

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ANTRIM**

WILLIAM BAILEY

Plaintiff

Case No. 20-9238-CZ

v.

ANTRIM COUNTY

HON. KEVIN A. ELSENHEIMER

Defendant

SECRETARY OF STATE JOCELYN
BENSON

Intervenor-Defendant,

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EXHIBITS 8

**PLAINTIFF'S MOTION AND BRIEF FOR RECONSIDERATION OR,
ALTERNATIVELY, REHEARING PURSUANT TO MCR 2.119(F)**

Respectfully submitted

DePERNO LAW OFFICE, PLLC

Dated: June 9, 2021

/s/ Matthew S. DePerno

Matthew S. DePerno (P52622)

Attorney for Plaintiff

Subject: Missing Evidence for Evaluation of Antrim County Election, Official Ballots are Easily Fabricated, and Official Ballot PDFs Flawed Making for Errors in Processing

Date: 6/9/2021

Analyst: Jeffrey Lenberg

Executive Summary

The following evidence is missing and is needed to make a complete evaluation of the Antrim County election of November 3, 2020 including, but not limited to:

- Forensic images of all election equipment from all precincts
- Physical ballots from all precincts
- Forensic images of all laptops, USB sticks, removable media, or other devices used by technicians that serviced Antrim County
- Detailed answers to questions regarding information technology configuration of Antrim County computer systems
- Detailed answers to questions regarding election processes prior to, during, and post-election

The ballots used in the Antrim County general election on November 3, 2020 have no serial numbers present on them. This means that the same ballots can be fed multiple times into the tabulators without any detection or warnings that they have already been processed once before and that they are duplicate. The lack of serial numbers also allows for the following additional techniques to create and run such ballots. The Lenberg expert report dated May 16, 2021 titled, "Summary of Security Deficiencies in the Antrim County Voting Systems" showed that the polls could easily be re-opened and more ballots fed into the tabular and then setting the time back to official poll closing; this technique and the fact that the ballots have no serial number makes ballot box stuffing very difficult to detect given routine canvassing procedures employed in Antrim County.

The paper used for the ballots is freely available on the open market and it can be acquired easily at office supply stores. In addition, a consumer grade inkjet printer, at the cost of \$280, is sufficient to create the ballots and use them in a tabulator. This means that, with a limited expenditure of funds, it is possible to fabricate ballots for fraudulent use in an election. If commercial printing equipment was made available, hundreds of thousands of ballots could be fabricated. The ballots can either be blank or pre-filled with vote choices based on the preference of the fraudulent actor. Mass scale fraud would likely use pre-filled ballots to expedite the process; otherwise, it would take a substantial amount of time to fill in the vote choices.

The ElectionSource whistleblower video referenced in the Penrose expert report dated May 2, 2021 indicates that the thumb drives carried by each ElectionSource

technician contain the ballot images for the jurisdictions that they serve. The whistleblower further asserts that it is simple to take those portable document format (PDF) ballot image files and print them out and use the real ballots for fraudulent purposes.

The Antrim County ballots found on the Antrim County Election Management System (EMS) contain several errors that put the ballots themselves outside of expected specifications and leads to reversals and processing errors based on the direction that ballots are fed into the tabulators. These issues are present in the PDFs themselves on the EMS, they are not an error of the printing company or whoever was responsible for making the ballot for use during the election.

Details

Ballots Lack Serial Number – Susceptible to Ballot Box Stuffing

The fact that ballots in Antrim County have no serial numbers makes it impossible to detect the re-running of any particular ballot. In other words, once a fraudulent actor has a stack of pre-populated ballots they can run the ballots in the tabulators an unlimited amount of times and the tabulator will not raise an error regarding the fraudulent activity.

The Lenberg expert report dated May 16, 2021 titled, “Summary of Security Deficiencies in the Antrim County Voting Systems” showed that ballot box “stuffing” is quite feasible given the ability for a poll worker to reopen the poll, scan additional stacks of ballots, and then reset the time back to the appropriate poll closure time.

An example of the financial cost for such a fraud activity follows:

- \$280 large format printer
- Heavy weight paper from local shops.
 - 500 sheets of 11x17 paper for \$50
- Cutting to ballot size costs an additional \$5

A motivated fraud actor could make many more ballots for a slightly higher cost:

- In a night could make 12 ballots per minute (double sided) * 60 minutes * 12 hours > 8600 ballots
- A cooperating printshop that has professional equipment could make tens of thousands over night during hours that the shop is normally closed

Indeed, the laboratory testing performed in support of this case was conducted using similar procedures to generate the ballots necessary for the testing procedures. The ballots produced in this fashion work in the tabulators as expected.

Accessibility of Ballot Images

The ballot images for every precinct and ballot type are stored on the EMS server. Antrim County is no exception, the EMS server does contain all of the ballot images for every variation of the ballots used in Antrim County. Figure 1 contains a partial list of the Antrim County ballots available on the EMS:

> Antrim November 2020 > Ballots > Official Ballots > PDF

Name	Date modified	Type
 Acme Township, Precinct 1 (Grand Traverse County).pdf	10/23/2020 04:39 ...	PDF File
 Banks Township, Precinct 1CENT - Default - 1101.pdf	10/23/2020 04:39 ...	PDF File
 Banks Township, Precinct 1CHAR - Default - 1102.pdf	10/23/2020 04:39 ...	PDF File
 Banks Township, Precinct 1ELLS - Default - 1103.pdf	10/23/2020 04:39 ...	PDF File
 Banks Township, Precinct 1V - Default - 1104.pdf	10/23/2020 04:39 ...	PDF File
 Central Lake Township, Precinct 1CENT - Default -.pdf	10/23/2020 04:39 ...	PDF File
 Central Lake Township, Precinct 1ELLS - Default -.pdf	10/23/2020 04:39 ...	PDF File
 Central Lake Township, Precinct 1V - Default - 11.pdf	10/23/2020 04:39 ...	PDF File
 Chestonia Township, Precinct 1C7AL - Default - 11.pdf	10/23/2020 04:39 ...	PDF File
 Chestonia Township, Precinct 1C7MA - Default - 11.pdf	10/23/2020 04:39 ...	PDF File
 Chestonia Township, Precinct 1C9AL - Default - 11.pdf	10/23/2020 04:39 ...	PDF File
 Chestonia Township, Precinct 1C9MA - Default - 11.pdf	10/23/2020 04:39 ...	PDF File
 Clearwater Township, Precinct 1 (Kalkaska County).pdf	10/23/2020 04:39 ...	PDF File
 Cold Springs Township, Precinct 1 (Kalkaska Count.pdf	10/23/2020 04:39 ...	PDF File
 Custer Township, Precinct 1C5BE - Default - 1112.pdf	10/23/2020 04:39 ...	PDF File
 Custer Township, Precinct 1C5MA - Default - 1113.pdf	10/23/2020 04:39 ...	PDF File
 Custer Township, Precinct 1C6BE - Default - 1114.pdf	10/23/2020 04:39 ...	PDF File
 Custer Township, Precinct 1C6MA - Default - 1115.pdf	10/23/2020 04:39 ...	PDF File
 Echo Township, Precinct 1BEL - Default - 1116.pdf	10/23/2020 04:39 ...	PDF File
 Echo Township, Precinct 1CL - Default - 1117.pdf	10/23/2020 04:39 ...	PDF File
 Echo Township, Precinct 1EJ - Default - 1118.pdf	10/23/2020 04:39 ...	PDF File
 Elk Rapids Township, Precinct 1T - Default - 1119.pdf	10/23/2020 04:39 ...	PDF File
 Elk Rapids Township, Precinct 1V - Default - 1120.pdf	10/23/2020 04:39 ...	PDF File
 Forest Home Township, Precinct 1CC2 - Default - 1.pdf	10/23/2020 04:39 ...	PDF File
 Forest Home Township, Precinct 1CC6 - Default - 1.pdf	10/23/2020 04:39 ...	PDF File
 Forest Home Township, Precinct 1V - Default - 112.pdf	10/23/2020 04:39 ...	PDF File
 Helena Township, Precinct 1 - Default - 1124.pdf	10/23/2020 04:39 ...	PDF File
 Jordan Township, Precinct 1BC - Default - 1125.pdf	10/23/2020 04:39 ...	PDF File
 Jordan Township, Precinct 1CL - Default - 1126.pdf	10/23/2020 04:39 ...	PDF File
 Jordan Township, Precinct 1EJ - Default - 1127.pdf	10/23/2020 04:39 ...	PDF File
 Kearney Township, Precinct 1CL - Default - 1128.pdf	10/23/2020 04:39 ...	PDF File
 Kearney Township, Precinct 1T - Default - 1129.pdf	10/23/2020 04:39 ...	PDF File

Figure 1 Antrim County Partial Ballot List from EMS

The ElectionSource whistleblower video referenced in the Penrose expert report dated May 2, 2021 indicates that ElectionSource technicians have broad access to all the ballot images for the counties they serve. The whistleblower said all of the ballot image PDFs were on a thumb drive issued to the ElectionSource technicians and that there are no safeguards to prevent the copying of those PDF files to other media and using them to make printed copies of ballots. Given the lack of serial numbers as stated above along with no other duplicate ballot detection capability in the system, it is straightforward for a fraudulent actor to take advantage of access to PDF ballot images in order to fabricate ballots for ballot box stuffing activities.

During testing it was found to be straightforward to copy the ballot PDF files from the Antrim EMS to a USB stick to use on any external computer which facilitated the creation of the test ballots.

Abnormalities in the Ballots Provided to Antrim County

The ballots provided to Antrim County were included with the election project file from ElectionSource. As part of the provisioning process for the election project file the PDF images for each ballot are generated by the Dominion Voting Systems Democracy Suite 5.5.12.1.

The ballot images created for Antrim County contain inherent abnormalities in the specifications of the ballot PDFs. The outer markers along the top of the ballot are 15mm from the edge the paper, and on the bottom, there are only 5mm from the edge to the outer markers. Figure 2 illustrates the distances.

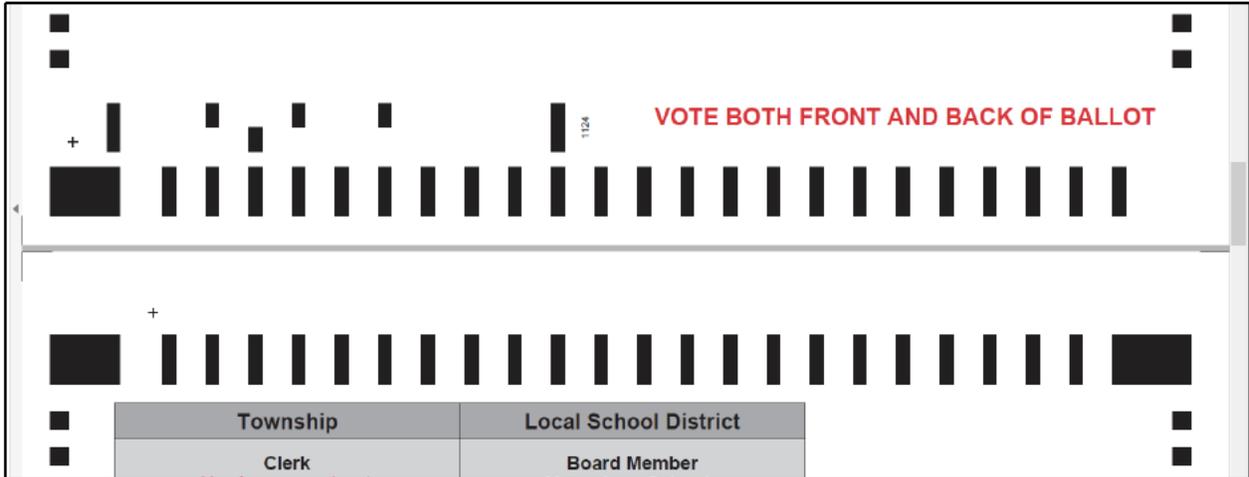


Figure 2 - Bottom of Ballot with 5mm Whitespace, Top of Ballot with 15mm Whitespace

Testing indicates that when ballots are fed with the top first into the tabulator there is a very low reversal rate, less than 1% (with high quality votes filled in). The same ballot fed into the tabulator with the bottom first, results in a substantially higher rate of reversals of approximately 20%.

The ballots' internal blocks where the contests are located are collectively shifted 1mm to the right (see Figure 3 & 4) and the external outer marker are shifted by 1mm left (see Figure 5) in all instances, including the calibration sheet (Figure 6). The overall vote choice bullet area is only 4mm in size, and the total 2mm shift accounts for a 50% offset from the proper target location to assess whether a vote is cast. This offset increases the likelihood of reversal and adjudication during an election.

OFFICIAL BALLOT
General Election
Tuesday, November 3, 2020
Antrim County, Michigan
Banks Township, Precinct 1CENT

Partisan Section	State Boards	State Boards
Straight Party Ticket Vote for not more than 1	Member of the State Board of Education Vote for not more than 2	Governor of Wayne State University Vote for not more than 2
Democratic Party	Ellen Cogen Lipton	Eva Garza Dwaelsche
Republican Party	Jason Strayhorn	Shirley Stancato
Libertarian Party	Yami Carlone	Don Gates
U.S. Taxpayers Party	Michelle A. Frederick	Terr Lynn Land
Working Class Party	Bill Hall	Jon Elgas
Green Party	Richard A. Hewer	Christine C. Schwartz
Natural Law Party	Karen Adams	Susan Odgers
Presidential	Douglas Levesque	
Electors of President and Vice-President of the United States Vote for not more than 1	Mary Anne Herring	County
Joseph R. Biden	Hali McEachern	Prosecuting Attorney Vote for not more than 1
Kamala D. Harris	Tom Mall	James L. Rossler
Donald J. Trump		
Michael R. Pence	Regent of the University of Michigan Vote for not more than 2	Sheriff Vote for not more than 1
Jo Jorgensen	Mark Bernstein	Daniel S. Bean
Jeremy Cohen	Shauna Ryder Diggs	
Don Blankenship	Sarah Hubbard	Clark Vote for not more than 1
William Mohr	Carl Meyers	Sheryl Guy
Howie Hawkins	James L. Hadler	
Angela Walker	Eric Larsen	Treasurer Vote for not more than 1
Ricky De La Fuente	Ronald E. Greaser	Crystal Van Bielle
Darcy Richardson	Crystal Van Bielle	Michael Morwald
	Michael Morwald	Sherry A. Comben
Congressional	Keith Bulkovich	Register of Deeds Vote for not more than 1
United States Senator Vote for not more than 1		Patty Niepoth
Gary Peters	Trustee of Michigan State University Vote for not more than 2	
John James	Brian Mosallam	Drain Commissioner Vote for not more than 1
Valerie L. Willis	Rema Ella Vassar	Mark Stone
Marcia Squier	Pat O'Keefe	
Doug Dern	Tonya Schultmaker	Surveyor Vote for not more than 1
Representative in Congress 1st District Vote for not more than 1	Will Tyler White	Scott Papineau
Dana Ferguson	Janet M. Sanger	
Jack Bergman	John Paul Sanger	County Commissioner 1st District Vote for not more than 1
Ben Boren	Brandon Ho	Jarris Rubingh
	Robin Lea Laurain	
	Bridgette Abraham-Guzman	Township
Legislative		Supervisor Vote for not more than 1
Representative in State Legislature 105th District Vote for not more than 1		Alex Bueman
Jonathan Burke		
Ken Borten		

VOTE BOTH FRONT AND BACK OF BALLOT

Figure 3 - 1mm Shift Right for Internal Contests Blocks on Ballot

Presidential	
Electors of President and Vice-President of the United States <i>Vote for not more than 1</i>	
Joseph R. Biden Kamala D. Harris Democrat	<input type="radio"/>
Donald J. Trump Michael R. Pence Republican	<input type="radio"/>
Jo Jorgensen Jeremy Cohen Libertarian	<input type="radio"/>
Don Blankenship William Mohr U.S. Taxpayers	<input type="radio"/>
Howie Hawkins Angela Walker Green	<input type="radio"/>
Rocky De La Fuente Darcy Richardson Natural Law	<input type="radio"/>

Figure 4 - Close-up of the 2mm Shift Impacting

The vertical red lines in Figure 4 show the specific center-point of the area that will be scanned by the tabulator to determine if a particular vote has been selected. The center of the vote box used for vote evaluation has been effectively moved to the left 2mm.

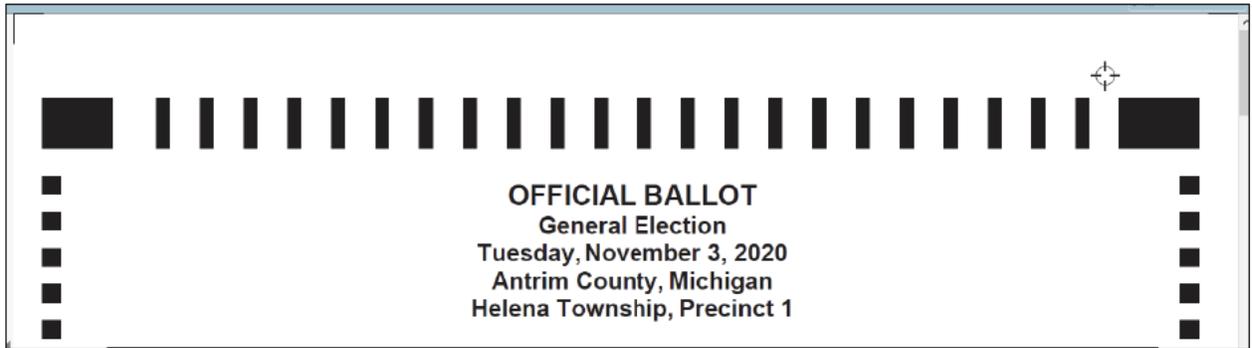


Figure 4 - Showing 1mm shifted left outer markers

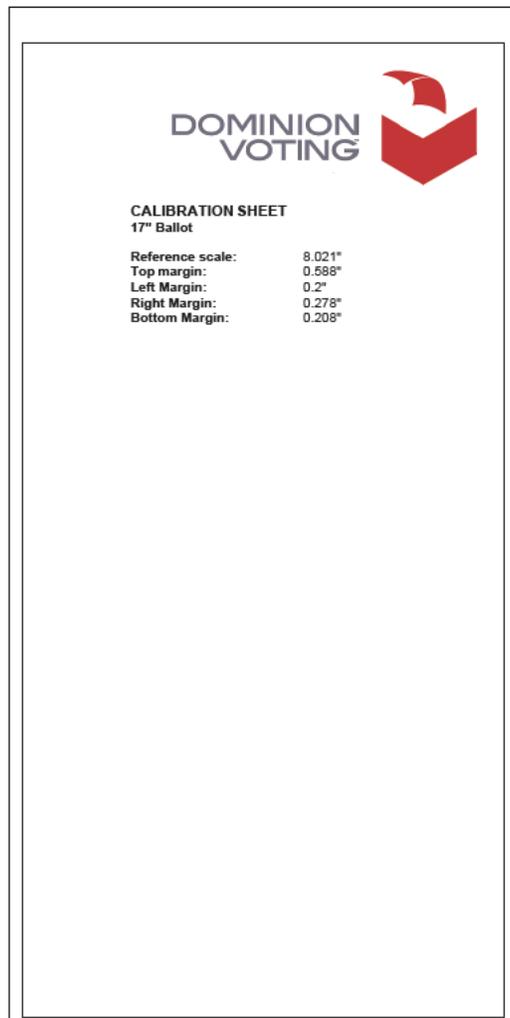
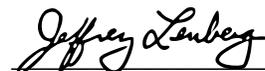


Figure 5 - Dominion Voting Systems Calibration Sheet

Figure 5 shows the Dominion Voting Systems calibration sheet. This calibration sheet does not include outer markers, internal contest blocks, and vote choice bullets. It does not provide any observable means for the tabulator to “calibrate” the scanner in preparation for an election.

Under the penalties of perjury, I declare that I have read the foregoing report and that facts stated in it are true.



Jeffrey Lenberg