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11 *City of Beverly Hills and Huma Ahmed*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF LOS ANGELES

14 CITY OF BEVERLY HILLS and HUMA AHMED, in)
15 her capacity as City Clerk of the City of Beverly Hills,)

16 Petitioners and Plaintiffs,)

17 v.)

17 DEAN C. LOGAN, Los Angeles County Registrar-)
18 Recorder/County Clerk; and DOES 1 through 100,)
19 inclusive,)

20 Respondent and Defendant.)

***Exempt from Filing Fees Per
Gov. Code § 6103***

Case No.: **20STCP00292**

**PETITION FOR WRIT OF MANDATE
AND COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

**Calendar Preference Required By Statute
(Elec. Code, § 13314, subd. (a)(3))**

1 COME NOW Petitioners and Plaintiffs CITY OF BEVERLY HILLS and HUMA AHMED,
2 and allege as follows:

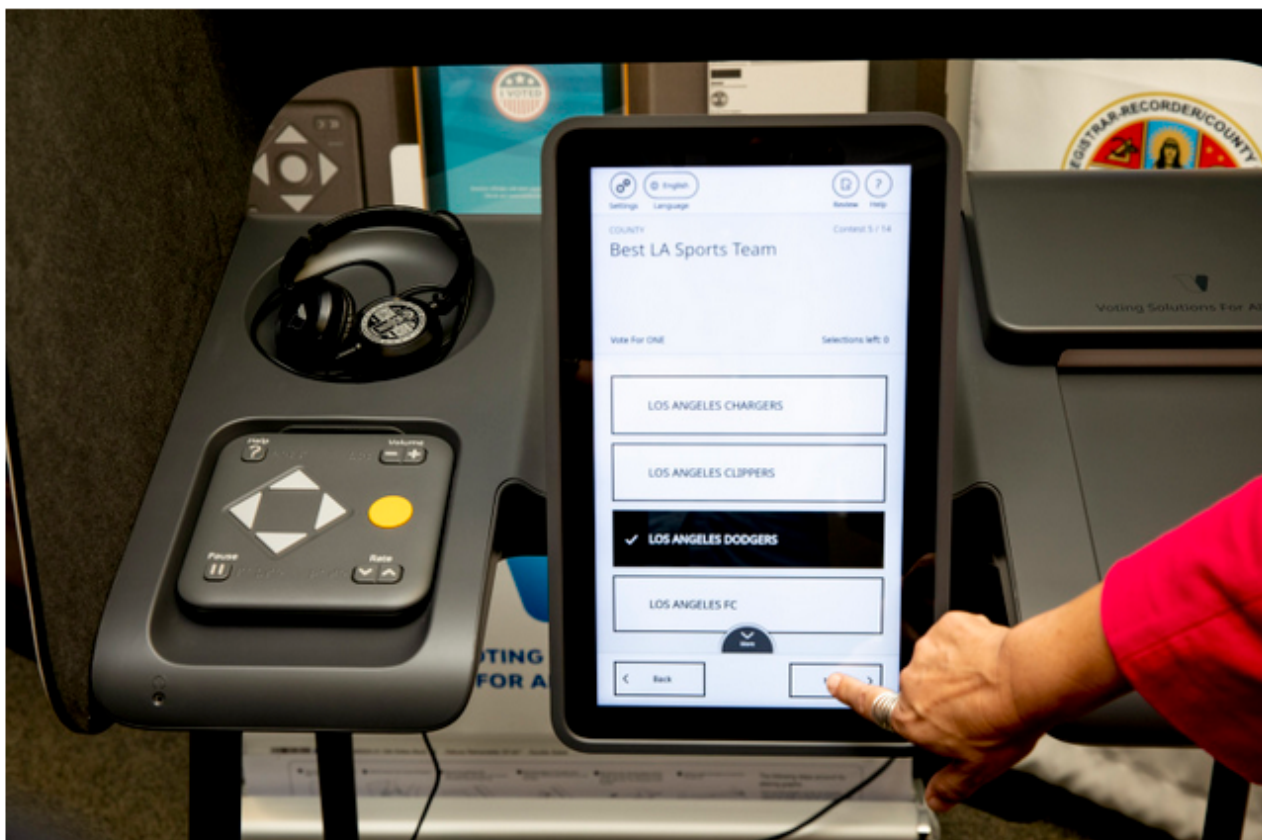
3 INTRODUCTION

4 1. On March 3, 2020, approximately three million residents of Los Angeles County are
5 expected to vote in the statewide consolidated Presidential Primary Election. The majority of these
6 voters will, for the first time, be casting their ballots at regional “vote centers” — not at their
7 traditional neighborhood polling places — using Los Angeles County’s new voting system, called
8 “Voting Solutions for All People (VSAP).” The critical component of the County’s VSAP system is
9 its electronic Ballot Marking Device (BMD) — a large iPad-like tablet that displays the names of the
10 candidates and allows voters to make their choices via its touchscreen, and which then prints out a
11 completed paper ballot for the voter to review before it is automatically deposited into the attached
12 ballot box. The BMD has several features that permit voters to customize the voting experience to fit
13 their needs, such as by displaying the ballot in 13 different languages, adjusting the text size and
14 contrast, or using an audio headset and control pad for those with significant visual impairments.

15 2. But the BMD, for all of its improvements over the old punch-card or InkaVote voting
16 systems, contains a severe *ballot design flaw*, one that threatens the integrity and accuracy of dozens
17 of races in the upcoming consolidated primary election. Despite appearing to have sufficient space to
18 accommodate a greater number of selections, the BMD has been programmed by the Los Angeles
19 County Registrar’s office to display no more than *four voting choices* on each screen. This limitation
20 may not create a problem in many elections — for example, for ballot measure elections with a binary
21 “Yes/No” choice, or for state and federal general election contests in which, under the “top-two
22 primary” system, there are only two candidates to choose between — but in the upcoming March 2020
23 consolidated primary election, there are at least *thirty different contests* (not including County Central
24 Committee races) in which *five or more candidates* are running for election to the same office. Many
25 of these contests — like that for the Beverly Hills City Council — are elections for cities that
26 voluntarily chose or were forced to consolidate their own local elections with the statewide primary or
27 general election in accordance with Senate Bill 415 (the “California Voter Participation Rights Act”).

28 3. For these contests in which more than four qualified candidates are running for the

1 same office, the names of *only the first four candidates* on the ballot will appear as voting choices on
2 the BMD's initial touchscreen that the voters are presented with and can view (or hear, in the audio
3 version). The names of the other candidates for that race can be viewed and voted for *only if the voter*
4 *affirmatively takes action* to access the second (and possibly third, fourth, or fifth) screen for that
5 same contest by pressing on a button labeled "MORE" that is displayed at the bottom center of the
6 initial touchscreen. Adding even greater confusion, however, is that two other buttons — labeled
7 "BACK" and "SKIP/NEXT," with arrows pointing to the left and right, respectively — are also
8 displayed at the bottom of the initial touchscreen; pressing either the "BACK" or the "SKIP/NEXT"
9 button instead of the "MORE" button will complete the voter's voting selection(s) for the currently
10 displayed contest and will take the voter to the initial touchscreen for the prior or next contest, *without*
11 *the voter ever having seen or been presented with the option to vote for anyone other than the first*
12 *four candidates*. A photo of a BMD touchscreen, showing an example of the four voting choices and
13 the "BACK," "MORE," and "SKIP/NEXT" buttons, is displayed below:



One of L.A. County's new voting machines displaying "mock election" options. (Kyle Grillot for LAist)

1 4. Los Angeles County’s BMD, as presently designed and programmed, thus creates and
2 imposes *a significant electoral disadvantage* upon candidates whose names appear on the second and
3 subsequent touchscreens in comparison to those candidates whose names appear on the initial
4 touchscreen. Decades of academic research, empirical studies of prior elections, and judicial opinions
5 from throughout the country have all repeatedly confirmed the existence of a “ballot position
6 advantage” or “candidate name order effect,” in which candidates whose names appear at the top of
7 the ballot receive a small but statistically significant electoral advantage due solely to their favored
8 position on the ballot. (See, e.g., *Gould v. Grubb* (1975) 14 Cal.3d 661, 664 [“[T]he superior court’s
9 finding that placement in a top ballot position affords a candidate a substantial advantage over lower-
10 placed candidates is supported by abundant expert testimony introduced at trial and is consistent with
11 parallel findings rendered in similar litigation throughout the country.”]; *Jacobson v. Lee* (N.D. Fla.
12 Nov. 15, 2019) ___ F.Supp.3d ___, 2019 WL 6044035, *17-18 [“In summary, this Court finds
13 Plaintiffs have proven the candidate listed first in their respective office block in Florida elections
14 receives, on average, a five-percentage-point advantage over their competitors for that office by virtue
15 of being the first-listed candidate. . . . Other courts confronted with this question have also discussed
16 the influence of ballot position on candidates’ electoral outcomes and reached similar conclusions.”].)
17 Los Angeles County’s VSAP *compounds* and *enhances* the adverse impact of this positional
18 preference on the fairness of the electoral process, by placing the names of all but the first four
19 candidates on an entirely separate screen of the BMD ballot and making the voter work through a
20 confusing series of steps *even to see* the names of these additional candidates. In many contests, the
21 disadvantage that results to the latter candidates simply from their disfavored ballot position is likely
22 to be sufficient to affect not merely the margin but the *outcome* of the election.

23 5. Even more troublesome, however, is that these adverse ballot position effects could
24 have been — *and still can be* — avoided, or at least substantially mitigated, by making relatively
25 minor changes in the Los Angeles County Registrar’s design or programming of the BMD
26 touchscreens. In particular, when all of the candidates’ names cannot reasonably fit on a single
27 touchscreen, the BMD could be programmed to disable (or not to show) the “SKIP/NEXT” button on
28 any screen that is not the “last” touchscreen containing candidates’ names for a particular contest,

1 thereby forcing voters to access all of the voting touchscreens and to view *all of the candidates' names*
2 for that contest before finalizing their voting selection and moving on to the “next” race; while it
3 might not entirely eliminate the ballot position advantage enjoyed by the candidates listed on the
4 initial screen, this minor modification to the BMD would at least help to ensure that voters did not
5 unintentionally skip over a touchscreen containing the names of the other candidates for that office by
6 prematurely pressing the “SKIP/NEXT” button, not even realizing that additional candidates were
7 listed on a subsequent screen. In addition, and *at a minimum*, for any contest with more candidates
8 than can reasonably be displayed on a single touchscreen, the BMD’s initial touchscreen for that
9 contest can and should be programmed to include *an explicit warning and instruction* alerting the
10 voters that the names of additional candidates appear on subsequent screens and that they should not
11 make and finalize their voting selections until they have viewed all of the touchscreens and all of the
12 candidates’ names for this contest; at present, there is no such specific warning or instruction included
13 *on the BMD touchscreen ballot itself* for any contest that carries over onto multiple screens — there is
14 only an ambiguous and ineffectual statement in the *general BMD voting instructions* to “use the
15 MORE button to review all choices when making your selections.”

16 6. By designing and programming the Los Angeles VSAP system and BMD touchscreen
17 ballots as set forth above, Respondent Los Angeles County Registrar-Recorder Dean Logan has
18 violated the First and Fourteenth Amendment rights of those candidates whose names will not be
19 displayed on the initial touchscreens for their respective contests in the upcoming March 3, 2020,
20 consolidated Presidential Primary election and in any future election using the VSAP voting system,
21 and Respondent has likewise violated the First and Fourteenth Amendment rights of these candidates’
22 supporters. (See *Anderson v. Celebrezze* (1983) 460 U.S. 780, 786 [“[T]he rights of voters and the
23 rights of candidates do not lend themselves to neat separation; laws that affect candidates always have
24 at least some theoretical, correlative effect on voters.”].) Respondent has also violated the rights of
25 these candidates and their supporters under the analogous provisions (article I, sections 2 and 7) of the
26 California Constitution. As the California Supreme Court emphasized in *Gould*: “A fundamental goal
27 of a democratic society is to attain the free and pure expression of the voters’ choice of candidates. To
28 that end, our state and federal Constitutions mandate that the government must, if possible, avoid any

1 feature that might adulterate or, indeed, frustrate, that free and pure choice.” (14 Cal.3d at p. 677.)
2 Los Angeles County’s VSAP voting system unnecessarily imposes a severe electoral disadvantage on
3 those candidates whose names do not appear on the initial BMD touchscreen for their contests, and
4 thereby frustrates the free and fair expression of the people’s will.

5 7. The design and programming of the BMD ballot also violates several provisions of the
6 California Elections Code and the California Voting Systems Standards (CVSS), the regulations
7 governing the design and operation of voting systems for elections held in this state. For example,
8 Elections Code section 13233 provides that “[i]n a municipal election, if the number of candidates for
9 an office is such that all of the names will not fit in one column of reasonable length, *a double column*
10 may be used,” but “[t]he names of the candidates . . . shall be apportioned as equally as possible
11 between the two columns.” (Emphasis added.) Not only does the BMD use separate touchscreens —
12 not multiple *columns* on the same touchscreen — to display the names of all candidates for a
13 municipal office, but it does not apportion the candidates’ names equally among the multiple
14 touchscreens, instead often leaving the name of *a single candidate* to be displayed *alone* on a second
15 or subsequent screen. Similarly, the CVSS requires that ballots be formatted “such that the voter
16 perceives no active voting position to be preferred to any other” (CVSS § 2.2.1.2), and it prohibits use
17 of a voting system that biases voters for or against any candidate, expressly declaring that “the voting
18 system shall support a process that does not introduce bias for or against any of the contest choices to
19 be presented to the voters. In both visual and aural formats, the choices shall be presented in an
20 equivalent manner.” (*Id.*, § 3.2.5(d) [emphasis in original].) As set forth above, far from presenting
21 the candidate choices to voters in an unbiased and equivalent manner, the design and programming of
22 Los Angeles’ BMD ballot unnecessarily disadvantages candidates whose names appear on the second
23 or subsequent touchscreens for any contest.

24 8. For all of these reasons, use of the Los Angeles VSAP system and BMD touchscreen
25 ballots without modification in the March 3, 2020, and other future elections is unconstitutional and
26 unlawful, and their use without modification should be enjoined by this Court. Petitioners therefore
27 seek issuance of a writ of mandate and injunctive relief prohibiting Respondent Los Angeles County
28 Registrar Logan from using the VSAP system and BMD touchscreen ballots for the upcoming

1 March 3, 2020, consolidated Presidential Primary election or for any other elections without making
2 the requested modifications to eliminate or mitigate the unnecessary ballot position advantage that the
3 candidates whose names are displayed on the initial BMD touchscreen would otherwise receive.

4 **PARTIES**

5 9. Petitioner and Plaintiff CITY OF BEVERLY HILLS (“City”) is a municipal
6 corporation, duly organized and operating in the County of Los Angeles as a general law city under
7 the laws of the State of California.

8 10. Petitioner and Plaintiff HUMA AHMED is the City Clerk of the City of Beverly Hills
9 and is suing herein in her official capacity. Among the duties and responsibilities of Petitioner Ahmed
10 is the duty to serve as the City’s elections official in connection with the March 3, 2020, Beverly Hills
11 municipal election, which has been consolidated with the statewide Presidential Primary election that
12 is being held on that same date and is being conducted by Respondent Los Angeles County Registrar
13 Logan. Petitioner Ahmed is also a resident, registered voter, and an elector of the County of Los
14 Angeles, as defined in Elections Code section 321.

15 11. Respondent and Defendant DEAN C. LOGAN is the Los Angeles County Registrar-
16 Recorder/County Clerk and is sued herein in his official capacity. Among the duties and
17 responsibilities of Respondent Logan as Los Angeles County Registrar is the duty to serve as the
18 County’s elections official responsible for conducting the March 3, 2020, statewide Presidential
19 Primary election, including the duty to conduct the election for two seats on the Beverly Hills City
20 Council that has been consolidated with the statewide primary election held on that same date.

21 12. Petitioners and Plaintiffs (hereafter, “Petitioners”) are unaware of the true names and
22 capacities of Respondents and Defendants DOES 1 through 100, inclusive, and they are therefore sued
23 by such fictitious names pursuant to Code of Civil Procedure section 474. Petitioners allege on
24 information and belief that each such fictitiously named Respondent is responsible or liable in some
25 manner for the events and happenings referred to herein, and Petitioners will seek leave to amend this
26 Petition to allege their true names and capacities after the same have been ascertained.

27 **JURISDICTION, VENUE AND STANDING**

28 13. This Court has jurisdiction over this matter pursuant to article VI, section 10, of the

1 California Constitution, Elections Code section 13314, and Code of Civil Procedure section 1085.

2 14. Venue is proper in the County of Los Angeles because the causes of action alleged
3 herein arose in the County of Los Angeles, where Respondent resides, and pursuant to Code of Civil
4 Procedure section 393 in that Respondent is a government officer in the County of Los Angeles who
5 has done or threatens to do acts touching the duties of his office.

6 **TIMING**

7 15. Petitioners are informed and believe, and on that basis allege, that there is sufficient
8 time to make the modifications to the BMD ballots requested herein, but that absent this Court’s
9 intervention, Respondent Logan will soon begin to finalize the design and programming of the BMD
10 touchscreen ballots for the March 3, 2020, consolidated Presidential Primary election. This action is
11 entitled to priority over all other civil matters pursuant to Elections Code section 13314,
12 subdivision (a)(3).

13 **GENERAL ALLEGATIONS**

14 16. On March 3, 2020, voters throughout the state of California will cast ballots in the
15 statewide consolidated Presidential Primary election. In addition to voting for the presidential
16 candidates for their chosen political party, voters will participate in the first phase of the “top-two
17 primary,” casting ballots for all 53 Congressional representatives, all 80 Members of the State
18 Assembly, and 20 State Senators. In addition, voters will vote for various county, municipal, and
19 district offices. In Los Angeles County, twenty-eight cities and eight school districts will have their
20 local elections consolidated with the March 3, 2020 statewide primary election, with those contests
21 appearing on the same ballot with the federal, state, and county races.

22 17. As set forth above, Respondent Los Angeles County Registrar Logan intends to
23 conduct the March 3, 2020, consolidated Presidential Primary election using Los Angeles County’s
24 proprietary VSAP system, in which voters will cast their ballots at regional “vote centers” on
25 touchscreen BMDs. Although voters participating in a November 2019 “pilot” election conducted in a
26 very limited number of cities were given the option to vote using a BMD ballot, the upcoming March
27 3, 2020 election is the first in which Los Angeles County will use the BMD touchscreens on a wide
28 scale, for all voters who do not vote their ballots by mail.

1 18. Petitioner City of Beverly Hills is one of 28 cities in Los Angeles County whose
2 general municipal election has been consolidated with the March 3, 2020, statewide primary election
3 and whose municipal election will therefore be conducted by Respondent Logan using Los Angeles’
4 VSAP system. In that municipal contest, five candidates are running in a single election for two seats
5 on the Beverly Hills City Council. Respondent Logan has designed and programmed the VSAP
6 system’s BMD ballots so that the names of only *four* of the five City Council candidates are displayed
7 on the initial touchscreen for this contest, with the name of the fifth candidate being displayed
8 separately and by itself on a second screen that the voter is able to access and see only by pressing on
9 the circular “MORE” button shown at the bottom center of the initial touchscreen. Adjacent to the
10 “MORE” button at the bottom of this initial BMD touchscreen are two other, rectangular buttons with
11 arrows that are initially marked “BACK” and “SKIP,” which when pressed will cause the voter to
12 view the initial touchscreen for the previous or next election contest on the ballot; however, once the
13 voter makes the appropriate number of voting selections on the initial touchscreen (i.e., by voting for
14 two candidates in the case of the Beverly Hills City Council contest), the “SKIP” button converts to a
15 highlighted “NEXT” button, signifying to voters that they have completed their selections for this
16 contest and inviting them to move on to the next contest on their ballot. The instructions at the top of
17 the initial BMD touchscreen for the Beverly Hills City Council race only inform voters that they
18 should “Vote for Two” candidates in that contest. There is no instruction on the initial BMD screen
19 warning or otherwise informing voters that the names of additional candidates are displayed on a
20 subsequent screen or that they should not finalize their voting selection(s) until they have viewed all
21 of the applicable touchscreens for the Beverly Hills contest.

22 19. Upon learning of the BMD ballot design for the Beverly Hills election, Petitioner
23 Ahmed immediately contacted the Los Angeles County Registrar’s office to voice her concerns and
24 objections that the planned layout would disadvantage candidates based upon the ballot order and
25 would call into question the fairness and integrity of the upcoming municipal election. Despite a
26 series of communications with the Registrar’s office over the following weeks, Petitioner Ahmed and
27 the City were unable to obtain any meaningful response from the Registrar’s office to the City’s
28 concerns over the BMD touchscreen ballot design and operation. Finally, on December 31, 2019,

1 Petitioner Ahmed wrote to Respondent Logan, formally objecting to the use of the BMD touchscreen
2 for the Beverly Hills municipal election without making modifications to the contest layout format
3 and the BMD’s navigation features that might help to mitigate the disadvantage to candidates based
4 upon the ballot order. A Beverly Hills representative likewise testified at a January 10, 2020, public
5 hearing conducted by the California Secretary of State’s office on the proposed approval of Los
6 Angeles County’s VSAP 2.0 system, raising similar objections to the BMD’s ballot design and
7 pointing out its inconsistencies with the requirements of the Elections Code and the CVSS.

8 20. On January 6, 2020, Respondent Logan sent a letter to City Clerk Ahmed rejecting any
9 requested modifications to the BMD ballot design, layout, and operation. While acknowledging that
10 “concerns were raised about the visibility of the ‘MORE’ button and potential impact for
11 candidates/selections not listed on the initial/first appearance of the contest” — including by voters
12 and observers participating in a Mock Election conducted by the Registrar’s office in 2019 using the
13 BMD touchscreens — Respondent Logan insisted that “refinements and modifications” that the
14 County had made to enhance the visibility of the “MORE” button subsequent to the Mock Election
15 were sufficient to ensure that a voter would “scroll to the remaining candidates [on subsequent
16 touchscreens] before making his or her desired election in a contest.” In particular, Respondent Logan
17 asserted that the results and data from the November 2019 “pilot election” conducted for a seat on the
18 Long Beach City Council, in which voters going to the polls were given the option to vote on the
19 BMD or to use the traditional InkaVote ballot, provided “compelling evidence that voters recognize
20 and respond to the ‘MORE’ button utility.” According to the Respondent Logan:

21 “While the Pilot Election was limited, the contest for Long Beach City
22 Council, First District included eight candidates and thus provided a
23 good test and comparison of ballots cast on the old system [in which
24 candidates were] all listed on a single page to ballots cast using the
25 BMD where the ‘MORE’ button navigation was required to view all
26 selections. [¶] From the pilot election, we analyzed three ballot types
27 — vote by mail, BMD and InkaVote. The results revealed minimal
28 differences between the ballot types. Similarly, the candidates receiving
the fewest votes were consistent across all three ballot types and
appeared on both the initial and continuation screens on BMD ballots.”

21. On January 9, 2020, the California Contract Cities Association (CCCA) —
representing 70 member cities with more than 7 million residents — also wrote to Respondent Logan

1 voicing their concern that the current VSAP and BMD ballot layout may create confusion and
2 misunderstanding when more than four candidates are qualified for a given race. The CCCA’s letter
3 specifically objected to the BMD’s lack of “sufficient visual aids, prompts, or notifications to inform
4 voters that other qualified candidates are available for selection,” creating “a substantial probability
5 that some candidates will be overlooked or inadvertently skipped over with the current ballot format.”
6 The CCCA noted that municipal elections in many of their member cities often involved more than
7 four qualified candidates, with outcomes that could well be affected if the VSAP were to be
8 implemented without proper visuals and voting aids. The CCCA’s letter urged Respondent Logan to
9 address the issue, primarily by requiring that voters must view all candidates in a contest before
10 casting their vote and moving on to the next office. As the letter concluded, “[t]hese proposed
11 changes are imperative to secure the integrity of ballots cast and protect the validity of votes in Los
12 Angeles County.”

13 22. On January 15, 2020, Petitioner’s counsel was able to obtain from Respondent Logan’s
14 office the detailed election results for the cited Long Beach City Council “pilot” election, broken
15 down by ballot type. Far from supporting Respondent Logan’s assertion that these results revealed
16 “minimal differences between the ballot types” and provided “compelling evidence that voters
17 recognize and respond to the ‘MORE’ button utility,” the results actually demonstrate *just the*
18 *opposite*. The four candidates whose names were listed on the continuation screen using the BMD
19 ballot collectively received 46.8% of the votes cast by voters using Vote-by-Mail or InkaVote paper
20 ballots, both of which ballot types listed all eight candidates together on a single page; the collective
21 vote total for these same candidates, however, dropped to only 40.6% of the votes cast using the BMD
22 ballots, where their names were displayed on the continuation touchscreen that could only be accessed
23 by use of the “MORE” button. This 6.2% difference is statistically significant at greater than the 95%
24 confidence level.

25 23. Indeed, had more voters opted to use the BMD touchscreens to cast their ballots in the
26 Long Beach City Council pilot election (only 414 voters opted to use the BMD ballots in that
27 election), it very well could have *changed the outcome of that election*. The two candidates receiving
28 the greatest number of votes in that election were Mary Zendejas, who finished with 31.51% of the

1 vote, and Mariela Salgado, who received 25.52%. Zendejas defeated Salgado by a comfortable
2 margin of 737-570 votes (56.4% to 43.6%) on the Vote-by-Mail and InkaVote ballots, on which both
3 candidates were listed on the same page; but for votes cast using the BMD touchscreens — on which
4 Salgado’s name appeared on the initial screen and Zendejas was listed on the continuation screen —
5 *Salgado actually received more votes than Zendejas*, 125-121 (50.8% to 49.2%). Far from supporting
6 Respondent Logan’s assertion that there were “minimal differences between the ballot types,” the
7 difference in results using these different ballot types instead only *confirms* that ***use of the BMD***
8 ***touchscreen ballots puts candidates whose names appear on the continuation screens at a***
9 ***statistically significant disadvantage*** to candidates whose names appear on the initial screen — a
10 disadvantage that is significant enough to affect the outcome of many elections.

11 **FIRST CAUSE OF ACTION**

12 **(Writ of Mandate)**

13 **(U.S. Const., First & Fourteenth Amendments; Cal. Const., art. I, §§ 1 & 7; Elec. Code, § 13314;**
14 **Code Civ. Proc., §§ 1085 & 1086)**

15 24. Petitioners incorporate by reference all the allegations contained in the previous
16 paragraphs as though fully set forth herein.

17 25. As set forth above, use of the Los Angeles VSAP and BMD touchscreen ballots
18 without modification in the March 3, 2020, and other future elections violates the U.S. and California
19 Constitutions by unnecessarily imposing a severe electoral disadvantage on those candidates whose
20 names do not appear on the initial BMD touchscreen for their contests, thereby frustrating the free and
21 fair expression of the people’s will. Use of the BMD touchscreen without modification also violates
22 the California Elections Code and the California Voting System Standards (CVSS) by biasing voters
23 *for* the candidates whose names are displayed on the initial touchscreen and *against* those candidates
24 whose names appear on the second and subsequent screens. Accordingly, Respondent Los Angeles
25 County Registrar Logan has a clear, mandatory, and ministerial duty to modify the current design and
26 programming of the BMD touchscreen ballot to eliminate or to mitigate as best as practicable the
27 unconstitutional and unlawful ballot position advantage that unnecessarily accrues to the candidates
28 whose names are displayed on the initial touchscreen of a multi-screen contest.

29 26. Pursuant to Elections Code section 13314, any elector may seek a writ of mandate

1 alleging that an error or omission has occurred, or is about to occur, in the printing of a ballot or other
2 official matter, or that any neglect of duty has occurred, or is about to occur. Subdivision (b) of
3 section 13314 provides that a peremptory writ of mandate shall issue upon proof that (1) “the error,
4 omission, or neglect is in violation of this code or the Constitution” and (2) “issuance of the writ will
5 not substantially interfere with the conduct of the election.” Respondent Logan’s planned use of the
6 VSAP system and BMD ballot without modification for the March 3, 2020, consolidated Presidential
7 Primary election constitutes an “error, omission, or neglect” that is in violation of the Elections Code
8 and the federal and state Constitutions. Further, given the timing of this action, issuance of the
9 requested writ of mandate will not substantially interfere with the conduct of the election, but will
10 actually prevent the election from being conducted in violation of the Constitution and the laws of this
11 state.

12 27. In addition, a writ of mandate may be issued under Code of Civil Procedure section
13 1085 “to compel the performance of an act which the law specifically enjoins, as a duty resulting from
14 an office.” Pursuant to Code of Civil Procedure section 1086, “[t]he writ must be issued in all cases
15 where there is not a plain, speedy, and adequate remedy, in the ordinary course of law.”

16 28. If not otherwise directed by this Court's issuance of the requested writ of mandate,
17 Respondent Logan will violate his ministerial duties as described above by using the unconstitutional
18 and unlawful BMD touchscreen ballots without modification for the March 3, 2020, consolidated
19 Presidential Primary election. Issuance of the requested writ of mandate is therefore necessary in
20 order to prevent the violation of the federal and state Constitutions, the Elections Code, and the CVSS,
21 and the neglect of duty that is about to occur from the use of the unmodified BMD ballots.

22 29. Petitioners are beneficially interested in the relief requested herein. The City of
23 Beverly Hills has a vital interest in the integrity and accuracy of the results of its municipal elections,
24 including the Beverly Hills City Council election that has been consolidated with the March 3, 2020,
25 statewide Presidential Primary election. Petitioner Ahmed likewise has a significant interest in the
26 integrity and accuracy of the results of the March 3, 2020, election, both in her official capacity as the
27 elections official for the City of Beverly Hills and as an elector of the County of Los Angeles.
28 Petitioners have no speedy or adequate remedy at law if a writ of mandate does not issue preventing

1 the use of Los Angeles County’s VSAP and BMD touchscreen ballots without the modifications
2 requested herein. Petitioners have exhausted all applicable and available administrative remedies
3 seeking the relief requested herein.

4 **SECOND CAUSE OF ACTION**
5 **(Injunctive Relief, Code Civ. Proc., § 526)**

6 30. Petitioners incorporate by reference all the allegations contained in the previous
7 paragraphs as though fully set forth herein.

8 31. Code of Civil Procedure section 526 provides that an injunction may be granted
9 “[w]hen it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief,
10 or any part thereof, consists in restraining the commission or continuance of the act complained of,
11 either for a limited period or perpetually;” “[w]hen it appears by the complaint or affidavits that the
12 commission or continuance of some act during the litigation would produce waste, or great or
13 irreparable injury, to a party to the action;” or “[w]hen it appears, during the litigation, that a party to
14 the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in
15 violation of the rights of another party to the action respecting the subject of the action, and tending to
16 render the judgment ineffectual.”

17 32. In the absence of this Court’s injunction, Respondent Logan will continue to disregard
18 the constitutional, statutory, and regulatory restrictions on the use of the VSAP voting system and the
19 BMD touchscreen ballots and will use the VSAP system and BMD ballots without modification for
20 the March 3, 2020, consolidated Presidential Primary election, thereby causing Petitioners to suffer
21 irreparable harm for which there is no adequate remedy at law.

22 33. Because Respondent Logan’s use of the VSAP system and BMD touchscreen ballots
23 without modification is unconstitutional and unlawful as set forth above, Petitioners are entitled to
24 temporary, preliminary and permanent injunctive relief enjoining Respondents from using the VSAP
25 system and BMD ballots for the March 3, 2020 consolidated Presidential Primary election without the
26 modifications requested herein. Petitioners have no plain, speedy, and adequate remedy in the
27 ordinary course of law in that no damages or other legal remedy can adequately compensate them and
28 the residents and taxpayers of the City of Beverly Hills and the County of Los Angeles for the

1 irreparable harm they will suffer from the unconstitutional and unlawful use of the VSAP system and
2 BMD ballots for the upcoming March 3, 2020, consolidated Presidential Primary election. Thus,
3 Petitioners are entitled to injunctive relief pursuant to Code of Civil Procedure section 526.

4 **THIRD CAUSE OF ACTION**
5 **(Declaratory Relief, Code Civ. Proc., § 1060)**

6 34. Petitioners incorporate by reference all the allegations contained in the previous
7 paragraphs as though fully set forth herein.

8 35. An actual controversy has arisen between Petitioners and Respondent, in that
9 Petitioners believe and contend, for the reasons set forth above, that use of the VSAP voting system
10 and BMD touchscreen ballots without the modifications requested herein is unconstitutional and
11 unlawful. Petitioners are informed and believe, and on that basis contend, that Respondent Logan
12 contends in all respects to the contrary.

13 36. A judicial determination and declaration as to the constitutionality and lawfulness of
14 the VSAP system and BMD ballots, as set forth above, is therefore necessary and appropriate to
15 determine the respective rights and duties of the parties.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioners and Plaintiffs pray for judgment as follows:

18 1. On the First Cause of Action, that this Court issue alternative and preemptory writs of
19 mandate prohibiting Respondent Logan, his officers, agents, and all persons acting by, through or in
20 concert with him, from using the VSAP system and BMD touchscreen ballots for the March 3, 2020,
21 consolidated Presidential Primary election unless the BMD is modified: (1) to disable (or not to show)
22 the “SKIP/NEXT” button on any screen that is not the “last” touchscreen containing candidates’
23 names for a particular contest; and (2) for any contest with more candidates than can reasonably be
24 displayed on a single touchscreen, to include an explicit instruction alerting the voters that the names
25 of additional candidates appear on subsequent screens and that they should not make and finalize their
26 voting selections until they have viewed all of the touchscreens and all of the candidates’ names for
27 that contest;

28 2. On the Second Cause of Action, that this Court issue temporary, preliminary, and

1 permanent injunctions prohibiting Respondent Logan, his officers, agents, and all persons acting by,
2 through or in concert with him, from using the VSAP system and BMD touchscreen ballots for the
3 March 3, 2020, consolidated Presidential Primary election unless the BMD is modified: (1) to disable
4 (or not to show) the “SKIP/NEXT” button on any screen that is not the “last” touchscreen containing
5 candidates’ names for a particular contest; and (2) for any contest with more candidates than can
6 reasonably be displayed on a single touchscreen, to include an explicit instruction alerting the voters
7 that the names of additional candidates appear on subsequent screens and that they should not make
8 and finalize their voting selections until they have viewed all of the touchscreens and all of the
9 candidates’ names for that contest;

10 3. On the Third Cause of Action, that this Court issue its judgment declaring that use of
11 the VSAP system and BMD touchscreen ballots for the March 3, 2020, consolidated Presidential
12 Primary election or any future election without the modifications set forth in paragraphs 1 and 2,
13 above, is unconstitutional and unlawful;

14 4. That this Court award Petitioners the costs of this proceeding; and


15 5. That this Court grant Petitioners such other, different, or further relief as the Court may
16 deem just and proper.

17 DATED: January 22, 2020

Respectfully submitted,

18 RICHARDS WATSON & GERSHON
19 Laurence S. Wiener

20 STRUMWASSER & WOOCHELLP
21 Fredric D. Woocher
22 Beverly Grossman Palmer

23 By: 
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25 *Beverly Hills and Huma Ahmed*
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