# IN THE COMMONWEALTH COURT OF PENNSYLVANIA

NAACP PENNSYLVANIA STATE
CONFERENCE,

             Petitioner,

    v.

No. 364 MD 2020

KATHY BOOCKVAR,
SECRETARY OF THE COMMONWEALTH,
AND JESSICA MATHIS, DIRECTOR OF THE
BUREAU OF ELECTION SERVICES AND
NOTARIES,

             Respondents.

## AFFIDAVIT OF DONALD MARK RITCHIE

I, Donald Mark Ritchie, do hereby say under oath the following:

1.     I am of legal age and competent to provide this affidavit. All the information herein is based on my own personal knowledge unless otherwise indicated.

2.     My background, qualifications, and professional affiliations are set forth in my curriculum vitae, which is attached as Exhibit A.

3.     I was elected Secretary of State of Minnesota in 2006 and in this capacity served as the State's chief election officer from January 2007 until January 2015.

4.     I served as the president of the National Association of Secretaries of State from January 2011 through July 2011.

5. In May 2017 I was appointed and continue to serve on the U. S. Election Assistance Commission's Board of Advisors by Ranking Member of the Senate Rules Committee, U.S. Senator Amy Klobuchar.

6. Minnesota has over 3 million registered voters, and during my tenure consistently led the nation in voter turnout.

7. I led a staff of approximately 80 people in the Office of the Minnesota Secretary of State.

8. I oversaw the conduct of elections in eighty-seven Minnesota counties. Our most populous county, Hennepin, serves almost 800,000 voters. Our smallest county serves less than two thousand voters.

## Conducting Elections with Hand-Marked Paper Ballots

9. All Minnesota counties conduct elections primarily with hand-marked paper ballots that are counted by scanning devices. Voters are provided pre-printed ballots that contain all contests and candidates for which the voter is eligible to vote. The voter indicates their selections by filling in an oval specific to each vote choice. Assistive ballot marking devices are available at each polling location for voters unable or unwilling to mark a paper ballot by hand, consistent with the Help America Vote Act of 2002 (HAVA) and the Americans with Disabilities Act (ADA).

10. Pre-printed ballots are delivered to each polling location before the election. Ballot inventory is carefully controlled and documented to ensure all ballots delivered, used, and not used, are accounted for.

11. For most voters that can mark a ballot by hand: the voter checks in, the pollworkers give them a paper ballot that is appropriate for their residence with the contests the voter is eligible to vote in and a privacy sleeve (a folder that enables the voter to carry the marked ballot to the scanner while protecting privacy).

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12.     If the voter chooses not to mark a ballot by hand, they are directed to a standard assistive ballot marking device.

13.     If the voter chooses to mark a ballot by hand, they take the ballot to a table or voting booth that affords privacy as the voter marks their selections on the ballot.

14.     When the voter is finished, either marking the ballot by hand or device, the voter typically brings the ballot in privacy sleeve to the scanner and feeds the ballot into the scanner.

15.     If the voter has overvoted in any contest (marked more than the allowed number of selections which will nullify the vote), the scanner will reject the ballot. This satisfies requirements in HAVA that require a voting system to notify voters of any overvotes.

16.     The voter then has the opportunity to spoil the ballot and receive and mark a new ballot.

17.     As the ballots are scanned, they drop into a secure ballot box that is sealed at the end of the elections, enabling secure storage of the ballots.

18.     Voted ballots, spoiled ballots and voter check-in totals are reconciled after each election. Ballots are secured and the chain of custody documented to protect the election records.


### Conducting Elections on Universal-Use Ballot Marking Devices During the Pandemic

19.     Through my continued involvement on the EAC Board of Advisors and other entities focused on election administration, I am familiar with the universal-use of ballot marking devices.

20.     To the best of my knowledge, twenty counties in Pennsylvania have implemented universal-use ballot marking devices, meaning all voters voting in a polling place *must* mark their ballot on a ballot marking device.

21.     A ballot marking device (BMD) is a computerized device which presents the ballot to the voter in digital form. Voters make choices on a touchscreen or assistive interface and the device prints out a

ballot or ballot summary card. A ballot summary card contains a barcode and a summary of the voters' selections in readable text.

22. Pennsylvania counties have adopted a mix of standard BMDs and "hybrid" BMDs. A standard BMD prints a paper ballot card that the voter then takes to a separate scanning tabulator and inserts the ballot card into the scanner to cast it. With a hybrid BMD, the BMD also includes an embedded scanner and tabulator that scans and tabulates votes from the printed card on the same device after the voter marks and prints the paper ballot summary card.

23 In my experience, voting on a BMD typically takes much longer than hand-marking a paper ballot, which will result in extended voting wait times and is likely to cause lines. This is also likely to increase crowding and congestion at polling locations which could increase opportunities to spread the COVID-19 virus.

24. As voters and pollworkers will be required to touch the BMDs to activate and vote on the BMDs, these devices will require repeated cleaning during the voting day, causing a pause in the voting process. This is certain to further increase wait times and voter lines, and frustrate the voting process.

25. In contrast, because voting on hand-marked paper ballots is typically much faster, and not limited by the number of devices in each polling place, use of hand-marked paper ballots is likely to minimize lines and congestion in the polling locations.

26. Furthermore, jurisdictions that implement hand-marked paper ballots minimize the number of high-contact surfaces that will be touched by voters and election workers throughout the voting day. Voters are given a fresh paper ballot that will have been handled minimally by an election worker. The voter can mark the ballot with their own pen, or use a sanitized or disposable pen.

27. As Knox County, Tennessee's administrator of elections, Chris Davis, told *The Daily Beacon*, "The main advantage of having a paper system at this point in time is that the voter does not have to touch a machine as we did previously. All the voter comes in contact with is a blue or black ink pen, his

or her own photo ID, an application for ballot (piece of paper) and a paper ballot. Very clean and almost contact-free process. In this era of COVID-19, the nearly contact-free process is a big advantage over having to touch a machine."[1]

28.	In addition, ballot marking devices require additional trucking and set-up, will require additional pollworkers to manage them (a critical issue as pollworker recruitment is down due to COVID-19), and will require all locations to have adequate electrical outlets capable of powering all the devices, making them more difficult to deploy and manage.

29.	In my expert opinion, requiring all voters to vote on BMDs is likely to cause lines and congestion at the polls, and will increase opportunities for voters to touch and contaminate surfaces, making it difficult to adhere to safety guidelines developed to prevent the spread of COVID-19.

**Feasibility of Switching to Hand-Marked Paper Ballots**

30.	Twelve of the twenty counties in Pennsylvania that have implemented universal-use BMDs have adopted standard ballot marking devices that do not tabulate the ballots. Once the voter has marked and printed a paper ballot on the BMD, the voters bring the paper ballots to a scanner for scanning and tabulation. In these counties, each polling locations is already equipped with scanning tabulators.

31.	The polling place scanners in use in Pennsylvania are all capable of scanning and counting both BMD printed ballot cards and hand-marked paper ballots. This means all of these counties can switch to hand-marked paper ballots and continue to use the same scanners. These counties can also deploy one or more of their existing assistive BMDs to provide accessibility for voters with disabilities in compliance

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[1] Abdullah Salim, "Early voting is underway in Knox County under new, contact-free voting system," *The Daily Beacon*, July 28, 2020. *Available at: https://www.utdailybeacon.com/city_news/early-voting-is-underway-in-knox-county-under-new-contact-free-voting-system/article_01dce320-cdc8-11ea-8718-43e0b3415bd6.html*

with HAVA and the ADA. Limiting use of these devices for assisted voting will make sanitizing the devices between voters more manageable and less likely to cause voting delays.

32.     This means that twelve counties can switch to hand-marked paper ballots without having to acquire any new equipment or train election workers on new equipment. This switch will only require printing and distributing pre-printed paper ballots.

33.     Eight of the twenty counties with universal-use BMDs have adopted hybrid BMDs that also scan and tabulate ballots. These counties will have to acquire polling place scanners before the election but this is certainly feasible.

34.     In August 2017, during the DEF CON hacking conference, it was revealed that the touchscreen voting machines used in Virginia were extremely vulnerable to hacking because the vendor had used hardcoded passwords and the passwords became public during the conference. The Virginia Department of Elections promptly directed a security review of the voting machines which took three weeks. After receiving the review, the security findings were so damaging that the Commissioner of Elections asked the State Board of Elections to decertify the machines.

35.     Responding to the extraordinarily dangerous circumstances, on September 8, 2017, less than two months before a major gubernatorial election, the Virginia State Board of Elections voted to decertify all the touchscreen voting machines in the Commonwealth. All the affected counties in Virginia moved promptly to replace all their equipment with hand-marked paper ballots, scanners and assistive BMDs for accessibility. Virginia's governor's contest was held successfully November 7, 2017.

36.     It is important to note that, unlike in Virginia, these eight Pennsylvania counties need only acquire the scanning devices. The counties can continue to use the same election management systems which program the scanners, and aggregate and report vote totals from the individual machines. This means county election workers will not require additional training on new election management

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software. Nor will the switch to hand-marked paper ballots and purchase of polling place scanners impact or disrupt absentee and overseas and military balloting.

37.   All the counties that have adopted BMDs as the primary voting method also must print and process absentee, emergency and provisional ballots. This means that all these counties must develop paper ballot layouts for all ballot styles and print paper ballots of all styles. Replacing BMDs with hand-marked paper ballots would not require any additional administrative effort to create the ballots; election administrators would merely have to increase the number of ballots printed.

38.   Further, all polling locations that have adopted BMDs as the primary method of voting must have emergency paper ballots on hand in case the BMDs do not work. This means, not only must paper ballots be printed and delivered to all locations, but that all pollworkers must also be trained in dispensing paper ballots to voters, instructing voters to mark a paper ballot and securing paper ballots.

39.   In my estimation these counties will have little to no difficulty switching to hand-marked paper ballots as the primary voting method as the counties may continue to use the exact same tabulation equipment and also must already print paper ballots and train pollworkers to process paper ballots.


I affirm, under the penalties for perjury, that the foregoing representations are true and accurate to the best of my knowledge.

This, the _____ day of August, 2020

Donald Mark Ritchie

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# Mark Ritchie
**1813 Girard South, Minneapolis, MN 55403**
**612-231-7707  ritch136@umn.edu**

## EMPLOYMENT

*President*
*2019-Present*

*Global Minnesota*
Leading Minnesota's World Affairs Council

*Civilian Aide to the Secretary of the Army*
*2019-Present*

*United States Army, Minnesota*

*President and CEO*
*2014-2019*

*Minnesota USA Expo 2027*
Public-private partnership to host World Expo on health in Minnesota

*Endowed Chair in Agricultural*
*Food Systems*
*2015-2017*

*University of Minnesota*
Outreach coordinator engaging the campus community in
the development of Minnesota's Expo bid

*Philanthropic Services*
*2015-2016*

*Carnegie Corporation of New York*
External review of projects and funding proposals

*Secretary of State*
*2007-2014*

*State of Minnesota and Minnesota State Board of Investment*
Statewide official responsible for business services and elections

*Food System Grant Making*
*Policy Advisor*
*2005-2006*

*W.K. Kellogg Foundation*
Provided food policy analysis and fundraising strategy
development for Kellogg Foundation grantees in the Midwest

*Executive Producer*
*1993-1996*

*Global Café Television, Minneapolis Television Network*
Host for public affairs interview program covering all things global

*Founder, President*
*1988-2006*

*Institute for Agriculture and Trade Policy*
Created and led Minnesota-based non-profit with over 40 staff focused
on international trade policies and their impact on society

*International Trade Policy Analyst*
*1984-1988*

*State of Minnesota, Department of Agriculture*
Trade-related policymaking at the national and international levels

*Miller Meester Advertising*
*1981-1984*

*Research and Resource Manager*
Led research for global-oriented public relations/advertising agency

*Information Systems Developer*
*1977-1978*

*National Center for Appropriate Technology*
Created the central filing system and digitally assisted system for
tracking activities at federally funded agency in Butte, Montana

*Executive Director*
*1974-1980*

*Center for Rural Studies/Earthwork*
Program development, fundraising, and overall administration for urban
agriculture resource center in San Francisco

*Local Food System Organizer*

*United Methodist Voluntary Services*

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| *1972-1973* | Assisted in the creation of the Northern California Cooperative Food System as part of a church-based service program. |
| *Youth Training Program Assistant*<br>*1972* | *Alaska Regional Council, Bethel Alaska*<br>Water safety training for youth from the Kuskokwim Delta region |
| *Youth Program Staff*<br>*1970-1971* | *Cooperative Extension Service, Iowa State University*<br>Led food and nutrition training programs for Des Moines, Iowa youth |

# EDUCATION

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|---|---|
| *Mater of Public Affairs*<br>*2013* | *Humphrey School of Public Affairs, University of Minnesota* |
| *National Security Seminar*<br>*2012* | *United States Army War College* |
| Spanish Language<br>*1981* | Cemanahuac Language Center, Morales, Mexico |
| *Bachelor of Science*<br>*1971* | *Iowa State University, Honors Program* |
| *University of Southampton, UK*<br>*1967* | *Overseas Study Program on Literature and Theatre* |

# PUBLIC SERVICE – Current and Recent

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| *Board of Advisors* | *Federal Elections Assistance Commission (EAC)* |
| *NGO Member, Advisory Committee* | *Office of the U.S. Trade Representative, and NGO member in U.S. Delegations to World Trade Organization Ministerial Meetings in Singapore, Doha, Seattle, Hong Kong, and Cancun* |
| *Board of Directors* | *Overseas Vote Foundation* |
| *President, Board of Directors* | *National Association of Secretaries of State* |
| *National Advisory Council* | *Center for Victims of Torture* |
| *Co-Chair* | *Minnesota Civil War Sesquicentennial Commission* |
| *Governance Board* | *LifeSource* |
| *Director and Emeritus Board* | *Minnesota Historical Society* |
| *Community Advisory Committee* | *Sunrise Banks* |
| *Advisory Board* | *Mothers Against Drunk Driving, Minnesota* |
| *Board of Directors* | *United Nations Association, Minnesota* |
| *Board of Directors* | *Workable World Trust* |
| *Minnesota Advisory Council* | *U.S. Global Leadership Council (USGLC)* |
| *Commissioning Team Member* | *USS Minneapolis St. Paul LCS 21* |
| *Project Advisory Board* | *Transatlantic Environment Forum* |
| *Flight Guardian* | *Honor Flights Twin Cities* |
| *Life Member* | *Association for the U.S. Army* |
| *Life Member* | *University of Minnesota Alumni Association* |

# RECOGNITION and AWARDS

*Twin Cities International Citizen Award, (2000 & 2018)*
*Sister Cities International, Dwight David Eisenhower Excellence in Public Service Award*
*Council of State Governments, Henry Toll Fellowship*
*NAACP, 21st Century Game Changers in Voting Rights*
*Minnesota State Council on Disability, Achievement Award*
*TransFair USA, Fair Trade Hero Award*
*National Committee for Employer Support of the Guard and Reserve, Patriotic Employer Award*
*U.S. Department of the Army, Certificate of Appreciation for Patriotic Civilian Service*
*Confrerie des Chevaliers du Tastevin*
*Minnesota Federal Executive Council, Civil Servant of the Year*
*Minnesota Business Leadership Council Network Award*

# SELECTED SPEECHES

*Expos and the SDGs: Bringing the World Expo Movement into the UN's 2030 Campaigns*
*Africa: From Crisis to Development, United Nations Special Session on Africa, New York City*
*EXPO 74 – 40th Anniversary Gala, Spokane, Washington*
*Cargill Forum: Making Our Roads Safe*
*Fete du Vin Gala, French American Chamber of Commerce, Minnesota*
*Africa: From Crisis to Development, United Nations Special Session on Africa, New York City*
*Eating City Youth Conference, Paris, France,*
*We Shall Not be Moved: Historical Roots of the Modern Farm Crisis*
*World History Association, International Convention*
*Role of the State in the Development of Agriculture in Eastern European Countries, Sofia*
*Minnesota Journal of Global Trade Annual Meeting*
*5thth Chemical Congress of North America, Cancun, Mexico*
*Institute of Medicine, National Academies, Rebuilding the Unity of Health in Rural America*
*Green Cross Global Forum - Sustainable Development: A Challenge for Democracy*
*Digital Transformation Summit on the Digital Future of Healthcare*
*Stakeholder Forum for a Sustainable Future, NEXUS-Water, Energy, Food, and Climate*
*Kettering Foundation, Public Voice Colloquium*
*Rio+10, World Summit on Sustainable Development*
*MN College and University Professional Association for Human Resources*
*International NGO Forum on World Bank and IMF Adjustment Lending*
*Minnesota's Observance of International Holocaust Remembrance Day, State Capitol*
*10thh National Workshop on Christian-Jewish Relations, St. Paul*

# SELECTED PUBLICATONS

*Restructuring World Politics: Transnational Social Movements, Networks, And Norms*
*Human Sustainability in Agriculture: Health, Safety and Environment, Centre for Agriculture*
*Medicine, Royal University Hospital, Saskatoon, Canada*
Sustainable Planet: Solutions for the 21st Century – Be A Local Hero
GATT and Agriculture, Nobunkyo, Tokyo
Stanford Social Innovation Review, Voting Rights
Food, Agriculture and Rural Affairs Information Service
*Restructuring World Politics: Transnational Social Movements, Networks, And Norms*

**Detailed List of Awards, Presentations and Publications Available Upon Request**