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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION**
10

11 RAYMOND LUTZ,

12 Contestant,

13 v.

14 MICHAEL VU, Registrar of Voters for the
County of San Diego; HILARY CLINTON,
15 Democratic Presidential Party candidate
names as an indispensable party, and DOES
16 1-10,

17 Defendants.
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No. 37-2016-00023347-CU-PT-CTL

**MICHAEL VU'S RESPONSE TO
CONTESTANT RAYMOND LUTZ'S
REQUEST FOR PRODUCTION OF
DOCUMENTS**

Dept: 903
Judge: Laura Parsky
Trial: Unassigned

21 PROPOUNDING PARTY: Contestant, Raymond Lutz

22 RESPONDING PARTY: Registrar of Voters, Michael Vu

23 SET NUMBER: ONE

24 Contestant originally named Michael Vu, San Diego County Registrar of Voters (the
25 "Registrar") as a defendant in the above-entitled action. Contestant subsequently filed two
26 amended affidavits of contest without leave of court. The second amended affidavit deleted the
27 Registrar as a defendant and affirmatively alleged that the County of San Diego and the
28 Registrar "are not defendants have no standing in the contest." [Sic]. (Second Amended

1 Affidavit, p. 2:7-8.) Contestant has now served discovery on the Registrar in his capacity as a
2 real party in interest. The Registrar objects to the service of discovery on a party that is not a
3 defendant in a pending action, on the grounds that discovery from a non-party by a request for
4 production of documents is not authorized by law. Notwithstanding, the improper form of
5 discovery, but without waiving such defect, the Registrar, in his official capacity, responds to
6 Contestant's Requests for Production of Documents as follows:

7 These responses are given solely for the purpose of, and in relation to, this action. Each
8 response given is subject to all appropriate objections (including, but not limited to, objections
9 concerning competency, relevancy, materiality, propriety, and admissibility) which would
10 require the exclusion of any statement contained herein, if the request was asked of, or any
11 statement contained herein was made by, a witness present to testify in court. All such
12 objections and grounds therefore are hereby preserved and may be utilized at the time of trial.
13 Additionally, each response is given subject to all appropriate privileges, including but not
14 limited to Code of Civil Procedure section 2018 and Evidence Code sections 950 et seq., 1040,
15 1041, 1150 and 1151.

16 Due to the fact that there are thousands of County-affiliated employees and officers, and
17 dozens of County-affiliated departments and agencies, and some or all of their information or
18 records may be privileged and confidential by law, or may be irrelevant and not reasonably
19 calculated to lead to the discovery of admissible matter, each of the following responses is
20 (except if otherwise specifically stated) limited to non-privileged, non-confidential matter
21 contained in any relevant County records which are not otherwise privileged and confidential
22 according to law. Unless privileged and confidential matter has been expressly called for in the
23 discovery requests, these responses assume that no such matter is being sought. Failure in these
24 responses to invoke privilege and confidentiality with specificity in response to unspecific
25 discovery requests is not intended as waiver of any applicable privilege or confidentiality.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1**

27 The Registrar objects to Request for Production No. 1 on the grounds that the request is
28 vague ambiguous and unintelligible. Without waiving such objection, the Registrar responds to

1 Request for Production No. 1 as follows: Copies of documents maintained by the Registrar in
2 the ordinary course of business that are not otherwise privileged or exempt from production and
3 which are believed to be responsive to the request are attached.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2**

5 Responding party objects to the production of the requested documents on the grounds that
6 the ballots from the June election have been sealed pursuant to California Elections Code 15370 and
7 17301(b). Once sealed pursuant to these sections, "the elections official may not open any ballots or
8 permit any ballots to be opened." (Elections Code §15307.) Elections Code §17301(b) also
9 requires that voted ballots in Presidential Elections be kept sealed and "shall be kept by the elections
10 official unopened and unaltered." Although there are exceptions to the sealing requirement, none
11 apply. The ballots you have requested will not be unsealed or produced without an order of the
12 court.

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14 DATED: April 9, 2018

THOMAS E. MONTGOMERY, County Counsel

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16 By 

TIMOTHY M. BARRY, Chief Deputy
Attorneys for Michael Vu, San Diego County
Registrar of Voters