

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
) )  
SC SAFE ELECTIONS and )  
MICHAEL FUNDERBURK )  
) )  
Plaintiff, )  
) )  
vs. )  
) )  
THE BOARDS OF ELECTIONS FOR )  
AIKEN COUNTY, BEAUFORT COUNTY,) )  
CHARLESTON COUNTY, DORCHESTER )  
COUNTY, GREENVILLE COUNTY, )  
LEXINGTON COUNTY, SPARTANBURG )  
COUNTY, YORK COUNTY, and THE )  
SOUTH CAROLINA STATE ELECTION )  
COMMISSION, HOWARD KNAPP IN )  
HIS OFFICIAL CAPACITY )  
) )  
Defendant, )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

C.A. NO. 2022-CP- 4004438

**EXPERT SUPPLEMENTAL  
DECLARATION OF  
RICK WEIBLE**

I, Rick Weible, being duly sworn and deposed, make the following declaration.

1. I am over the age of 21, and I am under no legal disability, which would prevent me from giving this declaration.
2. I currently reside at 803 Elk Street, Elkton, SD 57026.
3. I currently serve on the City Council of Elkton, SD.
4. I am a computer network engineer and data analysis expert with over 25 years of industry experience. Owner of a small computer consulting company that has been in business for over 25 years providing compliance certifications, desktop support, programming, network management and security, web development and hosting.
5. I have reviewed Dominion and Election Systems & Software (ES&S) ballot images and cast vote records from California, Colorado, Minnesota, South Dakota, Texas, Wisconsin and have done extensive research on those records and have made recommendations for improvement from discoveries of folds in ballots and voter intent issues that have been discovered.
6. I attended Election Systems & Software (ES&S) training Jan 11<sup>th</sup>, 2024 in Sioux Falls, SD, which covered the ExpressVote, DS850 tabulators and Electionware Reporting

software. The training included how to create backups, develop logic and accuracy tests, restore backups, the exporting, printing and review of audit logs and cast vote records, how to troubleshoot the systems as well as chain of custody recommendations.

7. I am a Co-Author of Gold Standard Elections white paper as published at US Council of Accurate and Secure Elections.
8. Since the signing of the September 11, 2023 Affidavit, as part of my ongoing research, I have discovered some other facts that may impact the case before you. These recent discoveries regard materials at the US Election Assistance Commission (EAC), as well as other state and county web sites that are emphasizing the essential requirements of Cast Vote Records.
9. In the Election Assistance Commission Election Management Guidelines, in the section End-to-End Voting System Acceptance Test on page 66, it shows the materials required for the Cast Vote Records. This is further proof that the Cast Vote Records are created at the time of tabulation and are stored on all tabulators (this includes the DS200 used in most precincts), must be backed up to a flash drive (memory device), and are required to be retained for the 22-month period required by Federal Law for Federal Elections. Since an injunction was granted just prior to the expiration of this period, all of these records must still be retained.

**Materials Required:** Election officials must know the correct versions of the operating systems and EMS software. In addition, the testers will need the following:

- A complete election management system with all required election management system software installed.
- If Ballot Marking Devices are used:
  - At least one BMD,
  - One blank memory device used to load the election definition onto the BMD(s),
  - The password or authentication device used to gain supervisory or administrative privilege on the BMD.
  - A card or other device required to activate the BMD for a voter.
  - Accessible equipment for use with BMD.
- If Optical Scanners are used:
  - At least one ballot scanner. If different types are used (e.g., precinct-based for polling locations and bulk/high-speed for central counting), then at least one of each type will be needed.
  - One blank memory device used to load the election definition onto the ballot scanner(s),
  - A memory device for each scanner to store tabulated results and Cast Vote Records.
  - At least one set of pre-marked optical scan test ballots with known results. This can be the same test deck used to conduct acceptance tests on the ballot scanners.

[https://www.eac.gov/sites/default/files/electionofficials/EMG/EAC\\_Election\\_Management\\_Guidelines\\_508.pdf](https://www.eac.gov/sites/default/files/electionofficials/EMG/EAC_Election_Management_Guidelines_508.pdf)

10. In the Election Systems & Software Electionware Election Management System EVS 6.1.1.0, Version 6.0.1.0, on page 76 of that manual, it shows that election officials can turn off the ballot images from being saved; for South Carolina that would be a direct violation during any Federal Election if this option was selected. The default for South Carolina and all other states during a Federal Election, must be to not disable this feature in order to remain in compliance with 52 USC 20701, which requires the retention of all records for 22 months for any Federal Election.

## Configuring for the Equipment *(continued)*

### DS200 Settings *(continued)*

Section	Field	Entry
Ballot Handling Options After Ballot is Cast	Images to Save	Select which images will be saved to the USB flash drive: <b>No Images, All Images, Write-in Images Only.</b>
	Evaluate Unmarked Write-ins	Detects ballots where the Voter has written a candidate name on the ballot, but has not marked the vote target.
		Allows you to determine whether ballots will be diverted and/or stamped and under which circumstances those situations occur.

11. Boone County, MO, which uses the same voting system as South Carolina, during their 7/16/2019 County Commission Meeting, their agenda packet contains a request for proposal response from ES&S that states that the DS200 ballot images and its safeguards are as follows:

- **Safeguards voter intent.** The system captures and retains digital images and cast vote records of every scanned ballot for auditing and adjudication. ES&S does not alter a single digital image.

“The system captures and retains digital images and cast vote records of every scanned ballot for auditing and adjudication.”

The system is designed to do this automatically and requires no special ability or effort by election officials to perform a required basic task of saving the data to a thumb drive.

<https://www.showmeboone.com/clerk/commission-orders/2019/20190716.pdf>

12. Another source directly from ES&S, themselves, proves that the ballot images\cast vote records are created, processed and stored at the time of tabulation and that there are safeguards in place to ensure the privacy of each ballot. In the State of Michigan, we can see the Request for Proposal(RFP) no. 007116B0007029 from Election Systems & Software, with the following notes:

A) On page 2 of 152 of the RFP, it directly states the following:

**BALLOT IMAGING SAFEGUARDS**

The system captures and retains digital images and cast vote records of every scanned ballot for auditing and adjudication. ES&S does not alter a single retained and captured digital image.

B) On page 33 of 152, it states the following:

**DS200**

The Electionware EMS can be used to configure the tabulators to save the front and back images of all processed ballots or just ballots containing write-in votes. For every ballot cast, the tabulator also stores a Cast Vote Record (CVR) file. The ballot CVR and the images are signed by a machine-specific private key. When results are transferred, these CVR files and images are encrypted and signed again to allow for secure transport. The ballot images are stored in a TIFF (Tagged Image File Format) format. Since the image files are encrypted, the files on the election media are not externally viewable. Ballot images can be exported from the DS200 to USB memory devices for electronic review or printing.

Every ballot cast is assigned a random 16-byte identifier and all the ballot CVRs and ballot images are stored on the inserted memory media with exactly the same timestamp. This effectively decouples any association of the ballot to the voting order to guarantee voter privacy.

If no images are stored, the standard 4GB USB memory device can capture and store approximately 100,000 cast vote records, the election definition, and audit log records. If ballot images are captured and stored, the 4GB drive can store at least 12,000 images (both sides of each ballot sheet), along with the cast vote records, the election definition, and audit log records.

This makes it clear that for every ballot cast, the tabulator stores the cast vote record automatically. It doesn't need to be "created" by election officials; it simply needs to be saved to a thumb drive.

C) On page 47 of 152, it states the following, in satisfying 52 USC 20701, the 22-month Federal Elections records retention requirement, that all counties must abide by.

ES&S memory devices pass the EAC requirement of 22 months archival period, with no data loss; the manufacturer guarantees data retention for 10 years.

**Key features include:**

- Available in the following capacities: 4 and 8 GB
- High-speed USB 2.0 certified (backward-compatible with all USB 1.1 ports)
- Static and dynamic wear-leveling
- 8-symbol error correction code (ECC)
- Lifetime warranty
- "High Speed" transfer rate: up to 480 megabits/second for USB 2.0
- "Full Speed" transfer rate: up to 12 megabits/second for USB 1.1
- Storage temperature: -40 to 85 degrees C
- Commercial operating temperature: 0 to 70 degrees C
- Industrial extended operating temperature: -40 to 85 degrees C

D) ES&S directly provides us prima facie evidence of guaranteed voter privacy in their direct statement that ensures the decoupling of the ballot from the voter. Their security measures are detailed on page 72 of 152, which describes how voter privacy is maintained with the ballot images through decoupling any ability to match a timestamp or ballot order to a voter. The timestamps are all the same for all ballots on election day

and the ballot id is also being randomized within a set. This ensures voter privacy in all elections, making it impossible to tie a voter to a ballot:

Every ballot cast is assigned a random 16-byte identifier and all the ballot Cast Vote Records (CVR) and ballot images are stored with exactly the same timestamp. This effectively decouples any association of the ballot to the voting order to guarantee voter privacy.

<https://www.michigan.gov/-/media/Project/Websites/sos/03holland/ESSBid.pdf?rev=05bead7b344f4301b8fd70db1e8e1b15>

13. The Cast Vote Records along with the audit logs are essential components, to independently verify the accuracy and security of the election system, without them, one cannot make an assertion that their systems performed accurately or securely. The EAC's Voluntary Voting Systems Guidelines (VSG) 1.0 goals are to address concerns and questions regarding the performance of the election systems, where they state directly: "It is well known that deficiencies in election management and administration procedures can have just as much impact on the enfranchisement of voters and the outcome of elections as the functioning of the voting machines. The overall integrity of the election process depends on both of these elements working together." (pages 3-4)

It is clear that the administration, management and reliance of the voting systems must be transparent for people to trust the process and the results.

[https://www.eac.gov/sites/default/files/eac\\_assets/1/28/VVSG.1.0\\_Volume\\_1.PDF](https://www.eac.gov/sites/default/files/eac_assets/1/28/VVSG.1.0_Volume_1.PDF)

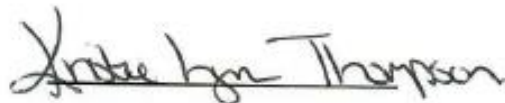
14. In order to validate the accuracy, effectiveness, performance and security of an election system, one must have both the ballot images and the Cast Vote Records together to be able to assess the legitimacy of an election. Without those records, any statements of an accurate and secure election must be considered invalid, and furthermore if it involved a federal race, it would be a direct violation of the spirit of 52 USC 20701.

This 25th Day of April 2024

SWORN TO BEFORE ME



Rick Weible



Notary Public

Commission expires: 8-13-2027

