

IN THE
UNITED STATES HOUSE OF REPRESENTATIVES

RITA HART,
Contestant,

v.

MARIANNETTE MILLER-MEEKS,
Contestee,

APPENDIX IN SUPPORT OF MOTION TO DISMISS NOTICE OF CONTEST
REGARDING THE ELECTION FOR REPRESENTATIVE
IN THE 117th CONGRESS FROM THE
SECOND CONGRESSIONAL DISTRICT OF IOWA

Alan R. Ostergren
Alan R. Ostergren, P.C.
500 Locust Street, Suite 199
Des Moines, IA 50309

Ryan G. Koopmans
Belin McCormick
666 Walnut Street, Suite 2000
Des Moines, IA 50309

Mark A. Schultheis
Nyemaster Goode
700 Walnut Street, Suite 1600
Des Moines, IA 50309

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Affidavit of Craig Schoenfeld, Appanoose County.....	App. 0001
Affidavit of Bill Barglof, Cedar County.....	App. 0002
Affidavit of Matthew McKinney, Clarke County.....	App. 0003
Affidavit of Trudy Caviness, Davis County.....	App. 0004
Affidavit of Logan Murray, Decatur County.....	App. 0005
Affidavit of Kendra Jahn, Des Moines County.....	App. 0006
Affidavit of Brett Marshall, Henry County.....	App. 0007
Affidavit of Paula Dierenfeld, Jasper County.....	App. 0008
Affidavit of Lee Dimmitt, Jefferson County.....	App. 0009
Affidavit of Derek Muller, Johnson County.....	App. 0010
Affidavit of Patricia Lipski, Keokuk County.....	App. 0011
Affidavit of Tim Coonan, Lee County.....	App. 0013
Affidavit of Tom Sands, Louisa County.....	App. 0014
Affidavit of Adam Freed, Lucas County.....	App. 0015
Affidavit of Natalie Ginty, Mahaska County.....	App. 0016
Affidavit of Daniel Huitink, Marion County.....	App. 0017
Affidavit of Brittany Lumley, Monroe County.....	App. 0018
Affidavit of C.J. Ryan, Muscatine County.....	App. 0019
Affidavit of Laura Kamienski, Van Buren County.....	App. 0020
Affidavit of Trudy Caviness, Wapello County.....	App. 0021
Affidavit of Sandy Greiner, Washington County.....	App. 0022
Affidavit of Nancy Dielman, Wayne County.....	App. 0023
Secretary of State’s November 19, 2020, letter to Shayla McCormally.....	App.0024

Molly Widen, November 20, 2020, communication to Alan Ostergren and Shayla McCormally

..... App. 0026

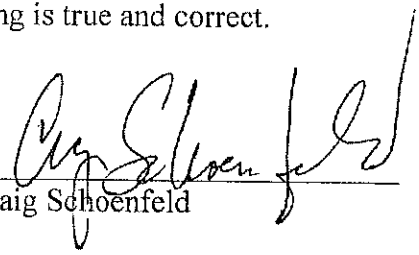
AFFIDAVIT OF CRAIG SCHOENFELD

I, Craig Schoenfeld, being duly sworn state as follows:

1. I am over the age of 18. I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Appanoose County, Iowa.
3. Prior to beginning the recount, the three members of the Board discussed the process. It was agreed that we would do the recount entirely by use of optical scan machines (machine recount). All members of the Board agreed. Prior to beginning the recount, the Appanoose County Auditor had segregated the ballots from election night that had overvotes and undervotes. All of the ballots were run through the machine.
4. The result of the recount was a gain of two votes for Miller-Meeks. All members of the Board agreed to this outcome. The gain for Miller-Meeks was the result of one undervote wherein the ballot had been filled out in pencil and apparently the machine did not pick this vote up on election night, but it was counted by on the recount. The voter's intent was clear and all three members of the Board agreed. Additionally, there was one overvote and the voter's intent was clear and all three members of the Board agreed.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2nd day of December 2020



Craig Schoenfeld

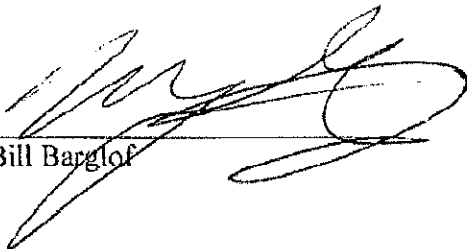
AFFIDAVIT OF BILL BARGLOF

I, Bill Barglof, being duly sworn state as follows:

1. I am over the age of 18. I reside in Cedar County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Cedar County, Iowa.
3. Prior to beginning the recount, the three members of the Board discussed the procedure that would be used. The Hart designee suggested a hand recount. I suggested a machine recount. After discussion, it was agreed by all three Board members to count the votes cast on election day by machine count. These ballots were then run through the machines (three were used, similar to those used at the polling places with single feed, and they were run by the County Auditor employees).
4. The absentee ballots were then run through a high-speed machine. Prior to doing so, these ballots were separated out by the Recount Board members into votes for Miller-Meeks and votes for Hart. Each set was run through the machine and the net result was that there was no change in the votes count for Miller-Meeks or Hart. All three members of the Board agreed to this.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2 day of December, 2020.


Bill Barglof

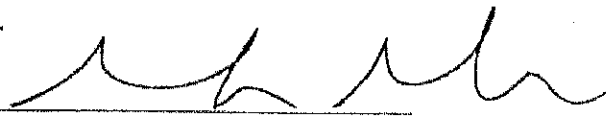
AFFIDAVIT OF MATTHEW MCKINNEY

I, Matthew McKinney, being duly sworn state as follows:

1. I am over the age of 18. I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Clarke County, Iowa.
3. Initially, the Recount Board all agreed to do a machine recount of all precincts. Thereafter, we learned the machine was capable of accepting only 25 ballots at a time. Because of this limitation, the Recount Board had to physically separate the ballots into stacks of 25. In doing so, it was eventually noticed that there was an overvote in one of the precincts. After discussion, the Recount Board unanimously agreed to do a hand recount of all of the ballots in that particular precinct. We continued in this manner, i.e., while we separated the ballots into stacks of 25, if any Board member noticed an oddity such as a "hesitation mark," damaged ballot that the machine couldn't read, etc., we would do a hand recount of the entire precinct. All Recount Board members agreed to this process and signed off on the final recount numbers. The absentee precinct was recounted by machine recount as those ballots had previously been separated into stacks of 25 and the Recount Board did not need to count out and separate into new stacks of 25. All Recount Board members agreed to this, as well.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 20 day of January, 2021.


Matthew McKinney

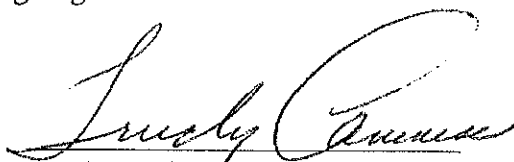
AFFIDAVIT OF TRUDY CAVINESS

I, Trudy Caviness, being duly sworn state as follows:

1. I am over the age of 18. I reside in Wapello County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Davis County, Iowa.
3. Prior to beginning the recount, on November 17, 2020, the Board had a discussion on a 3-way call with me, Dale Taylor (Hart designee) and Sue Lawson (joint designee). We discussed whether to do a hand recount or a machine recount. Mr. Taylor had discussed with someone in the auditor's office about the speed of the recount. The auditor's office felt a hand recount would be faster. The Board decided that the process should be the same for all precincts, so we unanimously agreed to do a hand recount.
4. On the morning of the recount, November 18, 2020, Mr. Taylor said we had a new development. The auditor had a discussion with someone with the voting machine company and the auditor learned that we could choose to recount only the Congressional race on the same program. Mr. Taylor then suggested that we do that. I concurred. When Ms. Lawson arrived we told her of the process of choosing only one race. We then all concurred to do a machine recount.
5. The result of the recount was a net loss of one Miller-Meeks vote.

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 2nd day of December, 2020


Trudy Caviness

AFFIDAVIT OF LOGAN MURRAY

I, Logan Murray, being duly sworn state as follows:

1. I am over the age of 18. I reside in Dallas County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Decatur County, Iowa.
3. Prior to beginning the recount, the three members of the Board discussed what procedure should be used. All three members of the Board agreed to do a machine recount. The result of this recount was a gain of 2 votes for Hart and a gain of 2 votes for Miller-Meeks.
4. We then looked through the precincts with overvotes to identify any potential votes that should have been counted. We found two overvotes in the absentee ballots and one overvote in one of the other precincts; on all three ballots the voter had filled in the bubbles for both candidates. All three members of the Board agreed that these votes could not be counted.

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 3 day of December, 2020

Logan Murray
Logan Murray

AFFIDAVIT OF KENDRA JAHN

I, Kendra Jahn, being duly sworn state as follows:

1. I am over the age of 18. I reside in Des Moines County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Des Moines County, Iowa.
3. Prior to beginning the recount, the Des Moines County Auditor suggested that the Board begin hand counting ballots cast on election day while the Auditor would run the absentee ballots through the voting machine. All three members of the Board agreed to this.
4. The result of the hand count was no change in the overall results.
5. There then was a discussion about how to proceed with the absentee ballots. The Hart designee wanted to hand count all of the absentee ballots. After discussion, the Hart designee then suggested that we use the machine recount of the absentee ballots and pull out the overvotes and undervotes. I did not agree to this process and suggested that we just run the absentee ballots through the machine as we had hand counted approximately 8,000 ballots with no change. The Board voted 2-1 in favor of this process, with the Hart designee voting against it.
6. After the absentee ballots were run through the machine, the initial result was that there were 19 more ballots than were counted on election day. We did not know whether these additional 19 ballots resulted in a gain for either candidate. The auditor advised us that these additional ballots came from a batch of approximately 2,500, as the auditor had organized the machine reading into batches. The Board then decided to run these 2,500 ballots through the machine again. All three members agreed to this. When those 2,500 ballots were run through again, there were no additional ballots and the number of ballots matched that from election day. However, the result of the recount of the absentee ballots was that Miller-Meeks lost one vote, due to the change in one precinct from Miller-Meeks to undervote tally.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 10 day of December, 2020

Kendra Jahn




AFFIDAVIT OF BRETT MARSHALL

I, Brett Marshall, being duly sworn state as follows:

1. I am over the age of 18. I reside in Scott County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Henry County, Iowa.
3. Prior to beginning the recount, the three members of the Board had a discussion as to what procedure would be used. All three members of the Board agreed to do only a machine recount.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 19th day of January, 2021


Brett Marshall

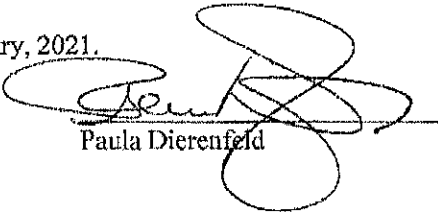
AFFIDAVIT OF PAULA DIERENFELD

I, Paula Dierenfeld, being duly sworn state as follows:

1. I am over the age of 18. I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Jasper County, Iowa.
3. The Recount Board voted to conduct a machine recount of all precincts, except for one precinct, which was recounted by both hand and machine. However, while a technician was preparing the machine for recount of the absentee ballots, he identified a problem with the machine, which needed to be repaired.
4. The machine was repaired but when we reconvened the next day, the machine was still not working correctly, as it indicated that there were 17 more undervotes than had been registered in the canvass.
5. A representative of the company, Election Systems & Software (ES&S) verified that the machine was not working correctly.
6. The Board, based on the advice of the ES&S representative, voted to use another machine.
7. The absentee ballots were again recounted by the new machine. It was this recount that was certified as the recount tally.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 20 day of January, 2021.


Paula Dierenfeld

AFFIDAVIT OF LEE DIMMITT

I, Lee Dimmitt, being duly sworn state as follows:

1. I am over the age of 18. I reside in Jefferson County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Jefferson County, Iowa.
3. Prior to beginning the recount, the Board had a discussion about how to proceed. The Hart designee requested a hand recount of all ballots. I requested that we first do a machine recount and see what the results were and look at ballots that the machine rejected. We voted 2-1 in favor of a hand recount; I was the "no" vote.
4. Every ballot was hand counted. The net result was a gain of two votes for Hart. Each candidate lost one vote. A ballot for Miller-Meeks was rejected because the voter had put a return address sticker on the ballot. All members of the Board agreed to reject this ballot. Another ballot was an overvote and after review of the ballot by the Board, it was clear that the intent of the voter was to vote for Hart. All three members of the Board agreed to this.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 30th day of December, 2020


Lee Dimmitt

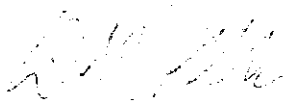
AFFIDAVIT OF DEREK T. MULLER

I, Derek T. Muller, being duly sworn state as follows:

1. I am over the age of 18. I reside in Johnson County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Johnson County, Iowa.
3. Johnson County had 58 precincts, 57 "Election Day" precincts and one "absentee" precinct.
4. After discussion, our board agreed by consensus to proceed on a precinct-by-precinct basis for the 57 Election Day precincts. We agreed to a machine recount of all 57 precincts and agreed to lay eyes on every ballot. In the event we agreed that there was a reason to question the machine recount, we would also conduct a hand count for that precinct and use the hand count total in our final tally.
5. The absentee precinct was the final precinct.
6. The Hart designee proposed a "hybrid" count, or a "machine-assisted" tally, of the absentee precinct, in which ballots were run through the counting machines with a machine-generated tally, and the Board would lay eyes on every ballot to determine whether the machine-generated tally should be amended.
7. I opposed this proposal and proposed a machine recount of the absentee precinct.
8. The jointly-chosen designee ultimately agreed with the Hart designee to a "hybrid" count of the absentee precinct.
9. At least one Board member manually reviewed and laid eyes on every one of the 84,197 ballots we counted across the 58 precincts.

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 19th day of January, 2021.



Derek T. Muller

AFFIDAVIT OF PATRICIA J. LIPSKI

I, Patricia J. Lipski, being duly sworn state as follows:

1. I am over the age of 18. I reside at 603 East 13th Street, Washington, Washington County, Iowa. I am a licensed attorney in the state of Iowa, having been admitted to the practice of law in Iowa in September 2001.

2. I served as the designee of Dr. Mariannette Miller-Meeks on the Recount Board for Keokuk County, Iowa. The Recount Board met in person on Friday, November 20, 2020, from 9:00 a.m. until approximately 8:00 p.m., and re-convened on Monday, November 23, 2020, from 9:00 a.m. until approximately 5:00 p.m. We took breaks as needed on both days. Both the Democratic Central Committee and Republican Central Committee had representatives/observers present during our board meetings.

3. Our original Recount Board consisted of Mrs. Hart's designee, Teresa Thostensen (from Ottumwa, IA), myself, and third board member John Schroeder (from Sigourney, IA; chosen by 8th Judicial District Chief Judge Mary Ann Brown, due to the candidates' representatives' inability to agree on a third board member). Due to illness, Mr. Schroeder had to excuse himself from participating in the Recount Board at approximately 11:00 a.m. on November 20, 2020. After consulting with both campaigns, Ms. Thostensen and I agreed that Keokuk County Auditor Christy Bates could try to reach 1-2 other individuals to try to find a replacement third board member. When Ms. Thostensen, Mrs. Bates, and I were originally discussing who could serve as the board's third member, Mr. John Schroeder, Mr. Allan Glandon, and Ms. Dixie Shipley were suggested by Mrs. Bates as potential board members. Mrs. Bates was able to reach Allan Glandon (from Sigourney, IA), who joined the board as the third board member for the duration of our duties. Mr. Glandon arrived at the meeting by 12:00 p.m. on November 20, 2020.

4. Prior to beginning the recount, the Board had decided to utilize the Auditor's ballot scanning machines to re-scan all the ballots for the recount. This was re-affirmed by all Board members on November 20, 2020, just prior to commencing the re-scan. Ms. Bates and one of her deputy auditors fed the ballots into the scanning machines for the re-scan recount. After all ballots were re-scanned, I noticed that the recount numbers were off by a vote or two from the original canvass in ways that did not make sense (for example: Mrs. Hart picked up 1 absentee vote without any accompanying loss of an absentee vote for Dr. Miller-Meeks; Dr. Miller-Meeks lost 1 election day vote without any accompanying gain of an election day vote for Mrs. Hart). I then voiced my observation and concern about the vote discrepancies. This concerned the Board, and we discussed how we should proceed. This discussion took place sometime around or after 5:00 p.m. on November 20, 2020. We decided to determine exactly where the discrepancies were (if at all possible), and we agreed to implement a hand recount of almost all of the 5,300+ ballots. On November 20, 2020, we had all the ballots re-scanned, and then hand recounted election-day ballots for the following precincts: Adams/Keswick, Benton/Steady Run/Hedrick-Martinsburg, English River/Liberty, Jackson, Lafayette/Clear Creek/Harper-Keota, East/West Lancaster, Prairie, Richland, Sigourney/Plank/Van Buren, Sigourney Ward 1, and Sigourney Ward 2. We did not hand recount Sigourney Ward 3, Sigourney Ward 4, Warren/Delta, or What Cheer/Washington

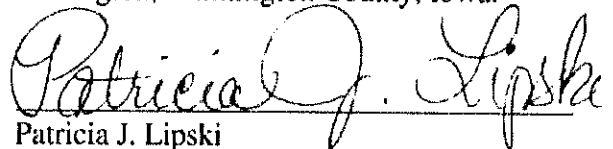
precincts' election day ballots, since we found the election day vote "discrepancy" located in the Sigourney Ward 1 and Sigourney Ward 2 precincts. There were approximately 2951 total election day ballots. On November 23, 2020, our board hand recounted all the absentee ballots (approximately 2376 absentee ballots).

5. Since we had both re-scanned and hand recounted the ballots, we noted the rules allowed us to consider ballots the scanning machines may not have counted. We consulted both the We had zero overvotes in the county, and 300 undervotes. We found several ballots during our hand count that could have been read as undervotes by the scanner. We also had 1 missing FVT ("Freedom Vote Tablet" touch screen voting machine) ballot (it was an election day ballot in the Sigourney Ward 1 precinct - and it had been scanned/counted initially, but it was not in the sealed ballots or anywhere else the auditor's office staff could find). After multiple searches, it was not found. We finally surmised that was likely the 1 vote Dr. Miller-Meeks "lost" between/from the initial canvass to the scanned recount. We recorded this ballot as lost/unaccounted for in the recount.

6. We unanimously voted to award one previous "undervote" to each candidate (based on our evaluating the ballots/interpretation of voter intent). We also voted 2-1 to award an additional previous "undervote" to Dr. Miller-Meeks - Allan Glandon (joint designee) and I voted in favor, Teresa Thostensen (Mrs. Hart's designee) voted against it. On the official recount form, Ms. Thostensen noted that she disagreed with awarding/counting this particular vote. This was the vote that constituted the +1 gain for Dr. Miller-Meeks in the Keokuk County recount.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 8th day of December, 2020, in Washington, Washington County, Iowa.



Patricia J. Lipski

603 E. 13th St., Washington, IA 52353

Phone: (319) 430-5618

E-mail: tricialipski@gmail.com or

tricialipski@iowatelecom.net

AFFIDAVIT OF TIM COONAN

I, Tim Coonan, being duly sworn state as follows:

1. I am over the age of 18. I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Lee County, Iowa.
3. At 9 am on Thursday, November 19, 2020, the Lee County Recount Board convened to conduct the recount of the 2nd Congressional District results in the precincts contained in Lee County. At the outset it was unanimously agreed upon by the Recount Board to conduct a machine recount. In the event a ballot was unreadable by the machine, it was unanimously agreed upon that those ballots would be inspected by the Recount Board and if it could be determined who the voter cast their ballot for, then that ballot would be counted.
4. On Friday, November 20, 2020, the recount was concluded and tabulated. When tabulated in Charleston Van Buren 1, there was a one vote discrepancy between the unofficial canvas and the recount of the absentee ballots with no explanation. However, there was no discrepancy between the unofficial canvas and the recount of the ballots cast on election day. This discrepancy in the absentee ballot count led the Board to unanimously decide to initiate a second recount of only the absentee ballots commencing at 9 am on Saturday, November 21, 2020.
5. It was discovered that the discrepancy was caused by the Absentee Board incorrectly reproducing a ballot with an undervote. To correct that, the Absentee Board reproduced an additional ballot with the missing marks and mistakenly ran both ballots through the machine. In the recount we did not run the second ballot which would have created the undervote.
6. At around 9:00 pm on Saturday November 21, 2020, the recount of the absentee ballots was completed, and the results were that there was no change in the votes for either candidate. The results were signed off on by all three members of the Recount Board. Throughout the 3 days, all decisions made by the Recount Board were unanimous.

I swear under penalty of perjury that the forgoing is true and correct.



Tim Coonan

December 2, 2020
Date


AFFIDAVIT OF TOM SANDS

I, Tom Sands, being duly sworn state as follows:

1. I am over the age of 18. I reside in Louisa County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Louisa County, Iowa.
3. Prior to beginning the recount, the Board had a discussion about how to proceed. All three members of the Board agreed to do a machine recount. At the Louisa County Auditor's suggestion, we used the machine that was used to count absentee ballots because it could be fed 25 ballots at a time, while the machines used for votes cast on election day could only be fed one ballot at a time. All three members of the Board agreed to this.
4. The net result was a gain of two votes for Miller-Meeks.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2 day of December, 2020


Tom Sands

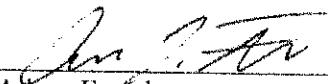
AFFIDAVIT OF ADAM FREED

I, Adam Freed, being duly sworn state as follows:

1. I am over the age of 18. I reside in Dallas County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Lucas County, Iowa.
3. Prior to beginning the recount, the Board discussed how to proceed. The Hart Representative suggested doing a machine recount and all three members of the Board agreed.
4. After the machine recount was complete, there were two ballots from two different precincts that were the subject of discussion. I requested we do a hand recount of those two precincts. The other two members of the Board voted against this.
5. The result of the recount was no change in the vote totals for either candidate.

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 2nd day of December, 2020.



Adam Freed

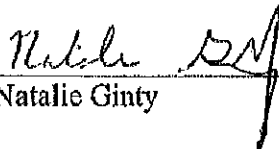
AFFIDAVIT OF NATALIE GINTY

I, Natalie Ginty, being duly sworn state as follows:

1. I am over the age of 18; I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Mahaska County, Iowa.
3. Prior to beginning the recount, the Board had a discussion as to how to proceed. All three members of the Board agreed to a machine recount of the election day ballots. The result of the machine recount was that there were three changes. Two under votes were changed to votes for Hart and one Miller-Meeks vote was determined to be an over vote and not counted.
4. I requested that we look at the ballots in the precinct where the Miller-Meeks vote was determined to be an over vote. There were 621 ballots in this precinct. The Board decided to table this and proceed with the recount of the absentee ballots. The absentee ballots were then run through the machine. There was no change in the outcome of the absentee votes.
5. We then returned to the discussion about looking at the one precinct with 621 ballots. The Hart designee did not want to look at these ballots. The Board voted 2-1 in favor of looking at these ballots, with the Hart designee voting against it. We found the ballot that the machine had rejected as an over vote. The Board voted unanimously that the clear intention was a vote for Miller-Meeks. This resulted in a gain of one vote for Miller-Meeks.
6. The final result of the recount was a gain of two votes for Hart.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2nd day of December, 2020



Natalie Ginty

AFFIDAVIT OF DANIEL W. HUITINK

I, Daniel W. Huitink, being duly sworn state as follows:

1. I am over the age of 18. I reside in Marion County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Marion County, Iowa.
3. Prior to beginning the recount, the Board discussed how to proceed. We unanimously agreed to do a machine recount. The Board did not ever vote to take a hand recount, and there was no suggestion, motion, or request from any Board member that we should conduct a hand recount of the County, or a particular precinct.

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 18th day of January, 2021.


Daniel W. Huitink

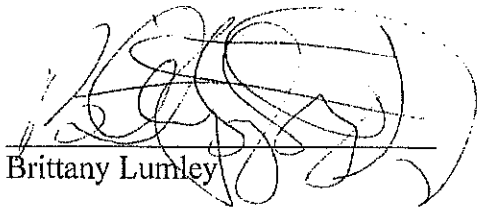
AFFIDAVIT OF BRITTANY LUMLEY

I, Brittany Lumley, being duly sworn state as follows:

1. I am over the age of 18. I reside in Polk County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Monroe County, Iowa.
3. Prior to beginning the recount, the Board had a discussion as to how to proceed. All three members of the Board agreed to do a machine recount by running the ballots through one machine.
4. The result of the recount was each candidate gained one vote and the undervotes were reduced by two.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2 day of December, 2020


Brittany Lumley

AFFIDAVIT OF C.J. RYAN

I, C.J. Ryan, being duly sworn state as follows:

1. I am over the age of 18. I reside in Muscatine County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the recount board for Muscatine County, Iowa.
3. I was informed by the Muscatine County Auditor that the recount board designee of Rita Hart was Jessica Glick. The Chief Judge selected Brian Metcalf to serve as the third member of the board. The board members communicated by email and agreed to a machine count of all ballots.
4. The recount board met on November 20, 2020 at the Muscatine County Administration Building. The board members agreed to do a hand count of each precinct with the hand count backed up by using the machine to verify the tabulation of the total number of ballots. This process was used on both election day and absentee ballots. Our recount found discrepancies in the results for both election day and absentee ballot tabulations. These results are reflected in the final recount report and the final canvass of the Muscatine County Board of Supervisors,

I swear under penalty of perjury that the forgoing is true and correct.

CSR
C.J. Ryan (Dec 1, 2020 21:09 CST)
C.J. Ryan

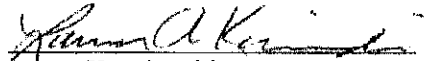
AFFIDAVIT OF LAURA KAMIENSKI

I, Laura Kamienski, being duly sworn state as follows:

1. I am over the age of 18. I reside in Linn County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Van Buren County, Iowa.
3. Prior to beginning the recount, the Board had a discussion as to how to proceed. All three members of the Board agreed to do a machine recount by running the ballots through one machine.
4. The Board did not look at any of the ballots.
5. The result was that the machine recount matched the results from election night and there was no change in the number of votes for either candidate.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 3rd day of December, 2020


Laura Kamienski

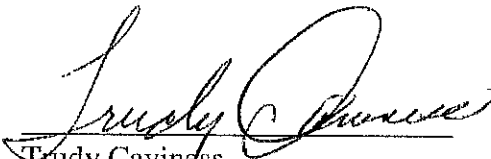
AFFIDAVIT OF TRUDY CAVINESS

I, Trudy Caviness, being duly sworn state as follows:

1. I am over the age of 18. I reside in Wapello County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Wapello County, Iowa.
3. The Recount Board had a 3-way call on November 17, 2020, with me, Mary Stewart (Hart designee), and Mike Moreland (joint designee). We discussed the method of doing the recount. Mary Stewart brought up a hand recount. Mike Moreland suggested a machine recount. We then had a discussion about overvotes. In the final conclusion we all three agreed with a machine recount, with the caveat that if there were too many overvotes, we may reconsider and move to a hand recount.
4. On the morning of the recount we proceeded with a machine count and the hand recount did not come up again.
5. We did have some ballots that for some reason were rejected in the machine recount. At the end of the day, we reviewed each rejected ballot and determined the ballots were not being rejected due to any marks for the congressional race. There were no changes in the county totals for the congressional race.

I swear under penalty of perjury that the forgoing is true and correct.

Dated this 2nd day of December, 2020


Trudy Caviness

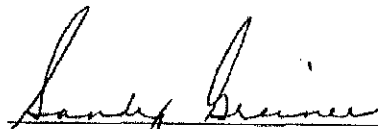
AFFIDAVIT OF SANDY GREINER

I, Sandy Greiner, being duly sworn state as follows:

1. I am over the age of 18. I reside in Washington County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the Recount Board for Washington County, Iowa.
3. Prior to beginning the recount, the Board had a discussion as to how to proceed. The Board reached a consensus to run the ballots through the machines, by precinct, and if there was a significant difference between the Election Day total and the recount total the Board would consider a hand count for any individual precinct.
4. The result was that the machine recount for each precinct matched the results from election night. There was no change in the number of votes for either candidate

I swear under penalty of perjury that the foregoing is true and correct.

Dated this 3 day of December, 2020



Sandy Greiner

AFFIDAVIT OF NANCY DIELEMAN

I, Nancy Dieleman, being duly sworn state as follows:

1. I am over the age of 18. I reside in Marion County, Iowa.
2. I served as the designee of Mariannette Miller-Meeks on the recount board for Wayne County, Iowa.
3. I was informed by the Wayne County Auditor that the designee of Rita Hart was Steve Wandro. I spoke with Mr. Wandro in conference call coordinated by the auditor to make arrangements for the conduct of the Wayne County recount. During our telephone conversation, the auditor asked whether we wanted a hand recount or a machine (optical scan) recount. Mr. Wandro spoke first and said a machine recount was acceptable to him. I agreed to this proposal.
4. The recount board met on November 20, 2020 at the Wayne County Courthouse. As previously agreed, the recount board conducted a full machine recount. The results of the recount were identical to the results that had previously been reported by the Wayne County Auditor to the Wayne County Board of Supervisors.

I swear under penalty of perjury that the forgoing is true and correct.


Nancy Dieleman (Dec 1, 2020 14:40 CST)

Nancy Dieleman

Paul D. Pate
Secretary of State



State Capitol
Des Moines, Iowa 50319

OFFICE OF THE IOWA SECRETARY OF STATE

November 19, 2020

Shayla McCormally
McCormally & Cosgrove, PLLC
4508 Fleur Drive
Des Moines, IA 50321

Dear Ms. McCormally:

As you know, Secretary Pate is committed to a transparent process to review and count every vote so that Iowans can be confident that the General Election was conducted in a secure and fair manner. The unofficial result in US Congressional District 2 is unprecedented. The twenty-four County Auditors in the district and Secretary Pate are working to ensure that the recount boards in those counties have the tools and guidance they need to conduct a smooth recount in each county.

To that end, this office has made available the Recount Guide, Recount Board Guide, and Counting Votes Guide that have been resources for county auditors for many years. In addition, this office has responded to specific questions from county auditors, some of whom have not been through a recount before, let alone a recount of every precinct in their counties. In an effort to promote transparency and uniformity, we have shared those responses with all county auditors and their staffs in the event they have similar questions.

You have raised a question regarding guidance from our office that "after the machine count for a precinct, the Recount Board may conduct a hand recount in that precinct if it reported either undervotes or overvotes on Election Day and after the machine recount." It appears that by quoting a partial sentence, you may not understand the context in which the response was given.

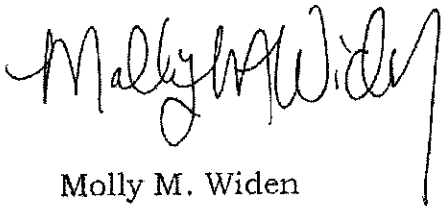
Our office was asked whether a recount board may count only the undervotes and overvotes in a given precinct. The answer to this, of course, is no. The recount board is required to count all of the votes for the office in question that were tabulated on election day. See Iowa Admin. Code 721—

26.104. This requires the recount board to decide in the first instance if they will count all of the ballots by hand or if they will count all of the ballots using optical scan tabulating equipment. IAC 721—26.105(2) states in relevant part, “In counties with electronically tabulated optical scan ballots, the recount board may request that the ballots be recounted by machine, may count the ballots by hand, or may do both.” In accordance with Iowa Code §50.48(4)(a), “The same program used for tabulating the votes on election day shall be used at the recount ...” The machine recount of votes recreates the manner in which voters were tabulated on election day and is a check against any error, whether electronic or human. On election day, both undervotes and overvotes are tabulated by the optical scan voting equipment. Contrary to assertions made in your letter, undervotes and overvotes are not “disregarded,” but rather counted in accordance with state and federal optical scan tabulation standards.

If the recount board conducts a machine recount, they will receive a tally report that includes the number of overvotes or undervotes for the race at issue. The recount board may decide to review a precinct’s ballots to discover whether the overvoted or undervoted ballots show clear voter intent for a candidate in the race at issue. This type of review is a hand count. At this point, the recount board would utilize the voter intent standards in the Iowa Administrative Code ch. 721—26 when examining any undervote or overvote ballot. Should additional valid votes be determined, the appropriate step is to update the hand count tally for the precinct.

Ultimately, the manner in which a recount board handles the mechanics of a recount is left up to the discretion of the majority of the board. This office has provided our best practice recommendations on how to conduct both a hand recount and machine recount to County Auditors, and we would encourage boards to use their county’s Auditor as a resource on uniform process recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly M. Widen". The signature is fluid and cursive, with a long vertical stroke extending downwards from the end.

Molly M. Widen
Legal Counsel

----- Forwarded message -----

From: **Widen, Molly [SOS]** <Molly.Hammer@sos.iowa.gov>

Date: Fri, Nov 20, 2020 at 2:07 PM

Subject: CD2 Recount

To: Alan Ostergren <alan.ostergren@ostergrenlaw.com>, Shayla McCormally <shayla@mciowalaw.com>

Mr. Ostergren and Ms. McCormally:

You are receiving this email, because I have received questions from both campaigns since I issued a letter yesterday morning.

In yesterday's letter I noted, "The recount board is required to count all of the votes for the office in question that were tabulated on election day. See Iowa Admin. Code 721—26.104. This requires the recount board to decide in the first instance if they will count all of the ballots by hand or if they will count all of the ballots using optical scan tabulating equipment."

IAC 721—26.105(2) states in relevant part, "In counties with electronically tabulated optical scan ballots, the recount board may request that the ballots be recounted by machine, may count the ballots by hand, or may do both." Therefore, the only three options available to recount boards under Iowa law are to request that the Auditor and their staff recount the ballots by machine, the board themselves recount the ballots by hand, or they may do both. Recount boards may view each individual precinct they are recounting as its own "mini-recount." Therefore, in the case of a county-wide recount the board is not necessarily required to apply the same recount process to every precinct in the county. But, if a board wishes to apply the standards outlined in IAC 721-26 for the hand counting of optical scan ballots, then they must necessarily conduct a hand recount of the precinct in question. Stated another way, the standards outlined in IAC 721-26 are not applied during a machine recount.

As this office has stated numerous times, the mechanics of how the board conducts a recount are left to the discretion of the majority of the board. For example, I have recommended as a best practice that boards hand sort ballots by voter intent and then count and tally those ballots when conducting a hand recount, but a board could also tally as they review each ballot.

Sincerely,

Molly M. Widen

Legal Counsel

Office of Iowa Secretary of State Paul D. Pate

Office: (515) 281-5864

Mobile: (515) 210-4634

Email: molly.widen@sos.iowa.gov



sos.iowa.gov

SERVICE • PARTICIPATION • INTEGRITY

Alan R. Ostergren

Attorney at Law