

Cause No. DC-19-08429

Danitra Wilkerson

KIRK LAUNIUS,
Contestant,

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IN THE DISTRICT COURT

v.

OF DALLAS COUNTY, TEXAS

DIANA FLORES, IN HER OFFICIAL
CAPACITY AS PRESIDING OFFICER,
CHAIR OF TRUSTEES, OF DALLAS
COUNTY COMMUNITY COLLEGE
DISTRICT,
Contestee

§

298TH

JUDICIAL DISTRICT

**CONTESTANT’S ORIGINAL PETITION INITIATING ELECTION CONTEST
FOR THE DALLAS COUNTY COMMUNITY COLLEGE DISTRICT BOND ELECTION
WITH REQUESTS FOR DISCOVERY AND PRODUCTION**

TO THE HONORABLE COURT:

NOW COMES Contestant, KIRK LAUNIUS, initiating an election contest under the Texas Election Code and against DIANA FLORES, in her official capacity as presiding officer of the final canvassing authority for the contested election, and would respectfully show:

ELECTION CONTEST

1. This original petition initiating an election contest is filed pursuant to Chapter 233 of the Texas Election Code. An election contest is a special statutory proceeding that provides a remedy for elections tainted by fraud, illegality or irregularity. *Blum v. Lanier*, 997 S.W.2d 259, 262 (Tex. 1999). It includes all suits where the validity of the election, or of any part of the elective process, are subject to litigation. *In re Bishop*, ___ S.W.3d ___, 05-18-01333-CV, 2018 WL 6599196 at * 2 (Tex. App. — Dallas Dec. 17, 2018, orig. proceeding) (not yet released for publication). Bond elections may be subject to election contests. *See, e.g., Roberts v.*

Brownsboro Indep. Sch. Dist., 575 S.W.2d 371, 374 (Tex. Civ. App. — Tyler 1978, writ dis'd).

2. Contestant, Kirk Launius (“Mr. Launius”), is a qualified and registered voter of the territory covered by the election, Dallas County. His unique Texas voter ID is 1078229890 and he resides at 6719 Patrick Dr., Dallas, Texas 75214. *See* Tex. Elec. Code § 233.002. The last four numbers of Contestant’s drivers’ license are 8060; the last four numbers of Contestant’s social security number are 4712.

3. Contestee, as required by Texas Election Code § 233.003(a), is Diana Flores, presiding officer of the final canvassing authority for the contested election and Chair of the Board of Trustees for the Dallas County Community College District (DCCCD). Contestee may be served with process at her place of business located at 1601 S. Lamar Street, Dallas, Texas, Dallas County, Texas 75215 by certified mail, return receipt requested. Contestant requests Clerk to issue citation and serve accordingly.

4. As required by Section 233.006(c) of the Texas Election Code, Contestant delivered a copy of this original petition to the Texas Secretary of State on or before the filing deadline.

5. This Court has jurisdiction of this measure contest, and venue is proper in Dallas County. Tex. Elec. Code § 221.002; § 233.005(b).

6. On Saturday, May 4, 2019, the Uniform Election Day, Dallas County Community College District (DCCCD) held an election on a bond measure (the “Contested Election”), seeking voter approval of a \$1,102,000,000 bond package.¹

7. The unofficial election results, as reported by the Dallas County Elections Department, is 88,181 (71.46% for) vs 35,226 (28.54% against).² While the margin of victory

¹ Exhibit A – Dallas County Community College District Bond Order, p. 19_-23.

² Exhibit B – DCCCD Bond election results posted on the publically accessible website of Dallas County Elections

appears large, when electronic voting tabulation manipulations, mistakes, errors or fraud occurs, the magnitude of the vote spread knows no bounds.

8. An official final canvass of the contested election was attempted on May 14, 2019 by three DCCCD Trustees,³ it appears that a quorum - as defined by Tex. Govt. Code § 551.001(6)), “a majority of a governmental body” - was not present. As a result, there seems that no official canvass “meeting” occurred, and the results are yet to be officially canvassed (Tex. Govt. Code § 551.001(4)A).

9. Even though an official DCCCD bond election canvassing “meeting” of a “quorum” of the respective Trustees seems to not have officially occurred, this contest is timely filed within 30 days of the date the result of the election was unofficially attempted to be canvassed on May 14, 2019 (Tex. Elec. Code § 233.006).

10. Contestant asserts that the outcome of the contested election, as shown by the unofficial results and unofficial canvass, is not the true outcome. *See* Tex. Elec. Code § 221.003(a).

11. Contestant generally contends that an election officer(s) or other person(s) officially involved in the administration and tabulation of the election:

- A) Counted illegal votes - Tex. Elec. Code § 221.003(a)1.
- B) Failed to count legal votes - Tex. Elec. Code § 221.003(a)(2)(b).
- C) Made mistakes and/or engaged in illegal conduct - Tex. Elec. Code § 221.003(a)(2)(C)).

12. Contestant will show that because of so many material mistakes, illegalities, and potential fraud that occurred in the administration and tabulation of the election results for Early

Department (pp. 24 - 42) found at <https://www.dallascountyvotes.org/election-results-and-maps/election-results/historical-election-results/#Election>,

³ See video of May 14, 2019 DCCCD Board of Trustees Meeting at the official site for Board Meetings, <https://dccc.new.swagit.com/videos/27736>.

Voting and Election Day Voting for the Dallas County Community College District Bond Election on May 4, 2019, that the true outcome of the election cannot be ascertained.

I. Early Voting Ballots - Electronic Vote Tabulation Errors and Discrepancies

13. To determine how many Early Voting votes were potentially counted illegally, how many legal votes were not counted, and how many votes were subject to mistaken tabulations and/or illegal tabulations, a detailed analysis checking the math between various Dallas County Election Department Early Voting data sets is under way.

14. Results of the initial Early Voting analysis of the following election data sets reveal material discrepancies in ballot tabulation and are evidence that the Early Voting results reported by Dallas County Elections Department are not valid:

- A) Canvass Report,⁴
- B) Central Accumulator Audit Logs,⁵
- C) Early Voting Daily Report/Roster from polling locations for Early Voting in Person for April 22 – April 30, 2019,⁶
- D) Precinct level Early Voter rolls retrieved from Dallas County Elections website on 5/5/2019,⁷ and
- E) Precinct level Early Voter rolls retrieved from Dallas County Elections website on 6/10/2019,⁸

reveal material discrepancies in ballot tabulations and are evidence that the Early Voting results

⁴ Exhibit B - the DCCCD Bond election results posted on the publically accessible website of Dallas County Elections Department (pp. 24-42) found at

<https://www.dallascountyvotes.org/election-results-and-maps/election-results/historical-election-results/#Election>,

⁵ Central Accumulator Audit Logs were obtained by Official Dallas County Central Counting Station Watchers for the May 4, 2019 election, Mrs. Kristen Bickham and Mr. Wes Bowen. See sworn and notarized Watcher affidavits from Mrs. Bickham (Exhibit C on pp. 43-269) and Mr. Bowen (Exhibit D on pp. 270-283). Dallas County Central Accumulator Audit logs can be found on pp. 94-269 of Exhibit C of Mrs. Bickham's affidavit.

⁶ Exhibit E - Dallas County Elections Department Joint May 4, 2019 Daily Report for Early Voting in Person, pp. 284-285. The Dallas County EV Roster can be found at:

https://www.dallascountyvotes.org/wp-content/uploads/0519-00_Dallas_Early_Voting_Roster.pdf

⁷ Early Voting voter rolls, the list of voters recorded as voting at specific precincts, was retrieved on 5/5/19 from https://www.dallascountyvotes.org/early-voting-reports/?election_code=0519-00#EarlyVoting:

Exhibit F - Precincts 1000 – 1729 on pp. 286-565, Exhibit G - Precincts 2000 – 2942 on pp. 566-1149, Exhibit H - Precincts 3000 – 3950 on pp. 1150-1474, and Exhibit I - Precincts 4000 – 4663 on pp. 1475-1756.

⁸ Early Voting voter rolls, the list of voters recorded as voting at specific precincts, was retrieved on 6/10/19 from https://www.dallascountyvotes.org/early-voting-reports/?election_code=0519-00#EarlyVoting:

Exhibit J - Precincts 1000 – 1729 on pp. 1757 - 2035, Exhibit K - Precincts 2000 – 2942 on pp. 2036 - 2619, Exhibit L - Precincts 3000 – 3950 on pp. 2620 – 2993, and Exhibit M - Precincts 4000 – 4664 on pp. 2994 – 3301.

reported by Dallas County Elections Department are not valid:

15. Review and comparisons of the above Early Voting (EV) election data were performed by consulting and testifying expert, Dr. Laura Pressley, Ph.D. of True Texas Elections, LLC.⁹

16. Initial analysis results show numerous ballot count discrepancies and potential vote tabulation errors by Dallas County Central Counting Station officials while Early Voting votes were being downloaded, accumulated and tabulated.

Dallas Community College District Bond Election Ballot Discrepancy Details	Possible Violations of Texas Election Code (TEC) and Penal Code (PC)	Early Voting Ballot Counting Discrepancies and Issues	Potential Impact on EV Vote Results
EV voter rolls retrieved on 5/5/19 (68,989) show significantly less voters (and ballots cast) than those reported on the EV Roster on 4/30/10 (74,430)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 37.10	5,441	5,441 EV Ballots were not counted
EV voter rolls retrieved on 6/6/19 (71,343) are significantly less than those reported on the EV Roster on 4/30/10 (74,430)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 37.10	3,087	3,087 EV Ballots were not counted
EV voter rolls retrieved on 6/10/19 (71,343) were modified from the original EV rolls retrieved on 5/5/19 (68,989) and showed more early voting voters and ballots cast	TEC 87.121 TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) TEC 64.102 PC 37.10	2,354	2,354 EV Ballots were not counted
7 I votronic Early Voting memory cards from Friendship, Cedar Hill, Lancaster Lib., Lockwood Lib., Reverchon Rec., Richland College polling locations had tabulation errors at Central Counting	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05	9,672	9,672 EV Ballots were incorrectly counted
6 I votronic Early Voting memory card downloads and tabulations are missing from Audit Logs from EV polling locations of Bethany, Disciple, Highlind Hills, Oak Cliff S. and Richland College	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05	10,802	10,802 EV Ballots were incorrectly counted
131 EV Precincts - EV Ballots registered on the Audit Logs exceed the number of EV voters reported as voting on the county's voter rolls on 5/5/19 (discrepancy of 1 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	20,347	20,347 EV Ballots were incorrectly counted
11 EV Precincts - EV Ballots registered on the Audit Logs exceed the number of EV voters reported as voting on the county's voter rolls on 5/5/19 (discrepancy of 3 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	2,072	2,072 EV Ballots were incorrectly counted
87 EV Precincts - EV Ballots registered on the Audit Logs exceed the number of EV voters reported as voting on the county's voter rolls on 6/10/19 (discrepancy of 1 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	14,062	14,062 EV Ballots were incorrectly counted
31 EV Precincts - EV Ballots registered on the Audit Logs exceed the number of EV voters reported as voting on the county's voter rolls on 6/10/19 (discrepancy of 3 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	6,288	6,288 EV Ballots were incorrectly counted
24 EV Precincts - More EV Ballots canvassed than Ballots on Audit Logs (discrepancy of 1 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	1,411	1,411 EV Ballots were incorrectly counted

⁹ Exhibit N – Curriculum Vitae of Dr. Laura Pressley, Ph.D. on pp. 3302 – 3306.

17. See the table above for a summary of the Early Voting ballot discrepancy details, the possible legal violations, the number of ballots impacted by these issues and the potential effects on voting results.

18. The Texas Constitution Article VI Section 4, mandates that the Texas Legislature enact provisions to protect the ballot box and detect fraud:

“In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box;”

19. The Texas Legislature has enacted various directory and mandatory Texas Election Code provisions that specify retention of backup data sets and protections to ensure the purity and security of election records and results. *See* Tex. Elec. Code § 66.023 CONTENTS OF ENVELOPE NO. 2:

“Envelope no. 2 must contain: (1) a copy of the precinct returns; (2) a tally list; (3) the original of the poll list; (4) the signature roster; (5) the precinct early voting list; (6) any affidavits completed at the polling place except affidavits required to be placed in envelope no. 4; and (7) any certificates of appointment of watchers.” (emphasis added)

This section provides the safeguard of an original paper backup data set for Early Voting returns, called Results Tapes, which are to be printed when the polls close and retained.¹⁰

20. Unfortunately, it appears that the Dallas County Elections Department does not require compliance with Tex. Elec. Code § 66.023 and thus the election returns for the Early Voting polling locations may not be preserved. Tex. Elec. Code § 66.053. Pursuant to Tex. Elec. Code § 66.051, it is a Class B misdemeanor to not return the Early Voting results tapes. Because of the county’s apparent failure to follow Tex. Elec. Code § 66.023, no such original paper

¹⁰ Exhibit O on pp. 3307 - 3315- Texas Secretary of State Election Advisory 2018-34, “A Results Tape is the tape that is printed when the polls close. It is called a Results Tape since all contests and propositions are listed and have the resulting votes next to each name or question” on page 3315. Full document can be found at <https://www.sos.texas.gov/elections/laws/advisory2018-34.shtml>

backup audit trail, Results Tapes for Early Voting may exist to verify Early Voting results.

II. Election Day - Electronic Vote Tabulation Errors and Discrepancies

21. To determine how many Election Day votes were counted illegally, how many legal votes were not counted, and how many votes were subject to mistaken tabulations and/or illegal tabulations, a detailed analysis checking the math between various Dallas County Election Department Election Day data sets is under way.

22. Results of the initial analysis of the following election data sets, reveals material discrepancies in ballot counts that are strong evidence the Election Day results reported by Dallas County Elections Department are not valid. Verifying the math between various Dallas County Election Department Election Day (ED) voting data sets reveals more material discrepancies in ballot counts:

- A) Canvass Report,¹¹
- B) Central Accumulator Audit Logs,¹²
- C) Election Day Voter Rolls¹³

23. Comparisons of the Election Day (ED) data sets were performed by Dr. Laura Pressley, Ph.D. of True Texas Elections, LLC. Initial results show numerous Election Day ballot counting discrepancies and errors by Dallas County Central Counting Station officials while votes were being downloaded, accumulated and tabulated:

¹¹ Exhibit B - the DCCCD Bond election results posted on the publically accessible website of Dallas County Elections Department (pp. 24 - 42) found at

<https://www.dallascountyvotes.org/election-results-and-maps/election-results/historical-election-results/#Election>,

¹² Central Accumulator Audit Logs were obtained by Official Dallas County Central Counting Station Watchers for the May 4, 2019 election, Mrs. Kristen Bickham and Mr. Wes Bowen. See sworn and notarized Watcher affidavits from Mrs. Bickham (Exhibit C on pp. 43 - 269) and Mr. Bowen (Exhibit D on pp. 270-283). Dallas County Central Accumulator Audit logs can be found on pp. 94-269 of Exhibit C, Mrs. Bickham's affidavit.

¹³ Exhibit P (on pp. 3316 - 4495) – Election Day voter rolls retrieved on 6/6/19.

Dallas Community College District Bond Election ED Ballot Discrepancy Details	Possible Violations of Texas Election Code (TEC) and Penal Code (PC)	Election Day Ballot Counting Discrepancies and Issues	Potential Impact on ED Vote Results
87 ED Precincts - On election night, audit Logs document tabulation error messages that original ED ballot results were subsequently "REPLACED" by another data set. Unclear if results were same as original.	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	4,238	4,238 Ballots were incorrectly counted
17 ED Precincts - ED Ballots registered on the Audit Logs exceed the number of ED voters reported as voting on the county's voter rolls retrieved on 6/6/19 (discrepancy of 1 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	4,347	4,347 Ballots were incorrectly counted
5 ED Precincts - ED Ballots registered on the Audit Logs exceed the number of ED voters reported as voting on the county's voter rolls retrieved on 6/6/19 (discrepancy of 3 or more ballots)	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	1,495	1,495 Ballots were incorrectly counted
At least 3 ED Precincts (2503, 1109, and ?) had machine issues and new cards were formatted, programmed and sent to precincts per Wachters at Central Counting	TEC 221.003(a)(2)(B) TEC 221.003(a)(2)(C) PC 33.05 PC 37.10	unknown	Unknown number of Ballots affected

24. See the table above for a summary of the Election Day ballot discrepancy details, the possible legal violations, the number of ballots impacted by these issues and the potential effects on voting results.

III. Dallas County Central Counting Station - Vote Tabulation Irregularities, Mistakes, and Illegality Observed by Official Watchers

25. Over a four-day period, from May 1 (day after Early Voting closed) through May 4th (Election Day), the Dallas County Central Counting Station was open, downloading, accumulating, and tabulating electronic votes cast by Dallas voters for Early Absentee Ballot by Mail, Early Voting in Person and Election Day in Person. Some of the tabulation activities for the Dallas County Central Counting Station were documented in Dallas County's Election Department Control Plan.¹⁴ See Tex. Elec. Code § 127.007 requiring the manager of the central counting station ("CCS") to "establish and implement a written plan for the orderly operation of the central counting station.

26. According to the Control Plan, official members of the Dallas May 4, 2019

¹⁴ Exhibit Q – Dallas County Central Counting Station Control Plan for May 4, 2019 Municipal Elections, pp. 4496 – 4502.

Municipal Elections Central Counting Station included:¹⁵

Central Counting (CCS) Manager	Toni Pippins-Poole (Dallas County Elections Administrator)
Tabulation Supervisor	Daniel Bradley (Central Count Station Manager)
Assistant Tabulation	Danielle Grant, (Central Count Station Lead Clerk) Nicolas Mevellec, (ES&S Site Support/Project Manager)
Presiding Judge	Fay Matthews-Bridges or designee,
Alternate Judge	Belinda Berg or designee, (City of Cedar Hill)
Counting Station Clerks	Debbie Jones, and part time/temporary employees

27. Pursuant to Tex. Elec. Code Chapter 33, multiple official Watchers served at the Dallas County Central Counting Station from May 1st through May 4th. These included, and are not limited to, Mrs. Kristen Bickham,¹⁶ Mr. Sammy Bickham, Jr.,¹⁷ Mr. Wes Bowen,¹⁸ Mr. Kirk Launius,¹⁹ and Mr. Mike Slaton.²⁰ Their sworn and notarized Watcher affidavits are noted as Exhibits C, R, D, S and T, below.

28. To further assess and determine how many votes were counted illegally, how many legal votes were not counted, and how many votes were subject to mistaken tabulations and/or illegal tabulations, a detailed analysis and review of the Central Counting Station Watchers' experiences and observations and comparisons with the Dallas County Central Counting Station Central Accumulator Audit Logs, and other election data sets is under way.

¹⁵ *Ibid.* p. 4496.

¹⁶ Exhibit C – Mrs. Bickham's Official Watcher Affidavit, pp. 43 – 269.

¹⁷ Exhibit R – Mr. Bickham's Official Watcher Affidavit, pp. 4503 – 4507.

¹⁸ Exhibit D – Mr. Bowen's Official Watcher Affidavit, pp. 270 – 283.

¹⁹ Exhibit S – Mr. Launius Official Watcher Affidavit, pp. 4508 – 4523.

²⁰ Exhibit T – Mr. Slaton Official Watcher Affidavit, pp. 4524 – 4526.

29. Results of the initial analysis of hundreds of pages of affidavits reveal that over the four-day period from May 1st through May 4th, at the Dallas County Central Counting station, a plethora of computer tabulation irregularities, mistakes, illegalities, and obstructions were witnessed by official Watchers. Some of the most serious issues are noted below along with the legal violations and potential impact to vote results:

- A) Official Dallas County Central Counting Station Watchers report not being allowed to “observe any activity conducted” when electronic votes were entered, accumulated, and tabulated. Watchers observed what they believed to be a “parallel central counting location in operation” outside their purview. *See* Tex. Elec. Code § 33.056 and 31.061.
- B) Central accumulator computerized tabulation audit logs obtained by Mrs. Bickham appear to have been altered because tabulation line items and entries are missing as evidenced by randomly displaced audit log headers. *See* Tex. Penal Code Sec. § 37.10.
- C) Hundreds of iVotronic electronic voting machine memory cards with vote data for Early Voting were downloaded at Central Counting on 5/1/19 and these significant central accumulator computer events are missing from the audit logs. *See* Tex. Administrative Code Rule § 81.62.
 - All “significant events” such as “diagnostics,” “completion of reading ballots,” “error or warning messages and operator response to those messages,” “users logging in and out from the system,” are to be recorded on the audit logs to ensure transparency, detect fraud, and protect the purity of the vote tabulations.
 - Many Early Voting memory cards were observed to not have their vote data download and those error messages and responses were not recorded on the audit logs the Watchers were entitled to receive.
- D) Multiple Wi-Fi connections were observed by Watchers when vote tabulations were occurring in Dallas Central Counting. *See* Tex. Elec. Code §§ 61.014(a), 129.054 and 129.055 which prohibit internet connectivity and wi-fi in Central Counting stations.
 - Wi-Fi connections were detected in the hallway/reception area directly outside of Central Counting.

- Watchers observed many Ethernet cable connections plugged directly into the computers/servers that appeared to be labeled to hold Early Voting and Election Day results.
 - Watchers observed what appeared to be a router or modem operating on top of the early voting flashcard downloading equipment.
- E) A non-county issued private laptop computer was being operated by a non-county employee, a tabulation assistant in the Dallas County Central Counting Station while votes were being downloaded, entered and counted.
- The private laptop was observed operating with an internet “hot spot” when votes were being processed.
 - Private laptops with internet connectivity that are operated by an outside tabulation assistant is not permitted by any statute in the Tex. Elec. Code and are prohibited by Tex. Elec. Code §§ 129.054 and 129.055.
 - Tabulation assistants are only permitted to “assist the tabulation supervisor in the operation of the *automatic tabulating equipment* as directed by the tabulation supervisor.” See Tex. Elec. Code § 127.004.
- F) Central Counting Station tabulations were performed while questionable and insecure computer activities were registered on the central tabulator computer audit logs:
- 87 Election Day precincts were flagged with error messages of votes being “REPLACED,”
 - Over 1000 Early Voting precincts show that tabulation error of “TIME STAMP MISMATCH” occurred and were repeatedly “cleared” on the central accumulator tabulation computer.
 - These computer error messages may be indicating that false votes are being injected into the tabulation results. See Tex. Elec. Code §§ 221.003(a)(2)(B); 221.003(a)(2)(C): Tex. Penal Code §§ 33.05 and 37.10.
- G) Watchers observed hundreds of Early Voting memory cards that were insecurely stored before and after being downloaded, processed, and counted on multiple days May 1, 3, and 4 and appear to be in violation of Tex. Elec. Code § 87.101 and Texas Administrative Code Rule §§ 81.34²¹ and 81.36 (j),

²¹Texas Administrative Code Title 1 Part 4 Chapter 81 Subchapter B Rule § 81.34
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1)

(l), and (n).²²

30. The overwhelming Central Counting Station issues that the Watchers experienced and witnessed are consistent with insecure, illegal, mistaken, and potentially fraudulent vote tabulations for Early Voting and Election Day ballots.

31. Two scenarios are shown below that illustrate the serious implications that these vote tabulation discrepancies and illegalities could have on the final vote counts.

32. Scenario 1 quantifies the magnitude of the ballot counting discrepancies outlined above for Early Voting and Election Day tabulations and how these ballot tabulation uncertainties impact the bottom line of the bond election results. The initial itemized list and analytical quantification of the massive number of ballot counting discrepancies well exceeds the margin of victory that has been reported by the Dallas Elections Department. The integrated sum of these tabulation discrepancies and issues clearly prevent the Court's ability to ascertain the true results.

Scenario 1 - Lack of Integrity of Tabulations (Mutually Exclusive Issues and Fact Questions)		
	For	Against
Final Results Reported by Dallas County Elections	88,181	35,226
<u>Ballot Counting Discrepancy Issues</u>		
EV Ballots Missing - Evidenced by EV Roster Reports and County 5/5 EV Rolls		5,441
7 EV Memory Cards missing from Audit Logs (Potential 25% impact on Ballots) - Evidenced by Audit Logs and Watchers		2,701
87 ED Pcts. voting data "REPLACED" - Evidenced by Audit Logs and Watcher Affidavits	(4,238)	4,238
6 EV Cards with tabulation errors (Potential 25% impact on Ballots) - Evidenced by Wacher Affidavit	(2,418)	2,418
131 EV Pcts. show more ballots than voters - Evidenced by Audit Logs and County EV Rolls 5/5	(20,347)	20,347
17 ED Pcts. show more ballots than voters - Evidenced by Audit Logs and County's ED Rolls 6/6	(4,347)	4,347
24 EV Pcts. show more ballots canvassed than on audit logs - Evidenced by Canvass Report and Audit Logs	(1,411)	1,411
New Totals	55,420	76,129

33. In Scenario 2, the ballot counting discrepancies are much larger in magnitude. The

[&p_tac=&ti=1&pt=4&ch=81&rl=34](#)

²²Texas Administrative Code Title 1 Part 4 Chapter 81 Subchapter B Rule § 81.36

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=4&ch=81&rl=36](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=4&ch=81&rl=36)

sum total of the impact of these tabulation errors and vote security breaches well exceed the reported margin of victory and are even more plausible given the evidence of missing ballots, wholesale security breaches of Early Voting ballots, and the more than a thousand computer tabulation errors documented on Audit logs and witnessed by official Watchers.

Scenario 2 - System Tabulation Errors and Vote Security Breaches (Mutually Exclusive Issues and Fact Questions)		
	For	Against
Final Results Reported by Dallas County Elections	88,181	35,226
<u>Ballot Counting Discrepancy Issues</u>		
EV Ballots Missing - Evidenced by EV Roster Reports and County 5/5 EV Rolls		5,441
7 EV Memory Cards missing from Audit Logs (Potential 25% impact on Ballots) - Evidenced by Audit Logs and Watchers		2,701
EV memory cards not secure/all EV Pcts show error "Time stamp mismatch" - Evidenced by Audit Logs and Watcher Affidavits	(71,493)	71,493
87 ED Pcts. voting data "REPLACED" - Evidenced by Audit Logs and Watcher Affidavits	(4,238)	4,238
17 ED Pcts. show more ballots than voters - Evidenced by Audit Logs and County's ED rolls 6/6/19	(4,347)	4,347
New Totals	8,103	123,446

IV. Quantification of Illegally Cast Votes – Following the Matching Process Defined by Settlement Agreement of Civil Action No. SA-19-CA-074-FB²³

34. Tex. Elec. Code § 64.012 specifies when illegal voting has occurred:

- (a) “A person commits an offense if the person: (1) votes or attempts to vote in an election in which the person knows the person is not eligible to vote; (2) knowingly votes or attempts to vote more than once in an election; (3) knowingly votes or attempts to vote a ballot belonging to another person, or by impersonating another person; or (4) knowingly marks or attempts to mark any portion of another’s ballot without the consent of that person, or without specific direction from that person how to mark the ballot.
- (b) An offense under this section is a felony of the second degree unless the person is convicted of an attempt. In that case, the offense is a state jail felony.”

35. The Dallas Morning News reported on 2/29/2019 that Ms. Pippins-Poole revealed that Dallas County had “nearly 10,000 county voters”²⁴ who appeared on the Secretary of State’s original list of 98,000 potential non-US citizen voters that was sent out to Texas election administrators in January of 2019.

²³ Exhibit U - *LULAC v. Whitley* Settlement Agreement of Civil Action No. SA-19-CA-074-FB, pp. 4527 – 4546 found at https://www.aclutx.org/sites/default/files/4-25-10_voter_purge_settlement_agreement.pdf

²⁴ Exhibit V – Dallas Morning News article on potential number of illegal voters in Dallas County, pp. 4547 – 4549 found at <https://www.dallasnews.com/news/elections/2019/01/29/list-98000-potential-non-citizen-voters-may-overstated-texas-secretary-state-tells-counties>

36. While the original January 2019 list to Dallas County Elections from the Secretary was flawed, the actual count of those in Dallas County that may have illegally voted in the DCCCD Bond Election must be determined and then this Court will be able to ascertain the true outcome of the election. *See* Tex. Elec. Code §§ 64.012, 221.003.

37. The process Contestant will use to quantify the number of votes potentially cast illegally in the DCCCD Bond Election will be the same methodology outlined by the Settlement Agreement of *LULAC v. Whitley* Settlement Agreement.²⁵

38. To assist in attempting to determine the true vote count of the DCCCD bond election, the Election Code grants the trial court broad authority to examine voting systems and user manuals for electronic voting systems (*see e.g.*, §§ 122.0331(a), (d); 221.008; 213.006) and thus, this tribunal may order the examination of secured ballots and other equipment used for voting and electronic tabulations. *See* Tex. Elec. Code § 221.008.

V. Meeting the Standard of Tex. Elec. Code §§ 221.003, 221.001 and 221.012 - Declaring the True Outcome of the Election Cannot be Ascertained

39. This Court may find that so many mistakes and illegalities occurred in the administration and tabulation of the DCCCD bond election ballots that the true outcome of the election *cannot* be determined, and thus this Court may declare the Dallas County Community College District Bond election void. *See* Tex. Elec. Code §§ 221.011 and 221.012.

40. It is Contestant's burden to show by clear and convincing evidence that the outcome shown by the final canvass was not the true outcome because illegal votes were counted or an election officer prevented eligible voters from voting, failed to count legal votes, or engaged in other fraud, illegal conduct, or mistake. *McCurry v. Lewis*, 259 S.W.3d 369, 373 (Tex.App.-Amarillo 2008, no pet.); Tex. Elec. Code § 221.003(a). The outcome of the election is

²⁵Exhibit U - *LULAC v. Whitley* Settlement Agreement of Civil Action No. SA-19-CA-074-FB, pp. 4527 – 4546 found at https://www.aclutx.org/sites/default/files/4-25-10_voter_purge_settlement_agreement.pdf

materially affected when a different and correct result would have been reached in the absence of irregularities in the conduct of the election rendered it impossible to determine the majority of the voters' will. *McMurry* at 373.

41. Additionally, to prevail in an election contest the Contestant must offer clear and convincing evidence showing some violation of the Elections Code materially affected the outcome of the election. *Woods v. Legg*, 363 S.W.3d 710, 713 (Tex. App. — Houston [1st Dist.] 2011, no pet.); *Price v. Lewis*, 45 S.W.3d 215, 218 (Tex. App. — Houston [1st Dist.] 2001, no pet.); *Alvarez v. Espinoza*, 844 S.W.2d 238, 242 (Tex. App. — San Antonio 1992, writ dis'd). An election has been “materially affected” when a different and correct result would have been reached in the absence of Election Code violations. *Woods*, 363 S.W.3d at 713; *Duncan-Hubert v. Mitchell*, 310 S.W.3d 92, 98 (Tex. App. — Dallas 2010, pet. denied).

42. The real root causes and resolutions of these enormous Early Voting and Election Day ballot counting discrepancies, mistakes, security breaches and illegalities - whether due to administrative errors or violations of the Election or Penal Codes - are crucial for this Court to determine so that the true outcome of the election is known. The issues before this Court are of great importance in ensuring that elections in Dallas County and in Texas are legally conducted, trustworthy, and verifiable.

43. Contestant asserts that because of the enormity of these aforementioned ballot counting mistakes, illegal conduct and/or fraud in the administration, conduct, and tabulation of the Dallas County Community College District Bond election results, the reported results of the election cannot be verified.

44. Moreover, Contestant contends that once the Court finds, through clear and convincing evidence, the magnitude of votes that were illegally cast, illegally or mistakenly

counted by members of the Dallas County Central Station, the Court will conclude the true election results cannot be ascertained and the election will be declared void (Tex. Elec. Code § 221.021) and a new election is ordered.

45. Contestant reserves the right to timely amend this original petition if additional evidence concerning the counting of votes, fraud, illegal conduct, or mistakes related to the contested election is discovered.

REQUESTED RELIEF

46. Contestant seeks monetary relief of \$100,000 or less and non-monetary relief.

Contestant seeks court declaration of the true outcome of the contested election, or in the alternative, Declaration that the contested election results cannot be ascertained and thus declare the Dallas County Community College District bond election void and order Dallas County Elections Department to conduct and administer a new election according to Texas election laws.

DISCOVERY AND PRODUCTION REQUESTS

47. Pursuant to Texas Rule of Civil Procedure 194, Contestant requests, within 30 days of service of this request, that Contestee disclose and serve the information and material described in Rule 194.2.

48. Pursuant to Texas Rule of Civil Procedure 196, Contestant requests that Contestee and the authority administering the election, the Dallas County Elections Department, produce for inspection and copying:

- A) all documents, election records, equipment, hardware, software and firmware that establish or otherwise support the claim that the outcome of the contested election, as shown by the final canvass, is the true outcome;
- B) all documents, election records, equipment, hardware, software and firmware that establish or otherwise support the claim that the outcome of the contested

election, as shown by the final canvass, is not the true outcome; and

- C) all documents, election records, equipment, hardware, software and firmware that discuss, concern, or otherwise relate to whether the outcome of the contested election, as shown by the final canvass, is or is not the true outcome.

CONDITIONS PRECEDENT

49. All conditions precedent have been performed or have occurred.

PRAYER

50. Based on the foregoing, Contestant requests that the Court ascertain the true outcome of the contested election, or in the alternative, declare the contested election results cannot be ascertained and thus declare the Dallas County Community College District bond election void and order Dallas County Elections Department to conduct and administer a new election according to Texas election laws.

51. Contestant also seeks costs of suit and all other relief, in law and in equity, to which they may be entitled.

Respectfully submitted,

The Dobrovolny Law Firm, P.C.

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Attorney for Plaintiff

Certificate of Requested Service and Required Notice

The undersigned hereby certifies that Contestant has requested citation issue and that the Clerk deliver a true and correct copy of the foregoing Contestant's Original Petition to Defendant, Diana Flores, Board of Trustees, Dallas County Community College District by USPS Certified, return receipt requested mail to 1601 S. Lamar St., Dallas, TX 75215 and courtesy copy via email to DianaFlores@dccd.edu by Clerk's Efile system, and a true and correct copy has been delivered this day by hand delivery to Keith Ingram, Director of Elections, Elections Division, Secretary of State for the State Texas at 1019 Brazos Street, Austin Texas 78701, and courtesy copy email through Clerk's Efile system to elections@sos.texas.gov.
on this, the 13th day of June, 2019,

/s/ Frank G. Dobrovlny _____
Frank G. Dobrovlny