

**IOWA VOTER REGISTRATION COMMISSION**

LINN COUNTY AUDITOR JOEL D. MILLER, PRO  
SE, IN HIS OFFICIAL CAPACITY,

Complainant,

vs.

IOWA SECRETARY OF STATE PAUL PATE, IN HIS  
OFFICIAL CAPACITY,

Respondent.

Case No.: 2019-01

SUR-REPLY TO RESPONDENT'S MOTION TO  
DISMISS

COMES NOW Complainant Linn County Auditor Joel D. Miller and states as follows in reply to Respondent's Reply to Complainant's Resistance to Motion to Dismiss dated 12/5/2019:

Complainant admits that if this case were to be decided solely on the use of metaphors<sup>1</sup> that respondent would prevail.

Respondent continues to deride the language in the original complaint as lacking sufficient detail; yet, the complaint was specific in contending that IVoters is deficient in meeting HAVA's standards to prevent unauthorized access to the voter list or to prevent voters from being removed from the voter list in error.

The original complaint provided an example of a deficiency in IVoters and the respondent admits the deficiency is legitimate by taking these actions post-complaint:

- 1> Proposed a solution (Two-To-Release) for the deficiency. See Answer Exhibit 5 – Two-To-Release;

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<sup>1</sup> "how many proverbial bites at the apple," Reply p.1; "throws a lot of chaff," p.2; and "but a scarce few kernels of wheat," p.2.

- 2> Introduced VoteShield as a substitute for the inadequacies of reporting currently available within IVoters. See Answer Exhibit 5; and
- 3> Acknowledged complainant's concern that providing too many details in the complaint would compromise the confidentiality of IVoters. See Exhibit A – Gannon email dated 12/2/2019.

Complainant continues to hold that references to errors in the felon list are relevant to the original complaint. Respondent's post-complaint actions are proof the respondent has failed to ensure that eligible voters are not removed in error from the voter list.

Complainant made a good-faith attempt to clarify issues related to the original complaint before the complaint was filed. See public records request (PRR) to Respondent dated 7/1/2019 attached to original complaint. Post-complaint, complainant has submitted several PRRs to the respondent related to the original complaint, which have gone unanswered. One PRR is dated 10/23/2019, three are dated 11/1/2019, and one is dated 11/4/2019 – not included.

Complainant contends the matter before the Presiding Officer is in the public's interest and that holding a hearing on this matter would remove the veil of secrecy being indiscriminately used by the respondent to avoid any and all public scrutiny.

For the forgoing reasons, Complainant respectfully renews his request that the VRC, as the Presiding Officer in this case, DENY the respondent's motion to dismiss, and convene a hearing as soon as practical.

Respectfully submitted,

*/s/ Joel D. Miller*

Joel D. Miller

Linn County Auditor

Jean Oxley Linn County Public Service Center

935 2<sup>nd</sup> ST SW

Cedar Rapids, IA 52404

Phone: 319-892-5333

Email: [joel.miller@linncounty.org](mailto:joel.miller@linncounty.org)

DATE: 6 December 2019

NOTICE OF SERVICE

All Parties served by Email.



## Miller, Joel

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**From:** Gannon, Matt [AG] <Matt.Gannon@ag.iowa.gov>  
**Sent:** Monday, December 02, 2019 8:41 AM  
**To:** Miller, Joel; Charlie Smithson  
**Cc:** Stonawski, Rebecca  
**Subject:** RE: VRC Case #2019-01 - Resistance to the Motion to Dismiss

Commissioner Smithson – The Secretary of State believes that certain of Auditor Miller’s filings and exhibits may contain sensitive information. Accordingly, they request that the Voter Registration Commission use discretion in the dissemination of the filing.

Regards,  
Matt Gannon



**Matthew L. Gannon**  
**Assistant Attorney General**  
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Des Moines, Iowa 50319  
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**From:** Miller, Joel <Joel.Miller@linncounty.org>  
**Sent:** Tuesday, November 26, 2019 4:40 PM  
**To:** Charlie Smithson <25smithson@gmail.com>  
**Cc:** Stonawski, Rebecca <Rebecca.Stonawski@linncounty.org>; Gannon, Matt [AG] <Matt.Gannon@ag.iowa.gov>  
**Subject:** VRC Case #2019-01 - Resistance to the Motion to Dismiss

Dear Commissioner Smithson:

Attached is my Resistance to the Motion to Dismiss regarding the HAVA complaint now pending before the Voter Registration Commission. Please forward this Resistance to your fellow Commission members.

By 5pm tomorrow, I will provide an additional complementary stand-alone document which contains detailed answers to the arguments in the Motion to Dismiss.

Regards,



**JOEL D. MILLER**

County Auditor, BS, CERA

**OFFICE OF LINN COUNTY AUDITOR**

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