377 U.S. at 562. Voters have a “right to cast a ballot in an election free from the taint of intimidation and fraud,” *Burson v. Freeman*, 504 U.S. 191, 211 (1992), and “[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

125. “Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted” if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). “[T]he right to have the vote counted” means counted “at full value without dilution or discount.” *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

“Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974); *see also Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes debase and dilute the weight of each validly cast vote. *Reynolds*, 377 U.S. at 555.

126. The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. *See, e.g., Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be “protected from the diluting effect of illegal ballots.”); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) (“There is no question about the legitimacy or importance of the State’s interest in counting only the votes of eligible voters.”); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

127. The right to an honest count is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States. *Anderson*, 417 U.S. at 226 (*quoting Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff’d due to absence of quorum*, 339 U.S. 974 (1950)).

128. Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 (“the right

of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.”).

129. Section I details the Defendants violations of the Wisconsin Election Code. Section II provides estimates of the number of fraudulent, illegal or ineligible votes counted, and demonstrates that this number is many times larger than Biden's margin of victory.

130. Plaintiff seeks declaratory and injunctive relief enjoining Defendants from certifying the results of the General Election, or in the alternative, conduct a recount or recanvass in which they allow a reasonable number of challengers to meaningfully observe the conduct of the Wisconsin Board of State Canvassers and the Wisconsin county Boards of Canvassers and that these canvassing boards exercise their duty and authority under Wisconsin law, which forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden through the unlawful use of Dominion Democracy Suite software and devices.

#### **COUNT IV**

##### **Wide-Spread Ballot Fraud**

131. Plaintiff realleges all preceding paragraphs as if fully set forth herein.

132. The scheme of civil fraud can be shown with the pattern of conduct that includes motive and opportunity, as exhibited by the high level official at Dominion Voting Systems, Eric Coomer, and his visceral and public rage against the current U.S. President.

133. Opportunity appears with the secretive nature of the voting source code, and the feed of votes that make clear that an algorithm is applied, that reports in decimal points despite the law requiring one vote for one ballot.

134. The results of the analysis and the pattern seen in the included graph strongly suggest a systemic, system-wide algorithm was enacted by an outside agent, causing the results of Wisconsin's vote tallies to be inflated by somewhere between 3 and 5.6 percentage points. Statistical estimating yields that in Wisconsin, the best estimate of the number of impacted votes is 181,440. *Id.*

135. The Reports cited above show a total amount of illegal votes identified that amount to 318,012 or over 15 times the margin by which candidate Biden leads President Trump in the state of Wisconsin.

136. The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. *See, e.g., Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be "protected from the diluting effect of illegal ballots."); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) ("There is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters."); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

137. Plaintiff has no adequate remedy at law. Plaintiff contests the results of Wisconsin's 2020 General Election because it is fundamentally corrupted by fraud. Defendants intentionally violated multiple provisions of the Wisconsin Election Code to elect Biden and other Democratic candidates and defeat President Trump and other Republican candidates.

### **PRAYER FOR RELIEF**

138. Accordingly, Plaintiff seeks temporary restraining order instructing Defendants to de-certify the results of the General Election for the Office of President.

139. Alternatively, Plaintiff seeks an order instructing the Defendants to certify the results of the General Election for Office of the President in favor of President Donald Trump.

140. In the alternative, Plaintiff seeks a temporary restraining order prohibiting Defendants from including in any certified results from the General Election the tabulation of absentee and mailing ballots which do not comply with the Wisconsin Election Code, including, without limitation, the tabulation of absentee and mail-in ballots Trump Campaign's watchers were prevented from observing or based on the tabulation of invalidly cast absentee and mail-in ballots which (i) lack a secrecy envelope, or contain on that envelope any text, mark, or symbol which reveals the elector's identity, political affiliation, or candidate preference, (ii) do not include on the outside envelope a completed declaration that is dated and signed by the elector, (iii) are delivered in-person by third parties for non-disabled voters, or (iv) any of the other Wisconsin Election Code violations set forth in Section II of this Amended Complaint.

141. Order production of all registration data, ballot applications, ballots, envelopes, etc. required to be maintained by law. When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Wisconsin and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Wisconsin cannot reasonably rely on the results of the

mail vote. Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the electors for the State of Wisconsin should be disqualified from counting toward the 2020 election. Alternatively, the electors of the State of Wisconsin should be directed to vote for President Donald Trump.

142. For these reasons, Plaintiff asks this Court to enter a judgment in his favor and provide the following emergency relief:

1. An order directing Governor Evers and the Wisconsin Elections Commission to de-certify the election results;
2. An order enjoining Governor Evers from transmitting the currently certified election results to the Electoral College;
3. An order requiring Governor Evers to transmit certified election results that state that President Donald Trump is the winner of the election;
4. An immediate temporary restraining order to seize and impound all servers, software, voting machines, tabulators, printers, portable media, logs, ballot applications, ballot return envelopes, ballot images, paper ballots, and all “election materials” referenced in Wisconsin Statutes § 9.01(1)(b)11. related to the November 3, 2020 Wisconsin election for forensic audit and inspection by the Plaintiff;
5. An order that no votes received or tabulated by machines that were not certified as required by federal and state law be counted;

6. A declaratory judgment declaring that Wisconsin's failed system of signature verification violates the Electors and Elections Clause by working a de facto abolition of the signature verification requirement;
7. A declaratory judgment declaring that currently certified election results violate the Due Process Clause, U.S. CONST. Amend. XIV;
8. A declaratory judgment declaring that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or sampling analysis shows a sufficient number of ineligible absentee ballots were counted;
9. A declaratory judgment declaring absentee ballot fraud occurred in violation of Constitutional rights, Election laws and under state law;
10. A permanent injunction prohibiting the Governor and Secretary of State from transmitting the currently certified results to the Electoral College based on the overwhelming evidence of election tampering;
11. Immediate production of 48 hours of security camera recordings of all voting central count facilities and processes in Milwaukee and Dane Counties for November 3, 2020 and November 4, 2020.
12. Plaintiff further requests the Court grant such other relief as is just and proper, including but not limited to, the costs of this action and his reasonable attorney fees and expenses pursuant to 42 U.S.C. 1988.

Respectfully submitted, this 3<sup>rd</sup> day of December, 2020.

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**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID  
HOOPER and DAREN WADE RUBINGH,**

**CASE NO. 20-cv-13134**

**Plaintiffs**

**v.**

**GRETCHEN WHITMER, in her official capacity  
as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, the Michigan  
BOARD OF STATE CANVASSERS,**

**Defendants.**

**PLAINTIFFS' RESPONSES TO INTERVENORS'  
SUBMISSION OF SUPPLEMENTAL AUTHORITY**

COMES NOW Plaintiffs, Timothy King, Marian Ellen Sheridan, John Earl Haggard, Charles James Ritchard, James David Hooper, and Daren Wade Rubingh, by and through their undersigned counsel, and file this Response to Intervenor's Motion for Submission of Additional Authority.

Intervenor's submit two newspaper articles that offer no admissible or probative evidence relevant to this case. With regard to the issues raised by the Detroit Free Press, Mr. Ramsland already responded to the same points raised by defendant's expert, Dr. Rodden, and stands by his conclusions. (See Ramsland Reply Report, Docket No 49, Ex. 3 at par 6). The article brings nothing to light that isn't already before the court. Further the article incorrectly claims that

there is no Spring Lake Township, Precinct 6. Maybe the reporter should tell that to the people recorded as voting there. See below from state voting records.

Spring Lake Township, Precinct 6 - B	Regent of the University of Michigan - 2 Positions	Shauna Ryder Diggs	DEM	4	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Regent of the University of Michigan - 2 Positions	Mark Bernstein	DEM	6	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Regent of the University of Michigan - 2 Positions	Eric Larson	LIB	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Regent of the University of Michigan - 2 Positions	Sarah Hubbard	REP	5	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Regent of the University of Michigan - 2 Positions	Carl Meyers	REP	6	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	REGISTERED VOTERS - TOTAL	REGISTERED VOTERS - TOTAL	NON	10	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in Congress 2nd District - 1 Position	Jean-Michel Creviere	GRN	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in Congress 2nd District - 1 Position	Max Riecke	LIB	1	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in Congress 2nd District - 1 Position	Gerald T. Van Sickle	UST	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in Congress 2nd District - 1 Position	Bryan Berghoef	DEM	5	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in Congress 2nd District - 1 Position	Bill Huizenga	REP	6	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in State Legislature 89th District - 1 Position	Anita Marie Brown	DEM	4	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Representative in State Legislature 89th District - 1 Position	Jim Lilly	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Spring Lake Public Schools Operating Millage	No		0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Spring Lake Public Schools Operating Millage	Yes		9	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	State Proposal 2020-1	No		3	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	State Proposal 2020-1	Yes		7	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	State Proposal 2020-2	No		0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	State Proposal 2020-2	Yes		11	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Natural Law Party	NLP	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Green Party	GRN	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	U.S. Taxpayers Party	UST	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Libertarian Party	LIB	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Working Class Party	WCP	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Democratic Party	DEM	2	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Straight Party Ticket - 1 Position	Republican Party	REP	3	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Supervisor - Spring Lake - 1 Position	John. H. Nash	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Treasurer - Spring Lake - 1 Position	James Koster	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee - Spring Lake - 4 Positions	Jerry L. Rabideau	REP	9	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee - Spring Lake - 4 Positions	Catherine A. Pavick	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee - Spring Lake - 4 Positions	Ernie Petrus	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee - Spring Lake - 4 Positions	Rachel L. Terpstra	REP	8	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Brandon Hu	GRN	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Robin Lea Laurain	GRN	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Will Tyler White	LIB	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Bridgette Abraham-Guzman	NLP	1	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Pat O'Keefe	REP	6	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Tonya Schultmaker	REP	5	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	John Paul Sangi	UST	0	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Janet M. Sanger	UST	1	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Brian Mosallam	DEM	4	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	Trustee of Michigan State University - 2 Positions	Rema	DEM	5	11-30-20 12:27
Spring Lake Township, Precinct 6 - B	United States Senator - 1 Position	Leona		0	11-30-20 12:27

The second article from the Associated Press makes no mention of any evidence presented here. Intervenors' submission is nothing more than a desperate attempt to discredit Mr. Ramsland's opinions where their experts have failed.

Respectfully submitted, this 6th day of December, 2020.

/s/ Sidney Powell\*  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIMOTHY KING, MARIAN ELLEN  
SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD,  
JAMES DAVID HOOPER, and  
DAREN WADE RUBINGH,

Plaintiffs,

v.

Civil Case No. 20-13134  
Honorable Linda V. Parker

GRETCHEN WHITMER, in her official  
capacity as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as  
Michigan Secretary of State, and MICHIGAN  
BOARD OF STATE CANVASSERS,

Defendants,

and

CITY OF DETROIT, DEMOCRATIC  
NATIONAL COMMITTEE and  
MICHIGAN DEMOCRATIC PARTY, and  
ROBERT DAVIS,

Intervenor-Defendants.

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**OPINION AND ORDER DENYING PLAINTIFFS' "EMERGENCY  
MOTION FOR DECLARATORY, EMERGENCY, AND PERMANENT  
INJUNCTIVE RELIEF" (ECF NO. 7)**

The right to vote is among the most sacred rights of our democracy and, in  
turn, uniquely defines us as Americans. The struggle to achieve the right to vote is

one that has been both hard fought and cherished throughout our country's history. Local, state, and federal elections give voice to this right through the ballot. And elections that count each vote celebrate and secure this cherished right.

These principles are the bedrock of American democracy and are widely revered as being woven into the fabric of this country. In Michigan, more than 5.5 million citizens exercised the franchise either in person or by absentee ballot during the 2020 General Election. Those votes were counted and, as of November 23, 2020, certified by the Michigan Board of State Canvassers (also "State Board"). The Governor has sent the slate of Presidential Electors to the Archivist of the United States to confirm the votes for the successful candidate.

Against this backdrop, Plaintiffs filed this lawsuit, bringing forth claims of widespread voter irregularities and fraud in the processing and tabulation of votes and absentee ballots. They seek relief that is stunning in its scope and breathtaking in its reach. If granted, the relief would disenfranchise the votes of the more than 5.5 million Michigan citizens who, with dignity, hope, and a promise of a voice, participated in the 2020 General Election. The Court declines to grant Plaintiffs this relief.

## **I. Background**

In the weeks leading up to, and on, November 3, 2020, a record 5.5 million Michiganders voted in the presidential election ("2020 General Election"). (ECF

No. 36-4 at Pg ID 2622.) Many of those votes were cast by absentee ballot. This was due in part to the coronavirus pandemic and a ballot measure the Michigan voters passed in 2018 allowing for no-reason absentee voting. When the polls closed and the votes were counted, Former Vice President Joseph R. Biden, Jr. had secured over 150,000 more votes than President Donald J. Trump in Michigan.

*(Id.)*

Michigan law required the Michigan State Board of Canvassers to canvass results of the 2020 General Election by November 23, 2020. Mich. Comp. Laws § 168.842. The State Board did so by a 3-0 vote, certifying the results “for the Electors of President and Vice President,” among other offices. (ECF No. 36-5 at Pg ID 2624.) That same day, Governor Gretchen Whitmer signed the Certificates of Ascertainment for the slate of electors for Vice President Biden and Senator Kamala D. Harris. (ECF No. 36-6 at Pg ID 2627-29.) Those certificates were transmitted to and received by the Archivist of the United States. *(Id.)*

Federal law provides that if election results are contested in any state, and if the state, prior to election day, has enacted procedures to decide controversies or contests over electors and electoral votes, and if these procedures have been applied, and the decisions are made at least six days before the electors’ meetings, then the decisions are considered conclusive and will apply in counting the electoral votes. 3 U.S.C. § 5. This date (the “Safe Harbor” deadline) falls on

December 8, 2020. Under the federal statutory timetable for presidential elections, the Electoral College must meet on “the first Monday after the second Wednesday in December,” 3 U.S.C. § 7, which is December 14 this year.

Alleging widespread fraud in the distribution, collection, and counting of ballots in Michigan, as well as violations of state law as to certain election challengers and the manipulation of ballots through corrupt election machines and software, Plaintiffs filed the current lawsuit against Defendants at 11:48 p.m. on November 25, 2020—the eve of the Thanksgiving holiday. (ECF No. 1.) Plaintiffs are registered Michigan voters and nominees of the Republican Party to be Presidential Electors on behalf of the State of Michigan. (ECF No. 6 at Pg ID 882.) They are suing Governor Whitmer and Secretary of State Jocelyn Benson in their official capacities, as well as the Michigan Board of State Canvassers.

On November 29, a Sunday, Plaintiffs filed a First Amended Complaint (ECF No. 6), “Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief and Memorandum in Support Thereof” (ECF No. 7), and Emergency Motion to Seal (ECF No. 8). In their First Amended Complaint, Plaintiffs allege three claims pursuant to 42 U.S.C. § 1983: (Count I) violation of the Elections and Electors Clauses; (Count II) violation of the Fourteenth Amendment Equal Protection Clause; and, (Count III) denial of the Fourteenth

Amendment Due Process Clause. (ECF No. 6.) Plaintiffs also assert one count alleging violations of the Michigan Election Code. (*Id.*)

By December 1, motions to intervene had been filed by the City of Detroit (ECF No. 15), Robert Davis (ECF No. 12), and the Democratic National Committee and Michigan Democratic Party (“DNC/MDP”) (ECF No. 14). On that date, the Court entered a briefing schedule with respect to the motions. Plaintiffs had not yet served Defendants with their pleading or emergency motions as of December 1. Thus, on December 1, the Court also entered a text-only order to hasten Plaintiffs’ actions to bring Defendants into the case and enable the Court to address Plaintiffs’ pending motions. Later the same day, after Plaintiffs filed certificates of service reflecting service of the summons and Amended Complaint on Defendants (ECF Nos. 21), the Court entered a briefing schedule with respect to Plaintiffs’ emergency motions, requiring response briefs by 8:00 p.m. on December 2, and reply briefs by 8:00 p.m. on December 3 (ECF No. 24).

On December 2, the Court granted the motions to intervene. (ECF No. 28.) Response and reply briefs with respect to Plaintiffs’ emergency motions were thereafter filed. (ECF Nos. 29, 31, 32, 34, 35, 36, 37, 39, 49, 50.) Amicus curiae Michigan State Conference NAACP subsequently moved and was granted leave to file a brief in support of Defendants’ position. (ECF Nos. 48, 55.) Supplemental briefs also were filed by the parties. (ECF Nos. 57, 58.)

In light of the limited time allotted for the Court to resolve Plaintiffs’ emergency motion for injunctive relief—which Plaintiffs assert “must be granted in advance of December 8, 2020” (ECF No. 7 at Pg ID 1846)—the Court has disposed of oral argument with respect to their motion pursuant to Eastern District of Michigan Local Rule 7.1(f).<sup>1</sup>

## II. Standard of Review

A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) (citation omitted). The plaintiff bears the burden of demonstrating entitlement to preliminary injunctive relief. *Leary v. Daeschner*, 228 F.3d 729, 739 (6th Cir. 2000). Such relief will only be granted where “the movant carries his or her burden of proving that the circumstances clearly demand it.” *Overstreet v. Lexington-Fayette Urban Cnty. Gov’t*, 305 F.3d 566, 573 (6th Cir. 2002). “Evidence that goes beyond the unverified allegations of the pleadings and motion papers must be presented to

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<sup>1</sup> “[W]here material facts are not in dispute, or where facts in dispute are not material to the preliminary injunction sought, district courts generally need not hold an evidentiary hearing.” *Nexus Gas Transmission, LLC v. City of Green, Ohio*, 757 Fed. Appx. 489, 496-97 (6th Cir. 2018) (quoting *Certified Restoration Dry Cleaning Network, LLC v. Tenke Corp.*, 511 F.3d 535, 553 (6th Cir. 2007)) (citation omitted).

support or oppose a motion for a preliminary injunction.” 11A Mary Kay Kane, Fed. Prac. & Proc. § 2949 (3d ed.).

Four factors are relevant in deciding whether to grant preliminary injunctive relief: ““(1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury absent the injunction; (3) whether the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of an injunction.”” *Daunt v. Benson*, 956 F.3d 396, 406 (6th Cir. 2020) (quoting *Bays v. City of Fairborn*, 668 F.3d 814, 818-19 (6th Cir. 2012)). “At the preliminary injunction stage, ‘a plaintiff must show more than a mere possibility of success,’ but need not ‘prove his case in full.’” *Ne. Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 591 (6th Cir. 2012) (quoting *Certified Restoration Dry Cleaning Network, LLC v. Tenke Corp.*, 511 F.3d 535, 543 (6th Cir. 2007)). Yet, “the proof required for the plaintiff to obtain a preliminary injunction is much more stringent than the proof required to survive a summary judgment motion ....” *Leary*, 228 F.3d at 739.

### **III. Discussion**

The Court begins by discussing those questions that go to matters of subject matter jurisdiction or which counsel against reaching the merits of Plaintiffs’ claims. While the Court finds that any of these issues, alone, indicate that Plaintiffs’ motion should be denied, it addresses each to be thorough.

### A. Eleventh Amendment Immunity

The Eleventh Amendment to the United States Constitution provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

U.S. Const. amend. XI. This immunity extends to suits brought by citizens against their own states. *See, e.g., Ladd v. Marchbanks*, 971 F.3d 574, 578 (6th Cir. 2020) (citing *Hans v. Louisiana*, 134 U.S. 1, 18-19 (1890)). It also extends to suits against state agencies or departments, *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) (citations omitted), and “suit[s] against state officials when ‘the state is the real, substantial party in interest[,]’” *id.* at 101 (quoting *Ford Motor Co. v. Dep’t of Treasury*, 323 U.S. 459, 464 (1945)).

A suit against a State, a state agency or its department, or a state official is in fact a suit against the State and is barred “regardless of the nature of the relief sought.” *Pennhurst State Sch. & Hosp.*, 465 U.S. at 100-02 (citations omitted). “‘The general rule is that a suit is against the sovereign if the judgment sought would expend itself on the public treasury or domain, or interfere with the public administration, or if the effect of the judgment would be to restrain the Government from acting, or to compel it to act.’” *Id.* at 101 n.11 (quoting *Dugan v. Rank*, 372 U.S. 609, 620 (1963)) (internal quotation marks omitted).

Eleventh Amendment immunity is subject to three exceptions: (1) congressional abrogation; (2) waiver by the State; and (3) “a suit against a state official seeking prospective injunctive relief to end a continuing violation of federal law.” *See Carten v. Kent State Univ.*, 282 F.3d 391, 398 (6th Cir. 2002) (citations omitted). Congress did not abrogate the States’ sovereign immunity when it enacted 42 U.S.C. § 1983. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 66 (1989). “The State of Michigan has not consented to being sued in civil rights actions in the federal courts.” *Johnson v. Unknown Dellatifa*, 357 F.3d 539, 545 (6th Cir. 2004) (citing *Abick v. Michigan*, 803 F.2d 874, 877 (6th Cir. 1986)). The Eleventh Amendment therefore bars Plaintiffs’ claims against the Michigan Board of State Canvassers. *See McLeod v. Kelly*, 7 N.W.2d 240, 242 (Mich. 1942) (“The board of State canvassers is a State agency ...”); *see also Deleeuw v. State Bd. of Canvassers*, 688 N.W.2d 847, 850 (Mich. Ct. App. 2004). Plaintiffs’ claims are barred against Governor Whitmer and Secretary Benson unless the third exception applies.

The third exception arises from the Supreme Court’s decision in *Ex parte Young*, 209 U.S. 123 (1908). But as the Supreme Court has advised:

To interpret *Young* to permit a federal-court action to proceed in every case where prospective declaratory and injunctive relief is sought against an officer, named in his individual capacity, would be to adhere to an empty formalism and to undermine the principle ... that Eleventh Amendment immunity represents a real

limitation on a federal court's federal-question jurisdiction. The real interests served by the Eleventh Amendment are not to be sacrificed to elementary mechanics of captions and pleading. Application of the *Young* exception must reflect a proper understanding of its role in our federal system and respect for state courts instead of a reflexive reliance on an obvious fiction.

*Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 270 (1997). Further, “the theory of *Young* has not been provided an expansive interpretation.” *Pennhurst State Sch. & Hosp.*, 465 U.S. at 102. ““In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.”” *Verizon Md., Inc. v. Pub. Serv. Comm'n*, 535 U.S. 635, 645 (2002) (quoting *Coeur d'Alene Tribe of Idaho*, 521 U.S. 296 (O'Connor, J., concurring)).

*Ex parte Young* does not apply, however, to *state law* claims against state officials, regardless of the relief sought. *Pennhurst State Sch. & Hosp.*, 465 U.S. at 106 (“A federal court's grant of relief against state officials on the basis of state law, whether prospective or retroactive, does not vindicate the supreme authority of federal law. On the contrary, it is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law.”); *see also In re Ohio Execution Protocol Litig.*, 709 F. App'x 779, 787 (6th Cir. 2017) (“If the plaintiff sues a state official under state law

in federal court for actions taken within the scope of his authority, sovereign immunity bars the lawsuit regardless of whether the action seeks monetary or injunctive relief.”). Unquestionably, Plaintiffs’ state law claims against Defendants are barred by Eleventh Amendment immunity.

The Court then turns its attention to Plaintiffs’ § 1983 claims against Defendants. Defendants and Intervenor DNC/MDP contend that these claims are not in fact federal claims as they are premised entirely on alleged violations of *state* law. (ECF No. 31 at Pg ID 2185 (“Here, each count of Plaintiffs’ complaint—even Counts I, II, and III, which claim to raise violations of federal law—is predicated on the election being conducted contrary to Michigan law.”); ECF No. 36 at Pg ID 2494 (“While some of [Plaintiffs’] allegations concern fantastical conspiracy theories that belong more appropriately in the fact-free outer reaches of the Internet[,] ... what Plaintiffs assert at bottom are violations of the Michigan Election Code.”) Defendants also argue that even if properly stated as federal causes of action, “it is far from clear whether Plaintiffs’ requested injunction is actually prospective in nature, as opposed to retroactive.” (ECF No. 31 at Pg ID 2186.)

The latter argument convinces this Court that *Ex parte Young* does not apply. As set forth earlier, “[i]n order to fall with the *Ex parte Young* exception, a claim must seek prospective relief to end a continuing violation of federal law.”

*Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1047 (6th Cir. 2015) (quoting *Diaz v. Mich. Dep't of Corr.*, 703 F.3d 956, 964 (6th Cir. 2013)). Unlike *Russell*, which Plaintiffs cite in their reply brief, this is not a case where a plaintiff is seeking to enjoin the continuing enforcement of a statute that is allegedly unconstitutional. *See id.* at 1044, 1047 (plaintiff claimed that Kentucky law creating a 300-foot no-political-speech buffer zone around polling location violated his free-speech rights). Instead, Plaintiffs are seeking to undo what has already occurred, as their requested relief reflects.<sup>2</sup> (*See* ECF No. 7 at Pg ID 1847; *see also* ECF No. 6 at Pg 955-56.)

Before this lawsuit was filed, the Michigan Board of State Canvassers had already certified the election results and Governor Whitmer had transmitted the State's slate of electors to the United States Archivist. (ECF Nos. 31-4, 31-5.) There is no continuing violation to enjoin. *See Rios v. Blackwell*, 433 F. Supp. 2d 848 (N.D. Ohio Feb. 7, 2006); *see also King Lincoln Bronzeville Neighborhood Ass'n v. Husted*, No. 2:06-cv-00745, 2012 WL 395030, at \*4-5 (S.D. Ohio Feb. 7, 2012); *cf. League of Women Voters of Ohio v. Brunner*, 548 F.3d 463, 475 (6th Cir. 2008) (finding that the plaintiff's claims fell within the *Ex parte Young* doctrine

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<sup>2</sup> To the extent Plaintiffs ask the Court to certify the results in favor of President Donald J. Trump, such relief is beyond its powers.

where it alleged that the problems that plagued the election “are chronic and will continue absent injunctive relief”).

For these reasons, the Court concludes that the Eleventh Amendment bars Plaintiffs’ claims against Defendants.

**B. Mootness**

This case represents well the phrase: “this ship has sailed.” The time has passed to provide most of the relief Plaintiffs request in their Amended Complaint; the remaining relief is beyond the power of any court. For those reasons, this matter is moot.

“Under Article III of the Constitution, federal courts may adjudicate only actual, ongoing cases or controversies.” *Kentucky v. U.S. ex rel. Hagel*, 759 F.3d 588, 595 (6th Cir. 2014) (quoting *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 477 (1990)). A case may become moot “when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388, 396, 410 (1980) (internal quotation marks and citation omitted). Stated differently, a case is moot where the court lacks “the ability to give meaningful relief[.]” *Sullivan v. Benningfield*, 920 F.3d 401, 410 (6th Cir. 2019). This lawsuit was moot well before it was filed on November 25.

In their prayer for relief, Plaintiffs ask the Court to: (a) order Defendants to decertify the results of the election; (b) enjoin Secretary Benson and Governor

Whitmer from transmitting the certified election results to the Electoral College; (c) order Defendants “to transmit certified election results that state that President Donald Trump is the winner of the election”; (d) impound all voting machines and software in Michigan for expert inspection; (e) order that no votes received or tabulated by machines not certified as required by federal and state law be counted; and, (f) enter a declaratory judgment that mail-in and absentee ballot fraud must be remedied with a manual recount or statistically valid sampling.<sup>3</sup> (ECF No. 6 at Pg ID 955-56, ¶ 233.) What relief the Court could grant Plaintiffs is no longer available.

Before this lawsuit was filed, all 83 counties in Michigan had finished canvassing their results for all elections and reported their results for state office races to the Secretary of State and the Michigan Board of State Canvassers in accordance with Michigan law. *See Mich. Comp. Laws § 168.843.* The State Board had certified the results of the 2020 General Election and Governor Whitmer had submitted the slate of Presidential Electors to the Archivists. (ECF

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<sup>3</sup> Plaintiffs also seek an order requiring the impoundment of all voting machines and software in Michigan for expert inspection and the production of security camera footage from the TCF Center for November 3 and 4. (ECF No. 6 at Pg ID 956, ¶ 233.) This requested relief is not meaningful, however, where the remaining requests are no longer available. In other words, the evidence Plaintiffs seek to gather by inspecting voting machines and software and security camera footage only would be useful if an avenue remained open for them to challenge the election results.

No. 31-4 at Pg ID 2257-58; ECF No. 31-5 at Pg ID 2260-63.) The time for requesting a special election based on mechanical errors or malfunctions in voting machines had expired. *See* Mich. Comp. Laws §§ 168.831, 168.832 (petitions for special election based on a defect or mechanical malfunction must be filed “no later than 10 days after the date of the election”). And so had the time for requesting a recount for the office of President. *See* Mich. Comp. Laws § 168.879.

The Michigan Election Code sets forth detailed procedures for challenging an election, including deadlines for doing so. Plaintiffs did not avail themselves of the remedies established by the Michigan legislature. The deadline for them to do so has passed. Any avenue for this Court to provide meaningful relief has been foreclosed. As the Eleventh Circuit Court of Appeals recently observed in one of the many other post-election lawsuits brought to specifically overturn the results of the 2020 presidential election:

“We cannot turn back the clock and create a world in which” the 2020 election results are not certified.  
*Fleming v. Gutierrez*, 785 F.3d 442, 445 (10th Cir. 2015).  
And it is not possible for us to delay certification nor meaningful to order a new recount when the results are already final and certified.

*Wood v. Raffensperger*, -- F.3d --, 2020 WL 7094866 (11th Cir. Dec. 5, 2020).

And as one Justice of the Supreme Court of Pennsylvania advised in another 2020 post-election lawsuit: “there is no basis in law by which the courts may grant Petitioners’ request to ignore the results of an election and recommit the choice to

the General Assembly to substitute its preferred slate of electors for the one chosen by a majority of Pennsylvania's voters." *Kelly v. Commonwealth*, No. 68 MAP 2020, 2020 WL 7018314, at \*3 (Pa. Nov. 28, 2020) (Wecht, J., concurring); *see also Wood v. Raffensperger*, No. 1:20-cv-04651, 2020 WL 6817513, at \*13 (N.D. Ga. Nov. 20, 2020) (concluding that "interfer[ing] with the result of an election that has already concluded would be unprecedented and harm the public in countless ways").

In short, Plaintiffs' requested relief concerning the 2020 General Election is moot.

### **C. Laches**

Defendants argue that Plaintiffs are unlikely to succeed on the merits because they waited too long to knock on the Court's door. (ECF No. 31 at Pg ID 2175-79; ECF No. 39 at Pg ID 2844.) The Court agrees.

The doctrine of laches is rooted in the principle that "equity aids the vigilant, not those who slumber on their rights." *Lucking v. Schram*, 117 F.2d 160, 162 (6th Cir. 1941); *see also United States v. Clintwood Elkhorn Min. Co.*, 553 U.S. 1, 9 (2008) ("A constitutional claim can become time-barred just as any other claim can."). An action may be barred by the doctrine of laches if: (1) the plaintiff delayed unreasonably in asserting his rights and (2) the defendant is prejudiced by this delay. *Brown-Graves Co. v. Central States, Se. and Sw. Areas Pension Fund*,

206 F.3d 680, 684 (6th Cir. 2000); *Ottawa Tribe of Oklahoma v. Logan*, 577 F.3d 634, 639 n.6 (6th Cir. 2009) (“Laches arises from an extended failure to exercise a right to the detriment of another party.”). Courts apply laches in election cases. *Detroit Unity Fund v. Whitmer*, 819 F. App’x 421, 422 (6th Cir. 2020) (holding that the district court did not err in finding plaintiff’s claims regarding deadline for local ballot initiatives “barred by laches, considering the unreasonable delay on the part of [p]laintiffs and the consequent prejudice to [d]efendants”). *Cf. Benisek v. Lamone*, 138 S. Ct. 1942, 1944 (2018) (“[A] party requesting a preliminary injunction must generally show reasonable diligence. That is as true in election law cases as elsewhere.”).

First, Plaintiffs showed no diligence in asserting the claims at bar. They filed the instant action on November 25—more than 21 days after the 2020 General Election—and served it on Defendants some five days later on December 1. (ECF Nos. 1, 21.) If Plaintiffs had legitimate claims regarding whether the treatment of election challengers complied with state law, they could have brought their claims well in advance of or on Election Day—but they did not. Michigan’s 83 Boards of County Canvassers finished canvassing by no later than November 17 and, on November 23, both the Michigan Board of State Canvassers and Governor Whitmer certified the election results. Mich. Comp. Laws §§ 168.822, 168.842.0. If Plaintiffs had legitimate claims regarding the manner by which

ballots were processed and tabulated on or after Election Day, they could have brought the instant action on Election Day or during the weeks of canvassing that followed—yet they did not. Plaintiffs base the claims related to election machines and software on “expert and fact witness” reports discussing “glitches” and other alleged vulnerabilities that occurred as far back as 2010. (*See e.g.*, ECF No. 6 at Pg ID 927-933, ¶¶ 157(C)-(E), (G), 158, 160, 167.) If Plaintiffs had legitimate concerns about the election machines and software, they could have filed this lawsuit well before the 2020 General Election—yet they sat back and did nothing.

Plaintiffs proffer no persuasive explanation as to why they waited so long to file this suit. Plaintiffs concede that they “would have preferred to file sooner, but [] needed some time to gather statements from dozens of fact witnesses, retain and engage expert witnesses, and gather other data supporting their Complaint.” (ECF No. 49 at Pg ID 3081.) But according to Plaintiffs themselves, “[m]anipulation of votes was apparent *shortly after the polls closed on November 3, 2020.*” (ECF No. 7 at Pg ID 1837 (emphasis added).) Indeed, where there is no reasonable explanation, there can be no true justification. *See Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016) (identifying the “first and most essential” reason to issue a stay of an election-related injunction is plaintiff offering “no reasonable explanation for waiting so long to file this action”). Defendants satisfy the first element of their laches defense.

Second, Plaintiffs' delay prejudices Defendants. *See Kay v. Austin*, 621 F.2d 809, 813 (6th Cir. 1980) ("As time passes, the state's interest in proceeding with the election increases in importance as resources are committed and irrevocable decisions are made, and the candidate's claim to be a serious candidate who has received a serious injury becomes less credible by his having slept on his rights.") This is especially so considering that Plaintiffs' claims for relief are not merely last-minute—they are after the fact. While Plaintiffs delayed, the ballots were cast; the votes were counted; and the results were certified. The rationale for interposing the doctrine of laches is now at its peak. *See McDonald v. Cnty. of San Diego*, 124 F. App'x 588 (9th Cir. 2005) (citing *Soules v. Kauaians for Nukolii Campaign Comm.*, 849 F.2d 1176, 1180 (9th Cir. 1988)); *Soules*, 849 F.2d at 1180 (quoting *Hendon v. N.C. State Bd. Of Elections*, 710 F.2d 177, 182 (4th Cir. 1983)) (applying doctrine of laches in post-election lawsuit because doing otherwise would, "permit, if not encourage, parties who could raise a claim to lay by and gamble upon receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in a court action").

Plaintiffs could have lodged their constitutional challenges much sooner than they did, and certainly not three weeks after Election Day and one week after certification of almost three million votes. The Court concludes that Plaintiffs' delay results in their claims being barred by laches.

#### **D. Abstention**

As outlined in several filings, when the present lawsuit was filed on November 25, 2020, there already were multiple lawsuits pending in Michigan state courts raising the same or similar claims alleged in Plaintiffs' Amended Complaint. (*See, e.g.*, ECF No. 31 at Pg ID 2193-98 (summarizing five state court lawsuits challenging President Trump's defeat in Michigan's November 3, 2020 General Election).) Defendants and the City of Detroit urge the Court to abstain from deciding Plaintiffs' claims in deference to those proceedings under various abstention doctrines. (*Id.* at Pg ID 2191-2203; ECF No. 39 at Pg ID 2840-44.) Defendants rely on the abstention doctrine outlined by the Supreme Court in *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976). The City of Detroit relies on the abstention doctrines outlined in *Colorado River*, as well as those set forth in *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496, 500-01 (1941), and *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943). The City of Detroit maintains that abstention is particularly appropriate when resolving election disputes in light of the autonomy provided to state courts to initially settle such disputes.

The abstention doctrine identified in *Colorado River* permits a federal court to abstain from exercising jurisdiction over a matter in deference to parallel state-court proceedings. *Colorado River*, 424 U.S. at 813, 817. The exception is found

warranted “by considerations of ‘proper constitutional adjudication,’ ‘regard for federal-state relations,’ or ‘wise judicial administration.’” *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 716 (1996) (quoting *Colorado River*, 424 U.S. at 817). The Sixth Circuit has identified two prerequisites for abstention under this doctrine. *Romine v. Compuserve Corp.*, 160 F.3d 337, 339-40 (6th Cir. 1998).

First, the court must determine that the concurrent state and federal actions are parallel. *Id.* at 339. Second, the court must consider the factors outlined by the Supreme Court in *Colorado River* and subsequent cases:

(1) whether the state court has assumed jurisdiction over any res or property; (2) whether the federal forum is less convenient to the parties; (3) avoidance of piecemeal litigation; ... (4) the order in which jurisdiction was obtained; ... (5) whether the source of governing law is state or federal; (6) the adequacy of the state court action to protect the federal plaintiff’s rights; (7) the relative progress of the state and federal proceedings; and (8) the presence or absence of concurrent jurisdiction.

*Romine*, 160 F.3d at 340-41 (internal citations omitted). “These factors, however, do not comprise a mechanical checklist. Rather, they require ‘a careful balancing of the important factors as they apply in a give[n] case’ depending on the particular facts at hand.” *Id.* (quoting *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 16 (1983)).

As summarized in Defendants’ response brief and reflected in their exhibits (see ECF No. 31 at Pg ID 2193-97; see also ECF Nos. 31-7, 31-9, 31-11, 31-12,

31-14), the allegations and claims in the state court proceedings and the pending matter are, at the very least, substantially similar, *Romine*, 160 F.3d at 340 (“Exact parallelism is not required; it is enough if the two proceedings are substantially similar.” (internal quotation marks and citation omitted)). A careful balancing of the factors set forth by the Supreme Court counsel in favor of deferring to the concurrent jurisdiction of the state courts.

The first and second factor weigh against abstention. *Id.* (indicating that the weight is against abstention where no property is at issue and neither forum is more or less convenient). While the Supreme Court has stated that “the presence of federal law issues must always be a major consideration weighing against surrender of federal jurisdiction in deference to state proceedings[,]” *id.* at 342 (quoting *Moses H. Cone*, 460 U.S. at 26), this “factor has less significance where the federal courts’ jurisdiction to enforce the statutory rights in question is concurrent with that of the state courts.”<sup>4</sup> *Id.* (quoting *Moses H. Cone*, 460 U.S. at 25). Moreover, the Michigan Election Code seems to dominate even Plaintiffs’ federal claims. Further, the remaining factors favor abstention.

“Piecemeal litigation occurs when different courts adjudicate the identical issue, thereby duplicating judicial effort and potentially rendering conflicting

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<sup>4</sup> State courts have concurrent jurisdiction over § 1983 actions. *Felder v. Casey*, 487 U.S. 131, 139 (1988).

results.” *Id.* at 341. The parallel proceedings are premised on similar factual allegations and many of the same federal and state claims. The state court proceedings were filed well before the present matter and at least three of those matters are far more advanced than this case. Lastly, as Congress conferred concurrent jurisdiction on state courts to adjudicate § 1983 claims, *Felder v. Casey*, 487 U.S. 131, 139 (1988), “[t]here can be no legitimate contention that the [Michigan] state courts are incapable of safeguarding [the rights protected under this statute],” *Romine*, 160 F.3d at 342.

For these reasons, abstention is appropriate under the *Colorado River* doctrine. The Court finds it unnecessary to decide whether abstention is appropriate under other doctrines.

### **E. Standing**

Under Article III of the United States Constitution, federal courts can resolve only “cases” and “controversies.” U.S. Const. art. III § 2. The case-or-controversy requirement is satisfied only where a plaintiff has standing to bring suit. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016), *as revised* (May 24, 2016). Each plaintiff must demonstrate standing for each claim he seeks to press.<sup>5</sup>

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<sup>5</sup> Plaintiffs assert a due process claim in their Amended Complaint and twice state in their motion for injunctive relief that Defendants violated their due process rights. (*See* ECF No. 7 at Pg ID 1840, 1844.) Plaintiffs do not pair either statement with anything the Court could construe as a developed argument. (*Id.*) The Court finds it unnecessary, therefore, to further discuss the due process claim.

*DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006) (citation omitted) (“[A] plaintiff must demonstrate standing separately for each form of relief sought.”).

To establish standing, a plaintiff must show that: (1) he has suffered an injury in fact that is “concrete and particularized” and “actual or imminent”; (2) the injury is “fairly . . . trace[able] to the challenged action of the defendant”; and (3) it is “likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-62 (1992) (internal quotation marks and citations omitted).

### **1. Equal Protection Claim**

Plaintiffs allege that Defendants engaged in “several schemes” to, among other things, “destroy,” “discard,” and “switch” votes for President Trump, thereby “devalu[ing] Republican votes” and “diluting” the influence of their individual votes. (ECF No. 49 at Pg ID 3079.) Plaintiffs contend that “the vote dilution resulting from this systemic and illegal conduct did not affect all Michigan voters equally; it had the intent and effect of inflating the number of votes for Democratic candidates and reducing the number of votes for President Trump and Republican candidates.” (ECF No. 49 at Pg ID 3079.) Even assuming that Plaintiffs establish

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*McPherson v. Kelsey*, 125 F.3d 989, 995 (6th Cir. 1997) (“Issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.”).

injury-in-fact and causation under this theory,<sup>6</sup> their constitutional claim cannot stand because Plaintiffs fall flat when attempting to clear the hurdle of redressability.

Plaintiffs fail to establish that the alleged injury of vote-dilution can be redressed by a favorable decision from this Court. Plaintiffs ask this Court to decertify the results of the 2020 General Election in Michigan. But an order decertifying the votes of approximately 2.8 million people would not reverse the dilution of Plaintiffs' vote. To be sure, standing is not "dispensed in gross: A plaintiff's remedy must be tailored to redress the plaintiff's particular injury." *Gill*, 138 S. Ct. at 1934 (citing *Cuno*, 547 U.S. at 353); *Cuno*, 547 U.S. at 353 ("The remedy must of course be limited to the inadequacy that produced the injury in fact that the plaintiff has established." (quoting *Lewis v. Casey*, 518 U.S. 343, 357 (1996))). Plaintiffs' alleged injury does not entitle them to seek their requested remedy because the harm of having one's vote invalidated or diluted is not remedied by denying millions of others *their* right to vote. Accordingly, Plaintiffs have failed to show that their injury can be redressed by the relief they seek and thus possess no standing to pursue their equal protection claim.

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<sup>6</sup> To be clear, the Court does not find that Plaintiffs satisfy the first two elements of the standing inquiry.

## 2. Elections Clause & Electors Clause Claims

The provision of the United States Constitution known as the Elections Clause states in part: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof[.]” U.S. Const. art. I, § 4, cl. 1. “The Elections Clause effectively gives state governments the ‘default’ authority to regulate the mechanics of federal elections, *Foster v. Love*, 522 U.S. 67, 69, 118 S. Ct. 464, 139 L.Ed.2d 369 (1997), with Congress retaining ‘exclusive control’ to ‘make or alter’ any state’s regulations, *Colegrove v. Green*, 328 U.S. 549, 554, 66 S. Ct. 1198, 90 L.Ed. 1432 (1946).” *Bognet*, 2020 WL 6686120, \*1. The “Electors Clause” of the Constitution states: “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors ....” U.S. Const. art. II, § 1, cl. 2.

Plaintiffs argue that, as “nominees of the Republican Party to be Presidential Electors on behalf of the State of Michigan, they have standing to allege violations of the Elections Clause and Electors Clause because “a vote for President Trump and Vice-President Pence in Michigan ... is a vote for each Republican elector[], and ... illegal conduct aimed at harming candidates for President similarly injures Presidential Electors.” (ECF No. 7 at Pg ID 1837-38; ECF No. 49 at Pg ID 3076-78.)

But where, as here, the only injury Plaintiffs have alleged is that the Elections Clause has not been followed, the United States Supreme Court has made clear that “[the] injury is precisely the kind of undifferentiated, generalized grievance about the conduct of government that [courts] have refused to countenance.”<sup>7</sup> *Lance v. Coffman*, 549 U.S. 437, 442 (2007). Because Plaintiffs “assert no particularized stake in the litigation,” Plaintiffs fail to establish injury-in-fact and thus standing to bring their Elections Clause and Electors Clause claims. *Id.*; see also *Johnson v. Bredesen*, 356 F. App’x 781, 784 (6th Cir. 2009) (citing *Lance*, 549 U.S. at 441-42) (affirming district court’s conclusion that citizens did not allege injury-in-fact to support standing for claim that the state of Tennessee violated constitutional law).

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<sup>7</sup> Although separate constitutional provisions, the Electors Clause and Elections Clause share “considerable similarity,” *Ariz. State Leg. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 839, (2015) (Roberts, C.J., dissenting), and Plaintiffs do not at all distinguish the two clauses in their motion for injunctive relief or reply brief (ECF No. 7; ECF No. 49 at Pg ID 3076-78). See also *Bognet v. Sec’y Commonwealth of Pa.*, No. 20-3214, 2020 WL 6686120, at \*7 (3d Cir. Nov. 13, 2020) (applying same test for standing under both Elections Clause and Electors Clause); *Wood*, 2020 WL 6817513, at \*1 (same); *Foster*, 522 U.S. at 69 (characterizing Electors Clause as Elections Clauses’ “counterpart for the Executive Branch”); *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 804-05 (1995) (noting that state’s “duty” under Elections Clause “parallels the duty” described by Electors Clause).

This is so because the Elections Clause grants rights to “the Legislature” of “each State.” U.S. Const. art. I, § 4, cl. 1. The Supreme Court interprets the words “the Legislature,” as used in that clause, to mean the lawmaking bodies of a state. *Ariz. State Legislature*, 135 S.Ct. at 2673. The Elections Clause, therefore, grants rights to state legislatures and to other entities to which a State may delegate lawmaking authority. *See id.* at 2668. Plaintiffs’ Elections Clause claims thus belong, if to anyone, Michigan’s state legislature. *Bognet v. Secy. Commonwealth of Pa.*, -- F.3d. --, 2020 WL 6686120, \*7 (3d Cir. Nov. 13, 2020). Plaintiffs here are six presidential elector nominees; they are not a part of Michigan’s lawmaking bodies nor do they have a relationship to them.

To support their contention that they have standing, Plaintiffs point to *Carson v. Simon*, 78 F.3d 1051 (8th Cir. 2020), a decision finding that electors had standing to bring challenges under the Electors Clause. (ECF No. 7 at Pg ID 1839 (citing *Carson*, 978 F.3d at 1057).) In that case, which was based on the specific content and contours of Minnesota state law, the Eighth Circuit Court of Appeals concluded that because “the plain text of Minnesota law treats prospective electors as candidates,” it too would treat presidential elector nominees as candidates. *Carson*, 78 F.3d at 1057. This Court, however, is as unconvinced about the majority’s holding in *Carson* as the dissent:

I am not convinced the Electors have Article III standing to assert claims under the Electors Clause. Although

Minnesota law at times refers to them as “candidates,” *see, e.g.*, Minn. Stat. § 204B.03 (2020), the Electors are not candidates for public office as that term is commonly understood. Whether they ultimately assume the office of elector depends entirely on the outcome of the state popular vote for president. *Id.* § 208.04 subdiv. 1 (“[A] vote cast for the party candidates for president and vice president shall be deemed a vote for that party’s electors.”). They are not presented to and chosen by the voting public for their office, but instead automatically assume that office based on the public’s selection of entirely different individuals.

78 F.3d at 1063 (Kelly, J., dissenting).<sup>8</sup>

Plaintiffs contend that the Michigan Election Code and relevant Minnesota law are similar. (See ECF No. 49 at Pg ID 3076-78.) Even if the Court were to

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<sup>8</sup> In addition, at least one Circuit Court, the Third Circuit Court of Appeals, has distinguished *Carson*’s holding, noting:

Our conclusion departs from the recent decision of an Eighth Circuit panel which, over a dissent, concluded that candidates for the position of presidential elector had standing under *Bond* to challenge a Minnesota state-court consent decree that effectively extended the receipt deadline for mailed ballots. . . . The *Carson* court appears to have cited language from *Bond* without considering the context—specifically, the Tenth Amendment and the reserved police powers—in which the U.S. Supreme Court employed that language. There is no precedent for expanding *Bond* beyond this context, and the *Carson* court cited none.

*Bognet*, 2020 WL 6686120, at \*8 n.6.

agree, it finds that Plaintiffs lack standing to sue under the Elections and Electors Clauses.

**F. The Merits of the Request for Injunctive Relief**

**1. Likelihood of Success on the Merits**

The Court may deny Plaintiffs' motion for injunctive relief for the reasons discussed above. Nevertheless, the Court will proceed to analyze the merits of their claims.

**a. Violation of the Elections & Electors Clauses**

Plaintiffs allege that Defendants violated the Elections Clause and Electors Clause by deviating from the requirements of the Michigan Election Code. (*See, e.g.*, ECF No. 6 at Pg ID 884-85, ¶¶ 36-40, 177-81, 937-38.) Even assuming Defendants did not follow the Michigan Election Code, Plaintiffs do not explain how or why such violations of state election procedures automatically amount to violations of the clauses. In other words, it appears that Plaintiffs' claims are in fact state law claims disguised as federal claims.

A review of Supreme Court cases interpreting these clauses supports this conclusion. In *Cook v. Gralike*, the Supreme Court struck down a Missouri law that required election officials to print warnings on the ballot next to the name of any congressional candidate who refused to support term limits after concluding that such a statute constituted a “‘regulation’ of congressional elections,” as used in

the Elections Clause. 531 U.S. 510, 525-26 (2001) (quoting U.S. Const. art. I, § 4, cl. 1). In *Arizona State Legislature v. Arizona Independent Redistricting Commission*, the Supreme Court upheld an Arizona law that transferred redistricting power from the state legislature to an independent commission after concluding that “the Legislature,” as used in the Elections Clause, includes any official body with authority to make laws for the state. 576 U.S. 787, 824 (2015). In each of these cases, federal courts measured enacted state election laws against the federal mandates established in the clauses—they did not measure *violations* of enacted state elections law against those federal mandates.

By asking the Court to find that they have made out claims under the clauses due to alleged violations of the Michigan Election Code, Plaintiffs ask the Court to find that any alleged deviation from state election law amounts to a modification of state election law and opens the door to federal review. Plaintiffs cite to no case—and this Court found none—supporting such an expansive approach.

**b. Violation of the Equal Protection Clause**

Most election laws will “impose some burden upon individual voters.” *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). But “[o]ur Constitution leaves no room for classification of people in a way that unnecessarily abridges this right [to vote].” *Reynolds v. Sims*, 377 U.S. 533, 559 (1964) (quoting *Wesberry v. Sanders*, 376 U.S. 1, 17-18 (1964)). Voting rights can be impermissibly burdened “by a

debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise.” *Id.* (quoting *Reynolds*, 377 U.S. at 555).

Plaintiffs attempt to establish an Equal Protection claim based on the theory that Defendants engaged in “several schemes” to, among other things, “destroy,” “discard,” and “switch” votes for President Trump, thereby “devalu[ing] Republican votes” and “diluting” the influence of their individual votes. (ECF No. 49 at Pg ID 3079.)

But, to be perfectly clear, Plaintiffs’ equal protection claim is not supported by any allegation that Defendants’ alleged schemes caused votes for President Trump to be changed to votes for Vice President Biden. For example, the closest Plaintiffs get to alleging that physical ballots were altered in such a way is the following statement in an election challenger’s sworn affidavit: “I believe some of these workers were changing votes that had been cast for Donald Trump and other Republican candidates.”<sup>9</sup> (ECF No. 6 at Pg ID 902 ¶ 91 (citing Aff. Articia

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<sup>9</sup> Plaintiffs allege in several portions of the Amended Complaint that election officials improperly tallied, counted, or marked ballots. But some of these allegations equivocate with words such as “believe” and “may” and none of these allegations identify which presidential candidate the ballots were allegedly altered to favor. (*See, e.g.*, ECF No. 6 at Pg ID 902, ¶ 91 (citing Aff. Articia Bomer, ECF No. 6-3 at Pg ID 1008-10 (“I *believe* some of these ballots *may* not have been properly counted.” (emphasis added))); Pg ID 902-03, ¶ 92 (citing Tyson Aff. ¶ 17) (“At least one challenger observed poll workers adding marks to a ballot where there was no mark for any candidate.”)).

Bomer, ECF No. 6-3 at Pg ID 1008-1010).) But of course, “[a] belief is not evidence” and falls far short of what is required to obtain any relief, much less the extraordinary relief Plaintiffs request. *United States v. O’Connor*, No. 96-2992, 1997 WL 413594, at \*1 (7th Cir. 1997); see *Brown v. City of Franklin*, 430 F. App’x 382, 387 (6th Cir. 2011) (“Brown just submits his belief that Fox’s ‘protection’ statement actually meant “protection from retaliation. . . . An unsubstantiated belief is not evidence of pretext.”); *Booker v. City of St. Louis*, 309 F.3d 464, 467 (8th Cir. 2002) (“Booker’s “belief” that he was singled out for testing is not evidence that he was.”).<sup>10</sup> The closest Plaintiffs get to alleging that election machines and software changed votes for President Trump to Vice

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<sup>10</sup> As stated by the Circuit Court for the District of Columbia Circuit:

The statement is that the complainant believes and expects to prove some things. Now his belief and expectation may be in good faith; but it has been repeatedly held that suspicion is not proof; and it is equally true that belief and expectation to prove cannot be accepted as a substitute for fact. The complainant carefully refrains from stating that he has any information upon which to found his belief or to justify his expectation; and evidently he has no such information. But belief, without an allegation of fact either upon personal knowledge or upon information reasonably sufficient upon which to base the belief, cannot justify the extraordinary remedy of injunction.

*Magruder v. Schley*, 18 App. D.C. 288, 292, 1901 WL 19131, at \*2 (D.C. Cir. 1901).

President Biden in Wayne County is an amalgamation of theories, conjecture, and speculation that such alterations were *possible*. (See e.g., ECF No. 6 at ¶¶ 7-11, 17, 125, 129, 138-43, 147-48, 155-58, 160-63, 167, 171.) And Plaintiffs do not at all explain how the question of whether the treatment of election challengers complied with state law bears on the validity of votes, or otherwise establishes an equal protection claim.

With nothing but speculation and conjecture that votes for President Trump were destroyed, discarded or switched to votes for Vice President Biden, Plaintiffs' equal protection claim fails.<sup>11</sup> See *Wood*, 2020 WL 7094866 (quoting *Bognet*, 2020 WL 6686120, at \*12) (“‘[N]o single voter is specifically disadvantaged’ if a vote is counted improperly, even if the error might have a ‘mathematical impact on the final tally and thus on the proportional effect of every vote.’”).

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<sup>11</sup> “[T]he Voter Plaintiffs cannot analogize their Equal Protection claim to gerrymandering cases in which votes were weighted differently. Instead, Plaintiffs advance an Equal Protection Clause argument based solely on state officials’ alleged violation of state law that does not cause unequal treatment. And if dilution of lawfully cast ballots by the ‘unlawful’ counting of invalidly cast ballots were a true equal-protection problem, then it would transform every violation of state election law (and, actually, every violation of every law) into a potential federal equal-protection claim requiring scrutiny of the government’s ‘interest’ in failing to do more to stop the illegal activity. That is not how the Equal Protection Clause works.” *Bognet*, 2020 WL 6686120, at \*11.

## 2. Irreparable Harm & Harm to Others

Because “a finding that there is simply no likelihood of success on the merits is usually fatal[,]” *Gonzales v. Nat’l Bd. of Med. Examiners*, 225 F.3d 620, 625 (6th Cir. 2000) (citing *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1249 (6th Cir. 1997), the Court will not discuss the remaining preliminary injunction factors extensively.

As discussed, Plaintiffs fail to show that a favorable decision from the Court would redress their alleged injury. Moreover, granting Plaintiffs’ injunctive relief would greatly harm the public interest. As Defendants aptly describe, Plaintiffs’ requested injunction would “upend the statutory process for election certification and the selection of Presidential Electors. Moreover, it w[ould] disenfranchise millions of Michigan voters in favor [of] the preferences of a handful of people who [are] disappointed with the official results.” (ECF No. 31 at Pg ID 2227.)

In short, none of the remaining factors weigh in favor of granting Plaintiffs’ request for an injunction.

## IV. Conclusion

For these reasons, the Court finds that Plaintiffs are far from likely to succeed in this matter. In fact, this lawsuit seems to be less about achieving the relief Plaintiffs seek—as much of that relief is beyond the power of this Court—and more about the impact of their allegations on People’s faith in the democratic

process and their trust in our government. Plaintiffs ask this Court to ignore the orderly statutory scheme established to challenge elections and to ignore the will of millions of voters. This, the Court cannot, and will not, do.

The People have spoken.

The Court, therefore, **DENIES** Plaintiffs’ “Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief” (ECF No. 7.)

**IT IS SO ORDERED.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: December 7, 2020

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

TIMOTHY KING, MARIAN ELLEN SHERIDAN, JOHN EARL HAGGARD,  
CHARLES JAMES RITCHARD, JAMES DAVID HOOPER and DAREN WADE  
RUBINGH,

Plaintiffs.

Case No. 20-cv-13134  
Hon. LINDA V. PARKER

v.

GRETCHEN WHITMER, in her official capacity as Governor of the State of Michigan,  
JOCELYN BENSON, in her official capacity as Michigan Secretary of State and the  
Michigan BOARD OF STATE CANVASSERS.

Defendants.

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**NOTICE OF APPEAL**

NOW COMES the Plaintiffs TIMOTHY KING, MARIAN ELLEN SHERIDAN, JOHN EARL HAGGARD, CHARLES JAMES RITCHARD, JAMES DAVID HOOPER and DAREN WADE RUBINGH by and through their attorney, STEFANIE LYNN JUNTILA, and hereby give NOTICE OF APPEAL of this Court's 12/07/2020 R. 62 OPINION and ORDER Denying Plaintiffs' Emergency Motion for Declaratory, Emergency, and Permanent Injunctive Relief.

Respectfully submitted,

/s/ Stefanie Lynn Junttila  
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Date: December 8, 2020