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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO–CENTRAL DIVISION

CITIZENS OVERSIGHT INC., a Delaware non-profit corporation; RAYMOND LUTZ, an individual, Plaintiffs, vs. MICHAEL VU, San Diego Registrar of Voters; HELEN N. ROBBINS-MEYER, San Diego County Chief Administrative Officer; COUNTY OF SAN DIEGO, a public entity; DOES 1-10, Defendants.	CASE NO: 37-2016-00020273-CL-MC-CTL **DECLARATION OF BEN D. COOPER IN SUPPORT OF INJUNCTIVE RELIEF** **Hon. Joel R. Wohlfeil, Judge** Complaint filed: June 16, 2016 No Trial Date Set Hearing Date: July 6, 2016 Hearing Time: 1:30 p.m. Dept: C-73 **Hon. Joel R. Wohlfeil**

I, BEN D. COOPER, declare as follows:

1. Since 1981, I have been a member in good standing of the State Bar of California. I am currently on inactive status. My State Bar Number is 97494.

2. Until December, 2015, for 35 years, I had been a resident and registered voter within the City of San Diego in the County of San Diego. In December, 2015, I relocated to West Palm Beach, Florida, where I now make my domicile and where I am now registered to vote. I am over the age of 18.

3. I am also a member of CitizensOversight.org.

4. I have personal knowledge of all facts stated herein, except those declared upon

information and belief, in which case I believe said facts to be true based upon matters represented to me by others. If called upon by the court to testify, I could do so competently.

5. I visited San Diego for approximately two weeks from June 5 through June 19, 2016. On or about Saturday, June 18, 2016, pursuant to the request of CitizensOversight.org, I participated briefly as an Election Observer for the purpose of observing "the mail and provisional ballot counting/canvassing process" underway at the office of the Registrar of Voters located at 5600 Overland Drive, San Diego.

6. While I was at the Registrar's office that afternoon from approximately 3 p.m. to 4:30 p.m. I was permitted to watch employees seated in cubicles on both sides of the entryway lobby, as they reviewed the information written on sealed envelopes, each of which I was informed contained vote by mail or provisional ballots from the June 7, 2016 Primary Election. Among other things, the employees would compare the voter's signature, address, and other information with the information on file in the Registrar's computerized database, and then sort the envelopes into separate piles or categories. On a few occasions, the employee would consult regarding questionable signatures or data with other employees who appeared to be their supervisors.

7. I was instructed not to speak with or interact with those employees but that if I had any questions I should ask one of the two young ladies who were essentially supervising my presence in the office as well as that of several other observers whom I did not know. I did ask each of the two young ladies several questions about the processes I was observing.

8. After watching the process described in the preceding paragraphs for an hour or so, I asked one of the aforementioned two young ladies if I could be allowed to go to any of the other "rooms" that she had described to me as rooms to which, after this initial review, the ballots would be sent for further review, processing, or "special handling" such as the "remake room."

9. While making this request, I was joined by two other observers asking similar questions and making similar requests to visit the "other rooms." At some point, a gentleman who I believe was addressed by the other employees as "Chris" joined our group. "Chris" appeared to me to be the person in charge of the activities being conducted and the employees present in the

office at that time. In response to my request to observe the "other rooms" he replied that they were all done for the weekend, and would resume work on Monday, June 20.

10. A conversation then ensued with my fellow observers and me asking questions about the provisional ballots. During this conversation, "Chris" explained why so many of the NPP voters had been given provisional ballots at the polls.

11. "Chris" referred to the ongoing controversy over the provisional ballots as the result of what the personnel in the Registrar's office were considering merely a "training issue."

12. He further explained that the precinct poll workers had been supplied with two versions of Democratic ballots. One version was the "regular" Democratic party ballot intended for registered Democrats, which contained all contests, including that for Democratic County Committee members, on which only registered Democrats could legally vote.

13. "Chris" further explained that the other Democratic ballot supplied to the precinct poll workers was the "Democratic Crossover Ballot," intended for NPP voters who wished to "cross over" and vote in the Democratic primary, mostly for one of the candidates for the Democratic Party presidential nomination. This "Democratic Crossover Ballot," contained only those contests in which NPP voters were permitted to vote.

14. "Chris" also explained the poll workers were "trained" that at the precinct polling places, unless those NPP voters who asked for a Democratic ballot or to vote in the Democratic primary **used the precise words "Democratic Crossover Ballot,"** they were to give those NPP voters a "regular" Democratic ballot.

15. The poll workers were additionally "trained" not to interpret or question the NPP voters' intent, but rather, if they asked for a "Democratic ballot" or to "vote in the Democratic primary" to give them what they literally had asked for — the regular Democratic ballot containing all those races in which they were ineligible to vote, such as for candidates for Democratic Central Committee. The poll workers were instructed to then have the voter fill out envelopes into which to put their completed regular Democratic ballots. The envelopes would identify these as "provisional ballots."

16. "Chris" stated that in this way they were "protecting the voters' rights." I then responded

by joking with "Chris" that the Registrar's office had "shot themselves in the foot" generating unnecessary controversy by being overly concerned with "protecting the voters' rights" by responding to their requests literally. I suggested that "common sense" would have dictated that the poll workers should have been"trained" instead to give those NPP voters "Democratic Crossover Ballots" — that ballot containing the only offices on which they would have been legally entitled to vote.

17. Maintaining my jocular pose, I stated that the Registrar should have "trained" his poll workers instead to have been less considerate of "the voters' rights," but — from their position of superior legal knowledge, recognizing that NPPs asking to vote in the Democratic primary legally could only vote a "Democratic crossover ballot" — to act not on the precise "words of art" the uninformed voter might have uttered, but rather to follow the NPP voters' obvious intent and give them "Democratic Crossover Ballots" which would then not need to be treated as a provisional ballot.

18. "Chris" appeared to indicate that he agreed with my comments, and our conversation ended shortly thereafter.

19. Since there were no other rooms in which specialized functions were being performed at that time on the ballots, I then left the Registrar's office.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: July 5, 2016

Ben D. Cooper

BEN D. COOPER