

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 13TH JUDICIAL CIRCUIT
ANTRIM COUNTY

WILLIAM BAILEY,

Plaintiff,

No. 20-9238-CZ

v

HON. KEVIN A. ELSSENHEIMER

ANTRIM COUNTY,

Defendant,

SECRETARY OF STATE JOCELYN
BENSON,

Intervenor-Defendant.

**SECRETARY OF STATE JOCELYN BENSON'S RESPONSE TO
PLAINTIFF'S MOTION FOR RELIEF FROM ORDER AND FOR
CLARIFICATION OF SCOPE**

EXHIBIT C SEALED

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No. 20-9238-CZ

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DECLARATION OF JONATHAN BRATER

I, Jonathan Brater, state as follows:

1. I have been employed by the Secretary of State as Director of Elections since January 2, 2020 and in such capacity serve as Director of the Bureau of Elections (Bureau). See MCL 168.32.

2. I bring this declaration in support of Defendant's response in opposition to Plaintiff's motion for Ex Parte Emergency Motion and Brief for Relief from Order and for Clarification of Scope. If called as a witness, I could testify truthfully and accurately as to the information contained within this declaration.

3. I am personally knowledgeable about state laws governing voting and voting systems in Michigan.

4. There are three vendors that have been certified by the Michigan Board of State Canvassers for use in the State — Hart Intercivic, Dominion Voting Systems, and Election Systems and Software. These vendors were each approved by the Board of State Canvassers in 2017. They were also reviewed by an accredited Voting Systems Test Laboratory and approved by the bipartisan Election Assistance Commission.¹

5. Antrim County uses the Dominion Voting Systems election management system and voting machines (tabulators), which count hand-marked paper ballots.

6. I have reviewed the document submitted by "Allied Security Operations Group" entitled "Antrim Michigan Forensics Report". The report does not include the names or credentials of the individuals who produced the report. A google search for "Allied Security Operations Group" produced a url, www.asog.us,

¹ U.S. Election Assistance Commission, Voting Systems Test Laboratories (VSTL), <https://www.eac.gov/voting-equipment/voting-system-test-laboratories-vstl> (last accessed December 13, 2020).

for an organization named “Allied Security Operations Group”. The “Our Staff” section of the website does not include the names of any individuals.

7. Although a detailed review of the report by an individual with technical expertise in Dominion Voting Systems technology would be necessary to respond to each of its preliminary conclusions, the report appears to make several unsupported allegations and conclusions about Dominion Voting Systems and what occurred in Antrim County. The report attributes changes in reported vote totals, all of which appear to be a result of human error and which appear to have been identified and corrected during the county canvass, to alleged “intentional” design elements in Dominion Voting Systems, without explicating why this would be the explanation.

8. The significant change in unofficial reported vote totals that occurred in the presidential election between the November 3 and November 5 reports has already been explained.² The report does not explain its basis for the claim in B.3 that this was from “different dates for the tabulation” of votes rather than because tabulators did not communicate properly with the County’s central election management system software.

9. The Secretary of State document, published on November 7, refers to ballot changes in two local jurisdictions in Antrim County, Mancelona Township and Warner Township. As the document explains, after programming changes to reflect updates to ballots in those townships, the clerk properly updated media

² Michigan Secretary of State, Isolated User Error in Antrim County Does not Affect Election Results, Has no Impact on Other Counties or States, https://www.michigan.gov/documents/sos/Antrim_Fact_Check_707197_7.pdf.

drives for those townships but not other jurisdictions in the County, which caused the other tabulators to not communicate properly with election management software when reporting unofficial results.

10. The Report references a corrected error in another jurisdiction, Central Lake Township, to suggest the November 7 document is not accurate. Although the Bureau of Elections has not reviewed the issue in Central Lake Township, it appears to also be the result of a human error that was corrected during the County canvass. If it was necessary to retabulate precinct results on November 6 during the County canvass with an updated drive (not during a recount, as the report states), then that would most likely be because the wrong drive was used on Election Day (a human error). As the November 7 Secretary of State document explains, errors of this nature are corrected during the canvass, which appears to be exactly what happened during the County canvass re-tabulation.

11. In B.17 the report suggests that an “unauthorized user unsuccessfully attempted to zero out election results. This demonstrates additional tampering with data.” The report does not explain why this demonstrates tampering. On November 21, the Bureau of Elections received corrected official election results from Antrim County, which may explain why a user was in the election management system on that date.

12. The report does not explain the basis for its assumption that Antrim County uses adjudication software or any evidence that adjudication software was actually used to change votes. It is not clear how this would even be possible in Antrim County, as adjudication software is used with the Dominion Image Cast

Central (ICC) high-speed scanners, not Image Cast Precinct (ICP) tabulators.

According to my understanding, ICC high-speed scanners are not used in Antrim County. Rather, adjudication is done by teams of election workers using the paper ballot when needed. In J.4 through J.6, the report suggests it is improper to divert write-ins for adjudication, but that is the only way those ballots can be counted – people have to look at the name written in on the paper ballot and determine who it should be assigned to. Contrary to the suggestion in J.6, this does not allow individuals to “change votes” beyond determining for whom write-in votes should be counted.

13. The report does not explain the basis for its finding that “RCV or Ranked Choice Voting Algorithm” was enabled in J.3, or how the “enabling” RCV would have caused ballots not designed for or tabulators not programmed for ranked choice voting to be read and tabulated. Ranked Choice Voting is not authorized by the Michigan Election Law for use in federal or state-level elections.³

14. Although a more detailed analysis of the report must be conducted with an individual with technical expertise, it is apparent to me that the report makes a series of unsupported conclusions, ascribes motives of fraud and obfuscation to processes that are easily explained as routine election procedures or error corrections, and suggests without explanation that elements of election software not used in Michigan are somehow responsible for tabulation or reporting

³ Due to a consent decree it entered with the Department of Justice in 2019, the City of Eastpointe in Macomb County is the only jurisdiction in Michigan that uses ranked choice voting to elect city officers. *United States v City of Eastpointe*, Case No. 4:17-cv-10079, E.D. Mich. Notably, the voting system used in Macomb County is not Dominion, but Election Systems and Software (ES&S).

errors that are either nonexistent or easily explained. For this reason, the preliminary analysis appears to include a number of questionable statements that should be fully investigated before these conclusions are released to the public, and even now the preliminary conclusions do not appear accurate or complete.

15. Because voting tabulators in Michigan use hand marked, paper ballots, any alleged errors in tabulators can be caught during a hand recount, which any candidate could have requested in Antrim County. This week the Michigan Bureau of Elections and the Antrim County will also be conducting a hand tally of all ballots cast in the presidential election in Antrim County, which will provide further verification that the Antrim County results are accurate.

16. I declare under penalty of perjury that the foregoing is true and correct.



Jonathan Brater
Director of Elections
Executed on December 13, 2020