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5 *Exempt From Filing Fees (Gov't Code § 6103)*

6 Attorneys for Defendants

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**
10 **CENTRAL DIVISION**

11 CITIZENS OVERSIGHT, INC., a Delaware
non-profit corporation; RAYMOND LUTZ,
12 an individual,

13 Plaintiffs,

14 v.

15 MICHAEL VU, San Diego Registrar of
Voters, HELEN N. ROBBINS-MEYER, San
16 Diego County Chief Administrative Officer,
SAN DIEGO COUNTY, a public entity;
17 DOES 1-10,

18 Defendants.

) No. 37-2016-00020273-CL-MC-CTL
Action Filed: June 16, 2016

) **DEFENDANTS' EVIDENTIARY**
) **OBJECTIONS TO THE DECLARATION**
) **OF RAYMOND LUTZ AND**
) **PLAINTIFFS' EXHIBITS SUBMITTED**
) **IN SUPPORT OF PLAINTIFFS'**
) **MOTION FOR PRELIMINARY**
) **INJUNCTION**

) **IMAGED FILE**

) Date: July 6, 2016

) Time: 1:30 p.m.

) Dept.: 73

) ICJ: Hon. Joel Wohlfell

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20 Defendants hereby submit the following evidentiary objections to the declaration of
21 Raymond Lutz and to plaintiffs' exhibits submitted in support of their motion for preliminary
22 injunction:

23 **Objections to the Declaration of Raymond Lutz**

24 **Statement No. 1:**

25 "The San Diego County Registrar of Voters has refused to comply with California
26 Elections Code Section 15360." (Lutz Decl., p. 2, ll. 4-5.)

27 **Objection No. 1:**

28 Lacks foundation, improper legal opinion.

1 **Statement No. 2:**

2 “The purpose of Section 15360 is to provide an objective and statistical basis to test the
3 integrity of the voting method and process. Discrepancies can isolate defective tabulation,
4 employee error, or nefarious conduct such as “hacking.” The modern age of voting with
5 electronic and automated systems has been heavily scrutinized in recent election cycles.” (Lutz
6 Decl., p. 2, ll. 7-11.)

7 **Objection No. 2:**

8 Lacks foundation.

9 **Statement No. 3:**

10 “The Registrar has unilaterally decided that his office does not need to fully comply with
11 Section 15360 by not including a manual tally of all ballots cast in 1% of the precincts chosen at
12 random.” (Lutz Decl., p. 2, ll. 13-15.)

13 **Objection No. 3:**

14 Lacks foundation, improper legal opinion.

15 **Statement No. 4:**

16 “The word “cast” is not explicitly defined by the elections code, but the common
17 meaning is that a ballot is “cast” when it leaves control of the voter and is turned over to the
18 elections official for tally. In the precinct polling place, a ballot is “cast” when it is inserted into
19 the ballot box. VBM ballots are “cast” when they are submitted to the U.S. Postal Service or
20 hand-delivered to a precinct polling place or to the Registrar of Voters.” (Lutz Decl., 3, ll. 8-
21 13.)

22 **Objection No. 4:**

23 Lacks foundation.

24 **Statement No. 5:**

25 “There is a possibility that a compromised worker or external “hacker” who has gained
26 access to this computer will have modified the results. For example, a malicious person might
27 be able to shift 10,000 or 20,000 votes from one candidate to another, and attempt to conceal

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1 this gross alteration by distributing smaller alterations to perhaps 1,000 different precincts by
2 shifting 10 to 20 votes in each precinct.” (Lutz Decl., p. 4, l. 27 – p. 5, l. 3.)

3 **Objection No. 5:**

4 Lacks foundation.

5 **Statement No. 6:**

6 “In this election, there was also an unusually high number of provisional ballots primarily
7 due to No Party Preference (NPP) voters who have the option of choosing a partisan ballot only
8 from the presidential race for most parties (but not the Republican Party). These “crossover”
9 ballots included the presidential race for that party, all the nonpartisan races, but not the strictly
10 partisan races such as central committee members. In this election, the vast majority of cases
11 were NPP voters choosing the DEM ballot (Democratic Party crossover ballot) so they could
12 vote for Sen. Bernie Sanders.” (Lutz Decl., p. 7, ll. 12-18.)

13 **Objection No. 6:**

14 Lacks foundation, lacks personal knowledge, hearsay.

15 **Statement No. 7:**

16 “In the June 7 primary election, there were so many voters requesting NPP/DEM ballots
17 that many precincts ran out of those ballots. In those cases, the poll workers opted to use a
18 regular DEM ballot but to omit the central committee race. These ballots were also treated as
19 provisional ballots.” (Lutz Decl., p. 7, l. 27 – p. 8, l. 5.)

20 **Objection No. 7:**

21 Lacks foundation, lacks personal knowledge, hearsay.

22 **Objections to Plaintiffs’ Exhibits**

23 **Exhibit:**

24 Exhibit 3 (Plaintiffs’ Notice of Lodgment, Item 10).

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Objection:

Exhibit 3 lacks foundation, is not properly authenticated, lacks foundation, hearsay. In addition, defendants were not served with and have not received the video or DVD referenced in the notice of lodgment.

DATED: June 30, 2016,

THOMAS E. MONTGOMERY, County Counsel

By: s/Timothy M. Barry
TIMOTHY M. BARRY, Chief Deputy
Attorneys for Defendants