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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO  
10 UNLIMITED JURISDICTION

11 JAMES MARCH, BEVERLY HARRIS,  
12 JOSEPH HOLDER, JIM HAMILTON,  
13 DOUGLAS MacDONALD,  
14 COMMUNITY-LABOR ALLIANCE,

15 Plaintiffs and Petitioners,

16 vs.

17 DIEBOLD ELECTION SYSTEMS, INC.;  
18 DIEBOLD, INC.,

19 Defendants,

20 KEVIN SHELLEY, as California Secretary of  
21 State; ANN BARNETT, as Kern County  
22 Clerk/Registrar of Voters; SALLY McPHERSON,  
23 as San Diego County Registrar of Voters;  
24 DEBORAH HENCH, as San Joaquin County  
25 Registrar of Voters; LAURA WINSLOW, as  
26 Solano County Registrar of Voters; BRADLEY J.  
27 CLARK, as Alameda County Registrar of Voters;  
28 KATHLEEN WILLIAMS, as Plumas County  
Clerk/Recorder; VICTOR E. SALAZAR, as  
Fresno County Clerk/Registrar of Voters;  
LINDSEY WILLIAMS, as Humboldt County  
Elections Manager; THERESA NAGEL, as Lassen  
County Registrar of Voters; MICHAEL SMITH, as  
Marin County Clerk/Registrar of Voters; MARSHA  
A. WHARFF, as Mendocino County Registrar of  
Voters; MAXINE MADISON, as Modoc County  
Clerk; JULIE RODEWALD, as San Luis Obispo  
County Clerk-Recorder; JOSEPH E. HOLLAND,  
as Santa Barbara County Clerk; JIM MCCAULEY,  
as Placer County Clerk/Recorder/Registrar of  
Voters; COLLEEN BAKER, as Siskiyou County  
Clerk; DERO B. FORSLUND, as Trinity County  
Clerk/Recorder/ Registrar of Voters; JIMMY R.  
ALLEN, as Tulare County Auditor/Controller/  
Registrar of Voters; CONNY B. McCORMACK, as  
Los Angeles County Registrar of Voters,

Respondents.

) CASE NO. 04CS00176

) DECLARATION OF  
) JAMES "JAY" KENNETH DUNN

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1 I, James "Jay" Kenneth Dunn, declare as follows:  
2

3 1. I make this declaration of my own personal knowledge and if called as a witness,  
4 I would competently testify to the facts set forth herein.  
5

6 2. I was employed from February 2nd through March 2nd of 2004 as a contractor  
7 for Diebold Election Systems. I was hired through a "temporary contract agency" called "PDS  
8 Technical Services" based in Dallas, Texas. My main place of employment, at least to start,  
9 was at Diebold's branch office in West Sacramento (1300 South River Road suite 135) where I  
10 was hired to setup, configure and test Diebold's "PCM500" and "PCM100" "Precinct Control  
11 Modules". During my last week and a half of employment, I was configuring and supporting  
12 the "touchscreen" voting terminals "in the field" in San Joaquin county (mostly in the city of  
13 Stockton).  
14

15 3. Other contract employees that I'm aware of from the West Sacramento facility  
16 included Mike Bush, Jim Lacey, Greg Arnel, Jim Samson, Raymond Nguyen, Eddie Lausch and  
17 Chris Stone. Other contractors doing "Roving support" such as I performed in San Joaquin  
18 include Alex Jimenez, Kevin Blanchard, Mike Hunting, Terry Donische, Evette Dunmore,  
19 Steve Atwood, Joyce Foster.  
20

21 4. Diebold employees that I had direct contact with were Max Poppers, Steve  
22 Knecht, Mike Rockenstein and Steve Ricke. These are the people whose full names I can recall  
23 offhand; there was also a lady name of "Karen" something who I had frequent contact with but I  
24 cannot recall the last name. I would know her on sight and I would recognize the last name if I  
25 heard it.  
26

27 5. While working at the West Sacramento warehouse/setup facility, I would "build"

1 and “load” PCM500 units. This consisted of unboxing and assembling the multiple physical  
2 parts that make up the PCM500 such as the base, screen, batteries, power pack, case and  
3 similar. I would then “load” software as instructed by Diebold staff, in a specific order, and  
4 configure this software as directed (setting the time, the power management settings and other  
5 minor details).

6  
7 6. At various times while setting up PCM500s at West Sacramento, “Karen”, in  
8 company with somebody introduced as a technician who worked out of the McKinney Texas  
9 office but was from South Africa originally, would distribute new versions of the PCM500  
10 software on PCMCIA memory cards. We would then load these on the PCM500s. In many  
11 cases the PCMCIA cards would have version numbers recorded which had been crossed off and  
12 new version numbers hand-written in. This happened at least twice and possibly three times,  
13 for between three and four total types of PCM500 software “builds” flowing through the office.  
14 In some cases prior versions had already shipped to customers in Alameda and San Diego  
15 counties prior to later updating. As there were no records kept of which machines had been  
16 updated, and there was no proper quality control measures such as “check-off forms” tracking  
17 machine changes, I am professionally certain that multiple variants of the software made it into  
18 the field from the build center in West Sacramento.

19  
20 7. I know that the PCM500s were destined for Alameda and San Diego because my  
21 final task on boxing up the systems was to mark outgoing pallets with the customer county and  
22 pallet number. We were told to prepare “batch sizes” of PCM500s for specific county needs. A  
23 small number were also built for a county in Kansas state by our office.

24  
25 8. The only “tracking system” in place recorded which serial number of device  
26 went on which pallet to which county. There was no tracking of per-unit testing or the version  
27 number of software loaded. On the last 10% - 15% of the terminals, a basic “final test” of each

1 PCM500 to make sure the time and other settings were correct and that it can make a “voter  
2 card” was instituted at Karen’s insistence (which measure was resisted by other Diebold  
3 employees in my earshot).  
4

5 9. While setting up the systems, myself and the other contract technical staff  
6 realized that if the onboard battery power in the PCM500s dropped below 15%, the machines  
7 would lose their “CMOS Settings” (time, date, power management settings and similar) PLUS  
8 lose the application software load. It would retain Windows CE but dump just about everything  
9 else. In response, we tried to make sure that each machine shipped with at least 60% battery life  
10 remaining.  
11

12 10. On multiple occasions, myself and other contract technical staff came to  
13 work and equipment to be set up had not arrived yet or some similar stoppage had arisen. We  
14 would then be sent home after one to two hours of waiting and be paid a full day’s contract tech  
15 wages (\$14 - \$18 per hour). I asked one of the Diebold employees how they could afford this,  
16 and was told “it’s on the customer”.  
17

18 11. During the last week and a half when I was employed based out of the  
19 Stockton office, we configured voting terminals for the San Joaquin County elections (Accuvote  
20 TSx terminals). We were based in a San Joaquin county registrar of voters warehouse near the  
21 airport. I would configure a group of new TSx terminals brought in as “rentals” to supplement  
22 the county’s normal supply. We would unpack, set up, configure, load software and inspect  
23 these “rental” terminals. We would also configure small batches of machines at the county’s  
24 main election headquarters, in classrooms and the like (training for pollworkers). We would  
25 also check to make sure these terminals were running a specific version of software based on a  
26 date.  
27

1           12.           Less than a week before the election, myself and other contract technical  
2 employees were all gathered together at the Stockton airport warehouse to listen to a briefing  
3 given by the assistant registrar of voters for San Joaquin County. This individual, whose name  
4 escapes me, was a tall, "gaunt looking" gent with dark hair. He told us that California Secretary  
5 of State Kevin Shelley was about to visit that facility on an inspection tour. We were ordered  
6 by this assistant registrar not to talk to Shelley or his entourage at any time, or to answer any  
7 questions, and if asked any questions to refer these questions to Steve Knecht, Max Popper or  
8 himself. He then said "It's best that they know as little as possible we have had enough bad  
9 press already." Also present were contract technical employees Chris Stone, Eddie Lausch,  
10 Raymond Nguyen, Jim Samson and others I don't recall.

11  
12           13.           However, right after that speech, Knecht, Popper, the warehouse manager  
13 (San Joaquin County employee) and the assistant registrar of voters had a brief meeting out of  
14 our earshot in an office we saw them go into. Steve Knecht then came out and said that we  
15 could all go home early with a full day's pay.

16  
17 I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
18 was executed on April 18<sup>th</sup>, 2004 at Sacramento, California.

19  
20 \_\_\_\_\_  
21 James "Jay" Kenneth Dunn  
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