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Attorneys for Delaware County

ALFEIA GOODWIN and ROBERT MANCINI	:	COURT OF COMMON PLEAS,
	:	DELAWARE COUNTY
Petitioners	:	ELECTION LAW
	:	
v.	:	NO: CV-2024-8838
	:	
DELAWARE COUNTY	:	
	:	
Defendant	:	

**ANSWER WITH NEW MATTER TO PETITIONERS' APPLICATION
FOR EMERGENCY RELIEF AND SEEKING PRELIMINARY INJUNCTION**

Respondent Delaware County hereby submits this Opposition to the Application for Emergency Relief and Seeking a Preliminary Injunction filed by Petitioners Alfeia Goodwin and Robert Mancini (collectively, "Petitioners") and states as follows:

ANSWER

1. Admitted upon information and belief.
2. Admitted upon information and belief.
3. Admitted.
4. Denied as stated. It is admitted that Delaware County is a governmental entity

with offices at 201 W. Front Street, Media, Pennsylvania.

5. Admitted in part, denied in part. Admitted that the U.S. Election Assistance Commission is a federal agency that certifies voting systems. All other factual allegations in this paragraph are denied.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Denied as stated. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied.

12. Denied as stated. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied.

13. Denied as stated. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied. Further, this Paragraph contains conclusions of law to which no response is required.

14. Admitted in part, denied in part. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied. This Paragraph also contains conclusions of law to which no response is required. By way of further response, Delaware County did not perform a “trusted build” on election equipment on September 23, 2024, or otherwise in connection with logic and accuracy testing of its election equipment¹ for the 2024 General Election, nor would a “trusted build” have been something it was required or appropriate

¹ Delaware County does not use “voting machines” but instead uses paper ballots together with various types of election equipment including ballot scanners, ballot marking devices, and printers that work in conjunction with ballot marking devices.

for Delaware County to have done. A “trusted build” is not something that a county election office would perform in connection with logic and accuracy testing in preparation for an election. Rather, a “trusted build” is a task performed typically by an independent laboratory on behalf of a governmental agency, such as the United States Election Assistance Commission and/or the Pennsylvania Department of State, that is responsible for initial certification of election equipment. A “trusted build” would be performed in the course of the initial certification process for election equipment and software to mimic and test the election equipment manufacturer’s process. The Delaware County Board of Elections, by contrast, performed a “trusted build verification” through the Logic & Accuracy testing by verifying the compatibility of the V-drive from the Hart 2.7 system is compatible with the equipment, which generates a tape indicating what version of software that the equipment is utilizing. Delaware County Board of Elections then performs an extra level of testing, that is a suggested best practice by the manufacturer but that is not required by state or federal law, by performing a process known as hash testing, on all of the servers and central-scan equipment, plus a randomly selected sample of its election equipment assigned to precincts. The random selection of equipment of precincts represents more than 2% of the election equipment to be used in Delaware County in the precincts on Election Day in the 2024 General Election. It is admitted that the Board of Elections published on its website the true and correct results of the hash testing of its election equipment in preparation for the 2024 General Election. Those results demonstrate that every piece of election equipment hash tested by the Board had all of the appropriate software/programs on it and no software/programs that were not supposed to be on it. To the extent this Paragraph contains any other allegations of fact, they are denied.

15. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied.

16. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied. By way of further response, the image labeled “Figure 3 Marple 3-1” is grainy and low-quality, such that it is indecipherable as reproduced in the Application. A clear version of the true and accurate hash testing results can be found on the Delaware County website.

17. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied.

18. Denied as stated. This Paragraph refers to writings, which speak for themselves, and any characterization thereof is denied. By way of further response, the hash testing performed by the Delaware County Board of Elections demonstrated that the tested equipment contain only the software authorized by the Election Assistance Commission and Pennsylvania Department of State for that equipment. In addition, the image labeled Figure 4 is grainy and low-quality, such that it is indecipherable as reproduced in the Application. A clear version of the true and accurate hash testing results can be found on the Delaware County website.

ARGUMENT

19. Denied. By way of further response, MathNet.Numerics is a known and tested component of the Hart Verity voting system used by Delaware County, which is a part of the common software library that is included on all certified Hart devices. This specific part of the software is and always has been part of the tested, certified product and it correctly belongs on this balloting system for its proper use and accurate tabulations of votes. The Voting System Test Laboratory (VSTL), in accordance with the Help America Vote Act (HAVA), conducted

thorough security testing as part of the certification process, including a full source-code review of all software components. This was explained in detail to Petitioner Mancini in April of 2024. See Email Exchange between James Allen and Robert Mancini, attached as Ex. A.

20. Denied as legal conclusions and otherwise denied. To the extent this Paragraph contains allegations of fact, they are denied. By way of further response, as all recent testing proves, all software on the Delaware County voting systems is authorized and complies with all applicable standards and certifications.

21. Denied as legal conclusions and otherwise denied. To the extent this Paragraph contains allegations of fact, they are denied. By way of further response, as all recent testing proves, all software on Delaware County's voting systems is authorized and complies with all applicable standards and certifications. Petitioners' claims are meritless and frivolous, as was explained to Petitioner Mancini in April of 2024.

POTENTIAL HARMS

22. This paragraph contains conclusions of law to which no response is required. To the extent this Paragraph contains allegations of fact, they are denied. By way of further response, as all recent hash testing proves, all software on the Delaware County voting systems is authorized and complies with all applicable standards and certifications. Petitioner's claims are entirely meritless and frivolous. Moreover, the logic and accuracy testing directed by the Secretary of the Commonwealth does not require any hash testing; the hash testing done by the Delaware County Board of Elections on election equipment to be used in the 2024 General Election was wholly *above and beyond* the logic and accuracy testing required under Pennsylvania law for that equipment.

23. This Paragraph does not purport to be an allegation, but instead appears to be a rhetorical question, and as such no response is required. To the extent this Paragraph contains allegations of fact, they are denied.

EVIDENCE OF ELECTION INTERFERENCE

24. Denied. By way of further response, these allegations are baseless lies.

25. Denied.

26. Denied. By way of further response, Delaware County denies this baseless speculation that any one has interfered with the Delaware County voting system. Petitioner's only basis for this claim is that a known and tested component of the Hart Verity voting system is, in fact, in the voting system.

27. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

28. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

PREREQUISITE [SIC] FOR A PRELIMINARY INJUNCTION

29. This Paragraph contains conclusions of law to which no response is required.

30. This Paragraph contains conclusions of law to which no response is required.

**THE PRELIMINARY INJUNCTION IS NECESSARY TO PREVENT IMMEDIATE
AND IRREPARABLE HARM**

31. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition.

32. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

GREATER INJURY WOULD RESULT IN NOT GRANTING INJUNCTION RELIEF

33. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

34. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

35. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

A PRELIMINARY INJUNCTION WILL MAINTAIN THE STATUS QUO FOR ALL PARTIES

36. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

37. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

PETITIONERS ARE LIKELY TO PREVAIL ON THE MERITS

38. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

AN INJUNCTION IS REASONABLY SUITED TO THE OFFENDING ACTIVITY

39. Denied. By way of further response, Defendant has filed a Response in Opposition to the Petitioners' claims, and incorporates by reference its Opposition. Further, this Paragraph contains conclusions of law to which no response is required.

THE PUBLIC WILL NOT BE ADVERSELY AFFECTED BY THE INJUNCTION

40. Admitted in part, denied in part. It is admitted that Delaware County, through the Delaware County Board of Elections, to which the election functions in Delaware County have been formally delegated, is required to follow applicable laws and requirements in the execution of every election. It is denied that Delaware County, through the Delaware County Board of Elections, has sole control over all election activities in Delaware County, as control is subject to federal and state law, as well as to the Secretary of the Commonwealth of Pennsylvania in certain respects. It is further denied that there is no adverse effect of being forced, without legal or factual basis, to abandon safe, reliable, tested and proven methods of counting votes in favor of hand-counting, a method that is demonstrably unreliable, not to mention infinitely slower than the consistently reliable method of machine ballot tabulation.²

41. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

² Over the past three years, the Delaware County Board of Elections has performed no less than six partial or total recounts. Every single recount confirmed the results of the original count.

42. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required. By way of further response, the quarantining of Delaware County's election equipment at this juncture, less than 20 days before Election Day, for an undetermined and unknowable period of time would make it highly likely—if not entirely certain—that such equipment could not be timely delivered to polling places for use on Election Day, thereby wreaking havoc on the 2024 General Election, not only for Delaware County but also, because Delaware County is among the largest counties by population in the Commonwealth of Pennsylvania, which itself is a central “swing state” in the 2024 Presidential Election, for the Commonwealth of Pennsylvania and the entire United States of America.

43. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required. By way of further response, there is no factual or legal basis to require hash testing of any additional Delaware County election equipment; hash testing of election equipment is not required under the logic and accuracy testing directive from the Pennsylvania Department of State. Moreover, requiring the hash testing of every piece of election equipment to be used by Delaware County in the 2024 General Election at this point in time less than 20 days before Election Day would make it highly likely that such equipment could not be timely delivered to polling places for use on Election Day. If such election equipment could not be timely delivered to polling places, that would wreak havoc on the 2024 General Election, not only for Delaware County but also, because Delaware County is among the largest counties by population in the Commonwealth of Pennsylvania, which itself

is a central “swing state” in the 2024 Presidential Election, for the Commonwealth of Pennsylvania and the entire United States of America.

44. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

45. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

46. This Paragraph purports to describe the relief requested and as such no response is required. To the extent it contains allegations of fact, they are denied. Further, this Paragraph contains conclusions of law to which no response is required.

WHEREFORE, Delaware County respectfully requests that this Court deny the relief requested by Petitioners, that the Court enter judgment in the County’s favor, and for all other relief.

NEW MATTER

Delaware County hereby asserts the following New Matter against Petitioners:

1. There is no jurisdiction over Petitioners’ Application.
2. Petitioner Mancini lacks standing to pursue this action.
3. Petitioners’ claims fail for lack of an injury in fact.
4. Petitioners fail to state a claim under the Pennsylvania Rules of Civil Procedure.

[Signature Block on Following Page]

Dated: October 21, 2024

Respectfully submitted,

/s/ J. Manly Parks

J. Manly Parks (74647)

Audrey M. Adams (334493)

30 South 17th Street

Philadelphia, PA 19103

Tel.: (215) 979-1000

JMParks@duanemorris.com

AMAdams@duanemorris.com

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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Answer to be filed and served via this Court's e-filing system and by regular mail upon all pro se parties of record.

Dated: October 21, 2024

/s/ J. Manly Parks
J. Manly Parks

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Exhibit A

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Adams, Audrey M.

From: Allen, Jim <AllenJ@co.delaware.pa.us>
Sent: Friday, April 12, 2024 1:13 PM
To: Robert Mancini
Cc: OpenRecords
Subject: RE: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: Successful hash-testing results
Attachments: 2024-L&A-Attestation-Delaware-County-04-05.pdf; M2023-L-and-A-Certification-Delaware-10-21.pdf

Robert Mancini,
Your request falls squarely under the Election Code, and is not covered under Right to Know, consistent with court rulings on OOR findings.
Accordingly, this response is being provided under the Election Code.
Jim

James P. Allen
Elections Director
Delaware County, Pennsylvania

From: Robert Mancini <delcocyber@gmail.com>
Sent: Friday, April 12, 2024 11:30 AM
To: Allen, Jim <AllenJ@co.delaware.pa.us>
Cc: OpenRecords <OpenRecords@co.delaware.pa.us>
Subject: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: Successful hash-testing results

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Right to know request. As delco seems to have a peculiar interpretation of the law i am filing it with both RTK and dept of Elections

On Wed, Apr 10, 2024 at 6:29 PM Allen, Jim <AllenJ@co.delaware.pa.us> wrote:

Robert Mancini,

I cannot and do not represent the EAC or the Department of State.

There is no unauthorized software, just your astounding leap to a wrong conclusion based on a document that does not portend to list all of the software examined by the VSTL during the certification process.

For the fourth time, we have hash tested against the EAC's hash, and all of the software on the Delaware County Hart equipment tested was a 100% match to the EAC-issued hash for this very same equipment. The only evidence we have is that all of the software is 100% correct.

Lastly, feel free to appeal to the state now – as we are not the agency to represent the EAC or the Department of State.

Jim

From: Robert Mancini <delco cyber@gmail.com>

Sent: Wednesday, April 10, 2024 6:02 PM

To: Allen, Jim <AllenJ@co.delaware.pa.us>; OpenRecords <OpenRecords@co.delaware.pa.us>

Subject: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: Successful hash-testing results

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Mr. Allen, you should be in possession of such a document, or in the process of acquiring it both from the EAC and DoS is you are not negligent in you duties. I have already requested them as i know you would be less than forthcoming, which begs the question what are you hiding.

As the person responsible for the machines and the unauthorized software, you should be investigating the matter, unless your are negligent.

You cannot say that you did not know, as by this correspondence you are aware of the software and are certain of your position.

I will give you the five business days before i appeal to the state. Attached again is the County RTK officer.

the documents are

This is a now officially a right to know request, please provide

- 1) the document that lists the software (Mathnet.Numerics) as tested by the EAC and Department of State.
- 2) the procedure the EAC specifies after discovering a voting machine that has unauthorized software on it.
- 3) Please produce a copy of the 9 machine administrator logs that you "hash" tested from the time that Hart 2.7 was installed (Feb11,2023) to present.
- 4) The procedure the DOS specifies after discovering a voting machine that has unauthorized software on it.

v/r

Robert Mancini

On Wed, Apr 10, 2024 at 9:15 AM Allen, Jim <AllenJ@co.delaware.pa.us> wrote:

Robert Mancini,

If you are in search of more documents from the EAC, you need to contact the EAC.

The hash test of the software fingerprint on the Hart equipment used by Delaware County was successful, in that it was a 100% match to the hash provided by the EAC for the Hart equipment.

Jim

From: Robert Mancini <delcocyber@gmail.com>

Sent: Tuesday, April 9, 2024 6:33 PM

To: Allen, Jim <AllenJ@co.delaware.pa.us>

Subject: (EXTERNAL) Re: (EXTERNAL) Re: (EXTERNAL) Re: Successful hash-testing results

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1) I will take that as a know to my RTK request for all documents, and if you read the Election Code, those documents are public

2) Pease provide me the EAC document you referenced that mentions mathnet.numerics and you can end this real fast..If you cannot provide the EAC document that mention mathnet.numerics I will have to escalate this matter.

On Mon, Apr 8, 2024 at 5:54 PM Allen, Jim <AllenJ@co.delaware.pa.us> wrote:

Robert Mancini,

First off, election records are covered under the Election Code, not Right to Know.

Next, we have provided the documentation in question and are not going to enter into a debate about something that has already been demonstrated and established as fact – that the software fingerprint (or hash) on Delaware County’s Hart equipment is 100% identical to the software fingerprint (or hash) issued by the EAC for this very same Hart equipment. The very document that you cited in your complaint last week lists the software that you question on **both the Delaware County side of the hash test for the Hart equipment – and the EAC side of the hash test for the Hart equipment.**

Again, Delaware County’s software hash test was successful and proved that Delaware County’s Hart equipment contains only the software authorized by the EAC for the Hart equipment.

If you care to dispute that, you need to contact the EAC about its hash and/or its software listings.

Jim

From: Robert Mancini <delcocyber@gmail.com>
Sent: Monday, April 8, 2024 5:02 PM
To: Allen, Jim <AllenJ@co.delaware.pa.us>; OpenRecords <OpenRecords@co.delaware.pa.us>
Subject: (EXTERNAL) Re: (EXTERNAL) Re: Successful hash-testing results

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I copied Delaware Counties RTK office.

Mr Allen, Only the software listed in The EAC Certification and The Department of State certification (which i provided you) are allowed. If it is allowed it would be listed there. KNOWINGLY operating an Electronic Voting System that is not in the configuration tested by the EAC and DOS is almost certainly a crime. I suggest you investigate it, especially since you acknowledged under oath that you do not understand the technical aspects of a system. Please show me the document that lists that software, The EAC whitelists software use on the Trusted build, any software not on that build is not allowed on the system.

This is a now officially a right to know request, please provide

- 1) the document that lists the software (Mathnet.Numerics) as tested by the EAC and Department of State.
- 2) the procedure the EAC specifies after discovering a voting machine that has unauthorized software on it.
- 3) Please produce a copy of the 9 machine administrator logs that you "hash" tested from the time that Hart 2.7 was installed (Feb11,2023) to present.
- 4) The procedure the DOS specifies after discovering a voting machine that has unauthorized software on it.

On Sat, Apr 6, 2024 at 4:59 PM Allen, Jim <AllenJ@co.delaware.pa.us> wrote:

Robert Mancini,

A certification does not need to reference every program and subcomponent that was tested during the certification. To wit, "The **hash codes** for all system components were captured using the process listed in the manufacturer's Technical Data Package (TDP) by the Functional Examiner with assistance from a Hart representative. The Functional Examiner further compared and confirmed that all the captured hash codes matched the hash codes for the EAC certified system executables before executing the test scripts."

From there, you have jumped to completely wrong conclusions. Delaware County has the proper software running on the Hart equipment and has verified that with the hash test. Our hash test matched the very hash codes, referenced above, from the EAC. Additionally, our hash testing is not required, but Delaware County is among the very few (if not the only) jurisdiction in Pennsylvania to perform this extra level of testing and review on randomly selected equipment. The hash testing is an extra, optional layer of testing that is not required by the certification or the Department of State directive on Logic & Accuracy testing. The recent hash testing, as well as all previous hash testing ahead of elections, was successful.

Next, you are yet again mischaracterizing and misrepresenting the trusted build validation and confusing it with an actual trusted build. Delaware County has performed the validation on every machine ahead of every election and after every election by examining the tapes that validate that the equipment is running on Hart Verity 2.7. (Prior to 2023, it was an earlier iteration and the same process for validation – checking the tapes.) You are wrongly confusing **validating** a trusted build with actually **performing** a top-to-bottom trusted build. Performing a top-to-bottom trusted build is done by the VST Laboratory – at the federal certification process, not by a local jurisdiction performing Logic & Accuracy testing. The VSTL performs the trusted build to emulate the vendor's manufacturing process and the vendor's instructions for using the balloting system. The trusted build includes starting with hardware components and then loading all of the vendor's software components before using that software to: program a mock election; print ballots for that mock election; test the mock-election ballots; program the voting equipment for the mock election; executing the mock election; gathering the mock election results; and then verifying that all of the systems functioned as designed to the standards required by law. Again, that is a process for the VST Laboratory to perform at federal certification. The trusted build is not a process for the local jurisdiction to perform at Logic & Accuracy testing. In Logic & Accuracy, the jurisdictions perform a **validation** by examining the power-on self-test report. Any time the device is powered on, a report prints out with a time stamp and **firmware version**.

Again, the hash testing was successful and the Logic & Accuracy was successful. Through it all, the testing and validations verified that the proper programs are running on the Hart voting equipment that is being used by Delaware County's voters and poll workers.

Jim

From: Robert Mancini <delcocyber@gmail.com>
Sent: Saturday, April 6, 2024 3:45 PM
To: Allen, Jim <AllenJ@co.delaware.pa.us>
Subject: (EXTERNAL) Re: Successful hash-testing results

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ease f=reference the Software in question?

I will also refer you tom page 28 subsection J which requires you to do a certify build on all machines, not just 9.

On Fri, Apr 5, 2024 at 11:14 PM Allen, Jim <AllenJ@co.delaware.pa.us> wrote:

Robert Mancini,

We are in receipt of the misinformation that you submitted (dated April 4, 2024) about the Hart equipment used by Delaware County and about the very recent and very successful hash testing that Delaware County performed to verify that our balloting systems and equipment contain only the correct, proper and certified software.

The very graphic you included stated the results of the very successful hash test: “The selected files are identical.” In other words, the hash test of the software fingerprint on Delaware County’s Hart voting equipment perfectly matched (and matches) the fingerprint of the software that was certified for use for that very same Hart equipment. That software certification was completed first by the United States Election Assistance Commission, and then completed by the Pennsylvania Department of State.

Further, please note the following information from the vendor, Hart, in response to your inquiry: The specific part of the DLL software that you (Robert Mancine) cited **is a known and tested** component of the Hart Verity voting system. This specific part of the DLL software is and always has been part of the tested, certified product and it correctly belongs on this balloting system for its proper use and accurate tabulations of votes. The Voting System Test Laboratory (VSTL), in accordance with the Help America Vote Act (HAVA), conducted thorough security testing as part of the certification process, including a full source-code review of all software components. The specific DLL that you (Robert Mancini) cited is a proper and correct subcomponent of the Hart audio engine, which is a part of the common software library **that is included on all certified Hart devices.**

Again, and in closing, only the exact software that was included in the EAC certification process for the Hart Verity equipment is loaded on the Hart Verity voting equipment that is being used by Delaware County. The very recent and very successful hash testing verified that fact.

James P. Allen

Elections Director

Delaware County, Pennsylvania

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