



Aiken County
County Attorney

Remembering the Past, Preparing for the Future

Bradley T. Farrar
County Attorney

April 18, 2023

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Post Office Box 1286
Bluffton, South Carolina 29910

Brian McDaniel, Esquire
LAW OFFICE OF BRIAN MCDANIEL, LLC
Post Office Box 2085
Beaufort, South Carolina 29901

Re: *SC SAFE ELECTIONS and MICHAEL FUNDERBURK vs. THE BOARDS OF ELECTIONS FOR AIKEN COUNTY, BEAUFORT COUNTY, CHARLESTON COUNTY, DORCHESTER) COUNTY, GREENVILLE COUNTY, SPARTANBURG COUNTY, YORK COUNTY, and THE SOUTH CAROLINASTATE ELECTION COMMISSION, HOWARD KNAPP IN HIS OFFICIAL CAPACITY*
Civil Action No. 2022-CP-02-00902

Dear Counsel:

Please find enclosed copies of Defendant Board of Voter Registration and Elections of Aiken County's Answers to Plaintiff's Second Interrogatories, Responses to Plaintiff's Second Request to Admit, and Responses to Plaintiff's Second Request for Production.

With kind regards, I am

Sincerely Yours,

A handwritten signature in blue ink that reads "Bradley T. Farrar".

Bradley T. Farrar
Aiken County Attorney

Enclosures

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

SC SAFE ELECTIONS and)
MICHAEL FUNDERBURK,)
)
Plaintiffs,)

Civil Action No. 2022-CP-40-04438

v.)

THE BOARDS OF ELECTIONS FOR)
AIKEN COUNTY, BEAUFORT COUNTY,))
CHARLESTON COUNTY, DORCHESTER))
COUNTY, GREENVILLE COUNTY,))
SPARTANBURG COUNTY, YORK))
COUNTY, and THE SOUTH CAROLINA))
STATE ELECTION COMMISSION,))
HOWARD KNAPP IN HIS OFFICIAL))
CAPACITY,))
))
Defendants.)

**DEFENDANT BOARD OF VOTER
REGISTRATION AND ELECTIONS FOR
AIKEN COUNTY’S ANSWERS TO
PLAINTIFFS SECOND SET OF
INTERROGATORIES**

Defendant Board of Voter Registration and Elections For Aiken County responds to Plaintiffs

(sic) Second Set of Interrogatories¹ as follows:

INTERROGATORIES

1. Define CVR-i, CVR-C, and CVR database in South Carolina;

ANSWER: Defendant does not define and has not defined any of these terms.

2. Define all information, communication and materials shared between the SEC and Clear Ballot after the June 2020 primary and November General election;

ANSWER: While not sure what the acronym, “SEC,” stands for, in the event it stands

¹ The twenty-one (21) interrogatories set forth herein, combined with the thirty-six (36) interrogatories propounded to Defendant in Plaintiff’s (sic) First Interrogatories, exceed the limit prescribed in SCRCP 33(b)(9), which provides that, “the total number of general interrogatories to any one party shall not exceed fifty questions including subparts, except by leave of court upon good cause shown.”

for the South Carolina “State Election Commission,” Defendant does not know what “information, communication and materials (may have been) shared between the SEC and Clear Ballot after the June 2020 primary and November General election,” and also does not know what “define all information, communication and materials...” means, or how one would “define” “information, communication and materials.”

3. Define the official definition of Personal Identifying Information as defined by the SEC (election commission) or other national election entities that SC is subjected to during the election process;

ANSWER: Defendant does not know how the “SEC” defines anything, and was not aware that the SEC is a national election entity.

4. Define if these definitions in interrogatory 3 comply with Title 7 election law in South Carolina;

ANSWER: Defendant does not know how the SEC defines anything, nor has it researched the definitional preferences of “other national election entities that SC is subjected to during the election process.”

5. List all the entities, consultants, contractors, and/or subcontractors that provide any election related items or services at the State and County level for hardware, software, sales, service, maintenance, programming, voter roll and voter history maintenance, and any and all other election related items including but not limited to Clear Ballot;

ANSWER: Defendant does not know “all entities, consultants, contractors, and/or subcontractors that provide any election related items or services at the State and County level for hardware, software, sales, service, maintenance, programming, voter roll and voter history maintenance, and any and all other election related items including but not limited to Clear Ballot.”

6. List all task(s) performed by each entity, consultant, contractor, and or subcontractor that provides any election related items or services at the State and County level for hardware, software, sales, service, maintenance, programming, voter roll and voter history maintenance, and any and all other election related items including but not limited to Clear Ballot;.

ANSWER: Defendant does not know all of the “task(s) performed by each entity, consultant, contractor, and or subcontractor that provides any election related items or services at the State and County level for hardware, software, sales, service, maintenance, programming, voter roll and voter history maintenance, and any and all other election related items including but not limited to Clear Ballot.”

7. List all Personal Identifying Information (PII) that appears

A. on a Voted Ballot;

B. on a Ballot Image;

C. in a digital electronic Cast Vote Record which is in a textual format such as CSV, XLSX, JSON, or XML.

ANSWER: Defendant does not know what Plaintiff means by a “Voted Ballot,” or a “Ballot Image,” and does not maintain anything known as a “Cast Vote Record.”

8. List all United States Election Assistance Commission (EAC) election certification testing standard versions (Electronic Voting System-EVS) that South Carolina is certified for;

ANSWER: Defendant does not know what “United States Election Assistance Commission (EAC) election certification testing standard versions (Electronic Voting System-EVS) (for which) South Carolina is certified.”

9. List all state level election certification testing standard versions that South Carolina is certified for;

ANSWER: Defendant does not know what “state level election certification testing standard versions (for which) South Carolina is certified.”

10. List the Testing Lab(s) engaged by South Carolina to provide answers to interrogatories eight (8) and nine (9) mentioned above;

ANSWER: Defendant does not know what “Testing Lab(s)” South Carolina has engaged for any purpose.

11. List all the report types that the Election Systems and Software (ES&S) election software

creates, maintains, and exports on any given county controlled ES&S Laptop;

ANSWER: Defendant does not know “all the report types that the Election Systems and Software (ES&S) election software creates, maintains, and exports on any given county controlled ES&S laptop.”

12. List the Version of Electionware that is installed and certified on interrogatory 11 ES&S laptops described above for every county;

ANSWER: Defendant does not know what “Version of Electionware is installed and certified” on the laptops of “every county.”

13. List the method or process by which an Elector of South Carolina is verified to vote in an election when appearing at a Voting Center or Voting Place;

ANSWER: See S.C.Code Ann. Section 7-13-710, “Proof of right to vote; signing poll list; comparison of signatures; provisional ballot; purpose of requirement.”

14. List the version of each of the following ES&S owned software programs used in South Carolina elections:

A. PowerProfile

B. Empower

C. ExpressPoll.;

ANSWER: Defendant does not know each of the software programs used in South Carolina elections.

15. List all South Carolina counties that program their own elections with the ES&S hardware and software;

ANSWER: Defendant does not know what “program their own elections” means, and does not know what counties use ES&S hardware and software.

16. List the data column labels and number of columns that comprise the Voter Registration and Voter History Master State Database schema, including voter’s name, date of birth, voter identification number, address, other contact information, complete voting history, date last

voted, party affiliation, date of registration, active/inactive status, date of party affiliation, and any and all other voter registration and history data;

ANSWER: Defendant does not maintain a “Voter Registration and Voter History Master State Database schema.”

17. Describe the policies you have in place that insure you are in compliance with SC election law 7-13-1655;

ANSWER: “SC election law 7-13-1655” imposes no duties on Defendant.

18. Define in detail “cast and count votes” as set out in SC election law 7-13-1655(A)(1)(b).

ANSWER: Defendant has not defined “cast and count votes as set out in SC election law 7-13-1655(A)(1)(b),” the same also not appearing to have been defined in Title 7, Chapter 13 of the Code of Laws of South Carolina.

19. Describe whether or not South Carolina complies with the federal voting system standard posted at www.nist.gov/publications/cast-vote-records-common-data-format-specification-version-10, which was developed by the National Institute of Standards and Technology (NIST) at the direction of the federal Election Assistance Commission (EAC).

ANSWER: Defendant does not know “whether or not South Carolina complies with the federal voting system standard posted at www.nist.gov/publications/cast-vote-records-common-data-format-specification-version-10, which was developed by the National Institute of Standards and Technology (NIST) at the direction of the federal Election Assistance Commission (EAC),” and would not know how to “describe” it if it did or did not.

20. Describe whether or not South Carolina complies with the federal Help America Vote Act (HAVA) of 2002.

ANSWER: Defendant does not know “whether or not South Carolina complies with the federal Help America Vote Act (HAVA) of 2002,” and would not know how to “describe” it if it did or did not.

21. When the county board of elections and registrations gets a FOIA request do they need to send it to the SEC for review and approval prior to providing the information?

ANSWER: Defendant does not know what “the county board of elections and registrations” means, does not know what “need to” (sic) in the context of this interrogatory means, and does not know what “providing the information” means.



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VOTER REGISTRATION AND ELECTIONS FOR
AIKEN COUNTY

April 17, 2023
Aiken, South Carolina

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IN THE COURT OF COMMON PLEAS

Civil Action No. 2022-CP-40-04438

**DEFENDANT BOARD OF VOTER
 REGISTRATION AND ELECTIONS FOR
 AIKEN COUNTY’S RESPONSES TO
 PLAINTIFF’S SECOND REQUEST TO ADMIT**

Defendant Board of Voter Registration and Elections For Aiken County responds to Plaintiff’s (sic) Second Request to Admit as follows:

REQUESTS TO ADMIT

1. Admit or Deny that the cast vote record is defined as follows:

A cast vote record (CVR) is an electronic record of a voter’s ballot selections, and its primary purpose is to provide a record of voter selections that can be counted in an efficient manner to produce election results. A CVR is created by equipment such as a voter facing scanner in a polling place into which a voter inserts a paper ballot. CVRs also get created by batch fed scanners used to scan absentee or other types of ballots that are collected before the election or that cannot be scanned by polling place scanners for various reasons. After the polls are closed, the CVRs are collected by election officials on memory devices and subsequently copied to an election management system that aggregates and tabulates the votes.

RESPONSE: As Defendant does not maintain any public document known as a

“cast vote record,” and as this Request to Admit does not specify whose definition is cited, and since no one has a monopoly on definitions, Defendant denies this Request to Admit.

2. Admit or Deny: that there are Three (sic) primary types of voting devices that create CVRs are (sic):

- All-electronic voting devices that a voter uses to make ballot selections and that create and store a CVR for each ballot (sic)
- Ballot marking devices (BMDs) that function like all-electronic devices but that produce a paper record of the voter’s choices that must be subsequently scanned.
- Voter-facing optical scanners used in polling places and batch-fed optical scanners used in central offices to scan paper ballots. The scanning devices above are sometimes referred to collectively as “tabulators” because they generally have a tabulation capability, but this is not always the case.

<https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1500-103.pdf>

RESPONSE: As Defendant does not know what “CVRs” are, Defendant denies this Request to Admit.

3. Admit or Deny that the SEC is compelled to comply with Title 7-13-1655 (sic) of SC Code of Laws.

RESPONSE: Defendant does not know what “the SEC” is or what compels it. Further, as there is not a “Title 7-13-1655 of SC Code of Laws,” Defendant denies this request.

4. Admit or Deny that when the county board of elections and registrations gets a FOIA request they need to send it to the SEC for review and approval prior to providing the information.

RESPONSE: Denied.



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FOR AIKEN COUNTY

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IN THE COURT OF COMMON PLEAS

Civil Action No. 2022-CP-40-04438

**DEFENDANT BOARD OF VOTER
 REGISTRATION AND ELECTION FOR
 AIKEN COUNTY’S RESPONSES TO
 PLAINTIFF’S SECOND REQUEST
 TO PRODUCE**

Defendant Board of Voter Registration and Elections for Aiken County responds to Plaintiff’s

(sic) Second Request to Produce as follows:

REQUESTS FOR PRODUCTION

1. Produce a sample CVR from an SC election in 2020 from each Defendant County with the PII (Personal Identifying Information) Redacted as a sample;

RESPONSE: Defendant does not have or maintain any public record, sample or otherwise, known as a “CVR,” and does not have or maintain such a record from any Defendant County.

2. Produce a sample copy and designate on the CVR what is actually PII;

RESPONSE: See Response to Request to Produce Number 1.

3. Produce any and all communications, emails, texts, faxes by and between the SEC and the Attorney General Office concerning information, including but not limited to: the definition of PII

(personally identifiable information) as well as the definition of a CVR Cast Vote Record given by the SEC to the Attorney General from March 1, 2020- December 31st, 2020;

RESPONSE: Defendant has none.

4. Provide CVR-I (Ballot images) (If you claim it has PII on it Please redact);

RESPONSE: See Response to Request to Produce Number 1.

5. Provide CVR-C (information from paper ballot) (If you claim it has PII on it please redact);

RESPONSE: See Response to Request to Produce Number 1.

6. Provide CVR database report in excel format (summary spreadsheet of data from 4 and 5) (If you claim it has PII on it please redact);

RESPONSE: Defendant has none.

7. Produce all communication, email, phone, text or letters from the SEC to the Defendant Counties pertaining to CVR, PII and other procedural communications during the 2020 election cycle;

RESPONSE: None.

8. Produce emails, faxes, texts, traditional mail and social media and any other communications between the defendant(s) pertaining to the 2020 election Cast Vote Records between June 2020- latest date;

RESPONSE: If any, already provided in response to Plaintiff's First Request to Produce.

9. Produce all correspondence, reports, files and/or documents sent to Clear Ballot, including, but not limited to, those used to create the Audit Threshold Report, by the Office of Voter Registration & Elections following the 2020 Primaries;

RESPONSE: None.

10. Produce all correspondence, reports, files and/or documents sent to Clear Ballot, including,

but not limited to, those used to create the Audit Threshold Report, by the Office of Voter Registration & Elections following the 2020 General Election;

RESPONSE: None.

11. Produce the following: Contracts between each county and (a) internet providers and (b) wireless cellular service providers (such as Verizon, AT&T, T-Mobile, et al.) for the election of November 2020 including all early vote dates;

RESPONSE: If any, already provided in response to Plaintiff's First Request to Produce.

12. Provide any and all contracts, invoices, paid receipts, and other items South Carolina and each county has with the entities, consultants, contractors, and subcontractors that provide any election related items or services at the State and County level for hardware, software, sales, service, maintenance, programming, voter roll and voter history maintenance, and any and all other election related items including but not limited to Clear Ballot, CIS (for Albert sensors), Clarity, and Scytl;

RESPONSE: If any, already provided in response to Plaintiff's First Request to Produce.

13. Provide the ES&S Data Summary Sheet which enumerates the values, default settings, ballot styles, and all other Election Project items for each county signed off on for the November 2022 General Election;

RESPONSE: If any, already provided in response to Plaintiff's First Request to Produce.

14. Provide the Certification documents provided by the United States Election Assistance Commission (EAC) for the latest testing certification for South Carolina;

RESPONSE: None.

15. Provide a sample voted ballot that was used for each county's Logic and Accuracy Testing

(L and A);

RESPONSE: None.


16. Produce the process or policies in place for your management to comply with SC election law in Title 7 of the South Carolina Code of Laws.

RESPONSE: If any, already provided in response to Plaintiff's First Request to Produce.

17. Provide from each county an electronic searchable copy of the following standard ES&S reports:

- (a) all Machine Log reports produced on the Election Management Server by using the "Export Files for All Saved Batches" command, and
- (b) export all Audit Logs from all Central Count tabulators, including all event types (info, warning, error, etc.).

RESPONSE: Defendant does not have records "from each county."



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STATE OF SOUTH CAROLINA)
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CERTIFICATE OF SERVICE

SPARTANBURG COUNTY, YORK)
COUNTY, and THE SOUTH CAROLINA)
STATE ELECTION COMMISSION,)
HOWARD KNAPP IN HIS OFFICIAL)
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Defendants.)
_____)

I, the undersigned employee of the Aiken County Attorney’s Office, certify that I served a copy of Defendant Board of Voter Registration and Elections of Aiken County’s Answers to Plaintiff’s Second Interrogatories, Responses to Plaintiff’s Second Request to Admit, and Responses to Plaintiff’s Second Request for Production on this 18th day of April, 2023, on counsel of record for the Plaintiffs in this matter by U. S. Mail addressed as follows:

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