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11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13
14 FOR THE COUNTY OF ALAMEDA

15 AMERICANS FOR SAFE ACCESS; JAMES)
16 BLAIR; MICHAEL L. GOODBAR; and)
17 DONALD O. TOLBERT,)

18 Petitioners, Plaintiffs and Contestants,)

19 v.)

20 COUNTY OF ALAMEDA; DAVID)
21 MACDONALD, in his official capacity as)
22 Registrar of Voters for the County of Alameda;)
23 and DOES 1 through 20, inclusive,)

24 Respondents and Defendants.)

Case No. RG 04-192053

**REPLY DECLARATION OF DOUGLAS
W. JONES IN SUPPORT OF
PETITIONERS' MOTIONS FOR
SUMMARY ADJUDICATION AND FOR
SANCTIONS, AND IN OPPOSITION TO
RESPONDENTS' MOTION FOR
SUMMARY JUDGEMENT AND
APPLICATION FOR *IN CAMERA*
REVIEW**

**Priority Election Law Matter (Cal. Elec.
Code §§ 13314(a)(3) and 16100 *et seq.***

Date: March 2, 2007

Time: 9:00 a.m.

Dept.: 31, Hon. Winifred Smith

1 1 DECLARATION OF DOUGLAS W. JONES

2 I, DOUGLAS W. JONES, hereby declare:

- 3 1. My qualifications to offer expert testimony regarding the design, operational, and security
4 features of many sorts of computerized systems, and my specific knowledge and
5 experience in reviewing the Diebold DRE systems, is set forth in my prior declarations
6 submitted in this case. I have personal knowledge of the statements herein and, if called
7 upon to do so, could and would testify competently thereto.

8 **Expert Opinion**

- 9 2. Attached hereto as Exhibits 1 and 2 are two schematic figures that accurately depict the
10 basic functionality of the Diebold AccuVote TS voting system employed by Alameda
11 County in 2004. On this system, voters cast their votes by tapping a touchscreen. The
12 system translates the voters' selections into electronic data. One copy of this data is placed
13 on a portable storage device called a PCMCIA card (B). Another copy of this data – the
14 “redundant data” -- is stored in a flash-memory chip hard-wired in the touchscreen unit
15 (A). Audit logs of system function and human interactions are also generated by the
16 touchscreen unit during elections and stored in the touchscreen unit's flash memory (A).
17 When the polls are closed, election workers transport the PCMCIA cards (B) to a central
18 location, where the data they contain are uploaded into a central tally server (C). The
19 certified election results are based upon the tally generated by this server (C). In addition
20 to the audit logs generated by and stored within the flash memory of each touchscreen (A),
21 an audit log is also generated by the central tally server (C).
- 22 3. I have reviewed Respondents' Opposition to Petitioners' Motion for Sanctions, he
23 Declaration of Nancy Fenton in support thereof, and Respondents' Opposition to
24 Petitioners' Motion for Summary Adjudication.
- 25 4. Remarkably, Respondents continue to assert that the electronic data stored on the PCMCIA
26 cards after an election (“B” in attached exhibits) is necessarily “the same” as the data
27 stored in the flash-memory of each touchscreen unit (“A” in attached exhibits).
28 (Opposition to Motion for Sanctions, 4:9.) As explained in my prior declaration, this

1 contention has no basis in scientific fact or elementary logic. If made in good faith, this
2 contention of Respondents can only reflect that they do not understand the nature of
3 electronically data, and specifically the susceptibility of such data to manipulation or
4 alteration. Redundant data is stored in the touchscreen units (“A”) for the precise purpose
5 of providing an opportunity to cross-check against the data transported to the central tally
6 server on PCMCIA cards (“B”) and central tally server (“C”). It has been definitively
7 demonstrated that data stored on the PCMCIA cards (“B”) and central tally server (“C”)
8 can be altered by persons with access to the system. Because of this fact, Respondents’
9 contention that the data on the units and the PCMCIA cards are necessarily “the same”
10 violates elementary science and logic.

- 11 5. In their Opposition to Petitioners’ Motion for Summary Adjudication, Respondents
12 concede that “‘scratch papers’ indicating the different counts of each precinct might be
13 relevant to determine that the individual numbers from the ‘scratch papers’ equal the grand
14 total deduced from these papers.” (Opposition to Motion for Summary Adjudication,
15 8:15-17.) The mathematical cross-check operation outlined in this example is precisely
16 analogous to the mathematical cross-check that Petitioners sought to perform by
17 comparing the redundant vote data in the touchscreen units (“A”) to the results generated
18 by the central tally server in this case.
- 19 6. On a similar vein, Respondents admit that a “document containing the correct codes for
20 the different types of ballots might be a relevant material to make sure that the ballots are
21 recounted properly.” (*Id.* 8:20-24.) The election configuration files and audit logs stored
22 in each voting machine are precisely analogous to this type of relevant material because
23 they reflect the election-specific ballot designs loaded into the DRE systems, which reflect
24 the specific contest and measures that a given voter is allowed to vote on.
- 25 7. Finally, Respondents offer to have Diebold Elections Systems, Inc. to retrieve, copy, and
26 provide the court copies of the audit logs and redundant data from the touchscreen units
27 (“A”) used in the November 2004 election. Because it would be possible for Diebold
28 Elections Systems Inc. to simply copy the data Respondents’ copied from the PCMCIA

1 cards, or upload that data into the flash memory of the touchscreen units for a staged
2 'downloading', independent supervision of the process of retrieving this data stored in the
3 touchscreen units is necessary to prove the authenticity and provenance of whatever data
4 Diebold may produce.

5
6
7 I declare under penalty of perjury under the laws of the State of California that the foregoing is
8 true and correct.

9 Executed this ____ day of February, 2007, at _____, Iowa.

10
11 _____

12 Douglas W. Jones