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The Honorable Ricardo S. Martinez

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

PAUL LEHTO, et al.,

Plaintiffs,

v.

SEQUOIA VOTING SYSTEMS, INC., et al.,

Defendants.

Case No. C-05-0877 RSM

**DECLARATION OF PETER J.
MCMANEMY IN SUPPORT OF
SEQUOIA'S OPPOSITION TO
PLAINTIFFS' MOTION FOR REMAND
TO STATE COURT**

**Noted on Motion Calendar:
July 8, 2005**

1 I, Peter J. McManemy, am the Chief Financial Officer of Sequoia Voting Systems, Inc.
2 ("Sequoia"), a defendant in the above-entitled action. I have personal knowledge of the facts
3 stated herein and can testify to them if called upon to do so.
4

5 1. I have worked at Sequoia for five (5) years. As the Chief Financial Officer, my
6 responsibilities include maintaining the financial books of record.

7 2. Sequoia is a nationwide corporation in the business of providing equipment and
8 supplies to state and local election officials. Sequoia has been in the business of supplying
9 election equipment for over 100 years. A significant portion of Sequoia's business is the
10 development, manufacture and sale of two different types of direct recording electronic voting
11 machines.
12

13 3. Over the past 15 years, more than 120 local election jurisdictions across the United
14 States have used Sequoia's electronic voting systems. More than 15 million registered voters
15 were served by Sequoia electronic voting equipment in 2004 and cast millions of ballots with
16 hundreds of millions of individual votes properly recorded using the government-approved
17 Sequoia software.
18

19 4. Sequoia's electronic voting systems involve stand-alone electronic voting machines
20 and the software and firmware upon which the machines operate.

21 5. In 2002, the federal government provided more than \$3 billion in funding to help
22 modernize elections, primarily through the addition of new voting technology. Sequoia
23 currently has approximately 30% of the market share in an industry which expects to see sales
24 in excess of \$3 billion over the next three years. In fiscal year 2003/04, Sequoia's revenue was
25 more than \$75 million. During the next three years, Sequoia's projected revenue is in excess of
26 \$500 million.
27

28 6. To compete and succeed in this industry, Sequoia must ensure its voting systems are

1 accurate, reliable and secure. To do so, Sequoia has spent hundreds of man-years of work to
2 develop, maintain and certify the software and firmware on its voting machines. The cost of
3 developing, maintaining and certifying the software and firmware is conservatively estimated at
4 more than \$10 million.

5
6 7. Sequoia has spent hundreds of thousands of dollars to have its proprietary voting
7 software and hardware successfully tested by federally-sanctioned independent testing
8 laboratories which ensure compliance with complex and rigorous national and state voting
9 system standards.

10
11 8. Sequoia spends in excess of \$10,000 annually to ensure that true copies of the
12 federally certified software are stored in escrow to meet contractual and statutory mandates. In
13 partnership with the federal Election Assistance Commission, Sequoia has also made deposits
14 of its voting software in the National Software Reference Library coordinated by the National
15 Institute for Standards and Technology under the United States Department of Commerce.

16
17 9. Counties that purchase Sequoia's voting systems must pay a licensing fee to use
18 Sequoia's proprietary software and firmware. In Sequoia's contract with the County of
19 Snohomish, the County paid an initial \$200,000 license fee and pays an annual \$40,000 license
20 fee thereafter.

21
22 10. To ensure Sequoia's voting system remains secure from fraud, tampering and abuse,
23 and to protect one of its most valuable business assets, Sequoia protects the source code from
24 broad disclosure and only provides access to trusted agents of the federal and state government
25 charged with reviewing the code for security, accuracy and reliability. The source code is the
26 line-by-line programming instructions that comprise the software and firmware.

27
28 11. Maintaining the secrecy of the source code is an important component of
maintaining the security of Sequoia's voting systems. It is much more difficult to compromise

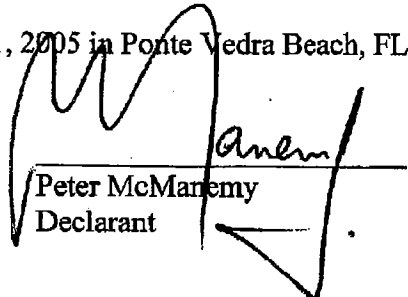
1 a voting system when a would-be attacker does not have access to the line-by-line instructions
2 of program upon which the machines are operating.

3
4 12. When conducting a security audit for the Nevada Secretary of State, the Electronic
5 Services Division of the Nevada Gaming Control Board recommended the statewide purchase
6 of the Sequoia system over a competitor, partially because the Sequoia operating software had
7 not been made available to the public and the software of a competitor had been widely
8 circulated.

9
10 13. The disclosure and public dissemination of the source code would compromise the
11 security of the voting system, thereby undermining the integrity and confidence of election
12 results. For the same reason, disclosure of the source code would diminish Sequoia's ability to
13 compete and succeed in the market. In addition, disclosure would allow competitors to reap the
14 benefits of the millions of dollars and years of effort Sequoia spent to develop, produce and
15 certify their software and firmware.

16
17 14. Considering that Sequoia has a 30% market share in the billion electronic voting
18 industry, the disclosure of the source code would likely cause Sequoia to lose tens of millions of
19 dollars in revenue and would certainly cause the loss of more than one million. .

20 15. I declare under the penalty of perjury that the foregoing is true and correct under the
21 laws of the State of California, executed on July 1, 2005 in Ponte Vedra Beach, FL 32082.

22
23 
24 Peter McManemy
25 Declarant