

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
FOR THE WESTERN DIVISION

TRACIE HUNTER, <i>et al.</i>	:	Case No.: 1:10-cv-820
Plaintiffs,	:	Judge Susan J. Dlott
v.	:	
HAMILTON COUNTY BOARD OF ELECTIONS, <i>et al.</i>	:	DEFENDANTS RESPONSE TO PLAINTIFFS' MOTION IN LIMINE REGARDING
Defendants.	:	DEFENDANT'S EXPERT TESTIMONY
	:	

Plaintiffs have moved to exclude the proposed expert testimony of Professor Alfred J. Tuchfarber, PhD. Pursuant to Federal Rules of Evidence 401, 402, 702 and Federal Rules of Civil Procedure 26, Professor Tuchfarber's testimony is admissible because the testimony rests on a reliable foundation and relevant evidence. See *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137,141, 119 S.Ct. 1167 (2009). Defendants Hamilton County Board of Elections and its Members, Alex Triantifilou, Chip Gerhardt, Timothy Burke and Caleb Faux (hereinafter "Board"), request that Plaintiffs' Motion In Limine be denied.¹

INTRODUCTION

This case is a civil rights action, and more specifically an election case. In addition to Dr. Tuchfarber's extensive education and forty plus year career, Dr. Tuchfarber has qualified and testified as an expert witness in four voting rights cases in federal court, most recently *Mallory v. Ohio*, 38 F.Supp.2d 525 (S.D. Ohio 1997). Dr. Tuchfarber is qualified to testify as an expert witness. His opinion is admissible under the Fed.R.Evid. 702.

¹ This Response is being filed to assist in the District Court's trial preparation process, but does not waive any right being asserted by the Defendants in the 6th Circuit Court of Appeals.

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case. Fed.R.Evid. 702.

Dr. Tuchfarber is an expert in statistical analysis and conclusions that can be drawn from sampling. This is a recognized science that is the appropriate subject of Dr. Tuchfarber's expert testimony. This testimony would be applied to demonstrate the unreliability of limited direct testimony to infer universal results. Because of his skills, training, and experience Dr. Tuchfarber is better able to form an accurate opinion than an average person. (See Preliminary Report attached hereto as Exhibit A). Furthermore, Dr. Tuchfarber's Preliminary Report complies with each requirement of Fed.R.Civ.P. 26. *Id.* Fed.R.Civ.P. 26 states that a witness' written report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them; (ii) the facts or data considered by the witness in forming them; (iii) any exhibits that will be used to summarize or support them; (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years; (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and (vi) a statement of the compensation to be paid for the study and testimony in the case. Fed.R.Civ.P. 26

In fact, in compliance with Fed.R.Civ.P. 26(b)(4)(A), Plaintiffs were given the opportunity to depose Dr. Tuchfarber and deliberately chose not to. Plaintiffs could have raised questions concerning his qualifications and findings at that time.

ARGUMENT

Dr. Tuchfarber's Preliminary Report is "relevant evidence" defined as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed.R.Evid. 401. Plaintiffs argue Dr. Tuchfarber's testimony would "prohibit eyewitness testimony" and that Dr. Tuchfarber plans to testify that "it is folly to try to determine why" mistakes happened. Plaintiffs' Motion In Limine (Doc. 87, p. 5). Plaintiffs' assumptions are incorrect. Dr. Tuchfarber states that "just six weeks after the election the poll-workers memories about what happened with particular voters was very fuzzy." (Preliminary Report, p.7). Thus, reviewing the transcripts of the poll-workers' testimony and returned poll-worker questionnaires supported his finding that eight months after the election the poll-workers memories will be worse and subject to numerous types of errors and biases. (Preliminary Report, p. 7) Because there is no definitive, contemporaneous factual evidence from Election Day, the report determines there is no definitive answer to what caused the 849 provisional ballots to be cast in the wrong precinct. As a result, the Preliminary Report casts doubt on Plaintiffs' conclusion that provisional ballots were cast in the wrong precinct solely due to poll worker error. Plaintiffs' Motion In Limine (Doc. 87, p. 3). Thus, Dr. Tuchfarber's testimony is relevant and admissible. See Fed.R.Evid. 401 and 402.

Second, Dr. Tuchfarber's testimony is "the product of reliable principles and methods, and the witness has applied the principles and methods reliably to the facts of the case." Fed.R.Evid. 702. Dr. Tuchfarber formed and supported his opinions through reliable sources. (See Preliminary Report, "Items Used for Preliminary Report"). Dr. Tuchfarber tests his opinions by analyzing the political contexts of the 2006 and 2010 elections. Dr.

Tuchfarber's data concerning the 2006 and 2010 elections touches on crucial issues, illustrating the lack of a statistical relationship between invalid provisional ballots cast at single and multiple precinct polling locations. Including the 2006 election information to the data pool only increased the accuracy of his data analysis. These supporting facts show a relationship between the issue at hand and the statistical data retrieved by Dr. Tuchfarber.

When assessing the reliability of expert testimony, this Court has broad discretion. See *Kumho Tire Co., Ltd.*, 526 U.S. at 141. Based on the data reviewed by Dr. Tuchfarber, he could reliably form an opinion that the 849 provisional ballots cast in the wrong precinct were not exclusively caused by poll worker error. Therefore, Dr. Tuchfarber's testimony is admissible because the testimony rests on a reliable foundation and is relevant evidence. *Id.*

Third, Dr. Tuchfarber's professional studies and personal experience with voting rights cases "...assists the trier of fact to understand the evidence or to determine a fact at issue..." Fed.R.Evid. 702. "A key question to be answered in determining whether theory or technique is scientific knowledge that will assist the trier in fact will be whether it can be (and has been) tested." *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579,592, 113 S. Ct. 2786 (1993). Dr. Tuchfarber tested his logic using the Board of Elections meeting transcripts and comparing 2006 and 2010 election results. Testing the relationship between single and multiple precinct polling locations, he concludes that the facts do not support the assertion that multiple precinct polling locations were the cause of wrong precinct voting.

Plaintiffs plan to obtain testimony from certain groups of poll workers, and possibly voters, and ask the Court to infer from this testimony that there was an Equal Protection violation for all wrong precinct voters. Dr. Tuchfarber's testimony will specifically refute that an inference can be made as to all voters from a limited amount of testimony. He will further testify as to the reliability of such an inference in relation to what occurred in the election.

Plaintiffs suggest Dr. Tuchfarber “throws up his hands” when concluding that there are no scientific valid and reliable methods that are available at this date to resolve the question of exactly which of the 849 wrong precinct provisional votes to count or not count other than the records contemporaneous with the election. Plaintiffs’ Motion In Limine (Doc. 87, p. 5); (See Preliminary Report: Key Conclusions 3). To the contrary, Dr. Tuchfarber directly states that “the transcripts of the testimony from the poll-workers testifying in December illustrates” the indefinite answer of whether poll worker error occurred. (Preliminary Report p. 7). His opinions are not reliant on “basic logic, shared experience, and political headlines” as Plaintiffs state, but instead Dr. Tuchfarber supports his findings with a list of resources including testimony of poll-workers and board staff, affidavits in addition to his professional studies and personal experience with elections and research with the Hamilton County Board of Elections. (See Preliminary Report, “Items Used for Preliminary Report”).

Plaintiffs further state that expert testimony would only lengthen the trial and would not provide anything that the Court does not already know. Plaintiffs’ Motion In Limine (Doc. 87, p. 10). The value of Dr. Tuchfarber’s testimony is not outweighed by undue delay or a waste of time. See Fed.R.Evid. 403. Dr. Tuchfarber’s expert testimony casts doubt on Caleb Faux’s analysis and the inference the Court is being asked to find, and provides an expert opinion on the key conclusions of fact and law concerning the wrong precinct provisional ballots.

Dr. Tuchfarber has been qualified as an expert in previous federal cases. The Court should have an opportunity to hear his qualifications at trial and determine what weight his testimony should receive.

CONCLUSION

For all the reasons stated herein, Plaintiffs' Motion in Limine should be denied. First, Dr. Tuchfarber's testimony contains relevant evidence, including opinions and conclusions pursuant to Fed.R.Evid. 401 and 402. Second, his testimony is the product of reliable sources and effectively applied to the facts. Third, Dr. Tuchfarber's professional studies and expert opinions and conclusions assist the trier in fact and cast doubt on Plaintiffs' allegations. Moreover, Plaintiffs had ample opportunity to inquire about Dr. Tuchfarber's opinions at a deposition and failed to seek more discovery. In conclusion, Dr. Tuchfarber is a qualified expert witness pursuant to Fed.R.Evid. 702, and his written report is in compliance with Fed.R.Civ.P. 26. Therefore, Dr. Tuchfarber's testimony is admissible.

Respectfully submitted,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO
BY:

/s/ Colleen M. McCafferty

James W. Harper
Thomas Grossmann
David T. Stevenson
Colleen M. McCafferty
Assistant Prosecuting Attorneys
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
ddn: (513) 946-3159 (Harper)
(513) 946-3120 (Stevenson)
(513) 946-3058 (Grossmann)
(513) 946-3133 (McCafferty)
Fax: (513) 946-3018
james.harper@hcpros.org
dave.stevenson@hcpros.org
tom.grossmann@hcpros.org
colleen.mccafferty@hcpros.org
*Attorneys for Hamilton County Board of
Elections*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on July 15, 2011 using the Court's CM/ECF system, which will transmit notice of the filing to all counsel of record in this case.

/s/ Colleen McCafferty
Colleen M. McCafferty

376824

PRELIMINARY REPORT*

**UNCOUNTED WRONG PRECINCT PROVISIONAL BALLOTS:
THE NOVEMBER 2010 HAMILTON COUNTY OHIO GENERAL ELECTION
IN CONTEXT**

Submitted by

Alfred J. Tuchfarber, PhD

Professor Emeritus of Political Science

McMicken College of Arts & Sciences

University of Cincinnati

July 2, 2011

*** This report is subject to revision as new relevant information becomes available.**

EXHIBIT

A

Introduction

The goal of this report is to put the main issue in Hunter v Board of Elections, namely the counting of wrong precinct provisional ballots, into a broader more complete context. The broader context is that of elections like the November 2010 General Election in Hamilton County, Ohio and elections throughout the state and nation.

In the first section of the report the political context of the November 2010 election will be reviewed and compared to the equivalent 2006 election which had the same type of elections and issues on the ballot. Next the procedural context will be reviewed followed by the presentation of key facts about the causes of wrong precinct provisional ballots being cast.

The final section will report my key conclusions.

Democratic theory and practice suggests that there are many types of individuals and groups in American society who have Constitutional and legal rights in an Ohio election. They include, among others:

- the voters
- all citizens because they are affected by the outcomes
- the candidates and their supporters
- issue advocates
- the political parties as they are recognized by the State
- the State of Ohio.

All deserve equal protection as well as free and fair elections.

Political Context

From the standpoint of what was on the ballot in the 2010 general election in Hamilton County it was average; it was a "garden variety" election of the type that occurs every fourth, even numbered year and is not a presidential election year- e.g., 2002, 2006 and 2010. As is standard in this type of election all the following types of elections were on the 2010 ballot:

- Governor
- US Senate
- US House
- Statewide office holders
- Ohio Senate [part]
- Ohio House
- County offices and Common Pleas court judgeships [some]
- State and County issues
- Local issues [some down to the individual precinct level]

From a political context the dynamics were somewhat different in 2010 than in 2006. In 2006 the energy and enthusiasm were more on the Democratic side with dislike of President Bush and the wars in Iraq and Afghanistan energizing the Democratic base and pushing swing voters toward the Democrats.

In 2010 the overall energy and enthusiasm had shifted to the Republicans. High unemployment, the president's health insurance reforms, gaping deficits and debts, created the "Tea Party" movement, energized the Republican base and pushed swing voters toward the Republicans.

But the election itself was quite "normal" or average. Turnout in Hamilton County in the general elections of 2006 and 2010 was quite similar, 296,420 in 2006 and 289,791 in 2010.

Relevant to this case, in the 2006 elections 1329 wrong precinct provisional votes were not counted with no great outcry. In 2010, with essentially the same number of total votes, just 849 such wrong precinct votes had failed to be counted by the official deadline for certification of the results. This was a decrease of 36 percent in wrong precinct votes from 2006 to 2010, that is, a substantial improvement in the accuracy of the election procedures.

Put another way of all the votes cast in 2006 and 2010 less than one percent was wrong precinct votes, 0.45 percent in 2006 down to 0.29 percent in 2010. In 2006 a total of 2228 provisional ballots were not counted for any reason including wrong precinct voting. In 2010 just 1537 were not counted, a decline of 31 percent.

The voting system actually had substantially fewer problems in 2010 as compared to 2006 even though the number of total votes was similar.

But one important thing changed. In 2010 an election important to the candidates and parties was close [23 votes] after the election results were certified. The position is Judge in the Juvenile Division of the Common Pleas Court.

Procedural Context

As noted, in most ways the November 2010 Hamilton County elections were not unusual. There was no great controversy leading up the election, during it or after it. Of course this case is of great import to the contestants but close elections happen all the time and there was no substantial reason to single out this election as substantially different.

The 2010 Hamilton County elections seems to have been well run overall as remarked by all of the Board of Election members. The Hamilton County Board has a reputation of being competent and professional, to which I can personally attest from working with them for over 30 years as a source of data and materials.

Some have opined that the existence of many polling locations with multiple precincts is the major cause of the wrong precinct voting. The hard facts simply do not support that assertion.

Many polling locations, 411, have multiple precincts at them, while 269 have just one precinct. This is a conscious decision made by the Board for three major reasons:

1. To meet ADA guidelines
2. To save money, and
3. To comply with requirements that wherever possible political boundaries of precincts match up with US Census geography.

Basic logic and the logic of science tells us that if polling locations are the cause of wrong precinct voting there must be more wrong precinct votes in polling locations with multiple precincts on average than in single precinct polling locations.

The facts do not comport with this. In the 269 single precinct polling locations an average of 1.15 wrong precinct votes were cast. In the multiple precinct locations an average of 1.31 were cast. This difference is trivial and of no statistical or substantive import. Something other than the number of precincts at the polling locations caused voters to cast a wrong precinct vote. As scientists and statisticians say, "correlation is not causation" but with a near total lack of correlation the assertion that multiple precinct polling location confusion caused many of the wrong precinct vote does not stand up.

If we look at all the provisional ballots rejected for any reason a similar pattern emerges. In single precinct polling places an average of 2.14 provisional ballots were rejected. In multiple polling locations 2.26 were rejected on average. Again, the difference is trivial.

Going back to the comparison of 2010 to 2006, the number of wrong precinct votes fell over one-third from '06 to '10. In 2010 less than 1 in 300 votes cast were wrong precinct votes. In both 2006 and 2010 wrong precinct votes in Hamilton County were "rare events".

A review of the training poll-workers testified they received, the procedure manuals given to all poll-workers, and the testimony of numerous poll-workers in hearings held in December

2010 by the Board of Elections reveals a well designed set of procedures planned and implement to get voters to the correct precinct. The fact that wrong precinct voting is such a small proportion of total votes cast supports this assertion.

Provisional votes by their very nature are anomalies, but anomalies planned for by the "system" – i.e., State of Ohio laws and procedures and local procedures. Such votes are caused primarily because voters moved from their previous residence or their polling place was changed.

The Hamilton County Board of Elections attempts to notify, by mail, all registered voters where they are registered to vote about 30 days before an election. A card containing the precinct designation [e.g.- Cincinnati 1F], address and location name is sent.

If potential voters present themselves at the wrong precinct, as determined by the fact that their name, address and signature are not in the precinct's list of eligible voters a standard process on which the poll-workers were trained is to begin. The poll-workers have training, materials and tools as well as a "hot-line" to the Board offices to help the voter locate the correct precinct for that voter. Tens of thousands of times in 2010 voters came to the wrong precinct. Many were simply directed to the correct precinct and polling place and there is no official record because they voted in the correct precinct with no need for a provisional ballot.

For 10,536 we have a record. They cast a provisional ballot. Of these 8,999 [91 percent] have already been counted. Of the 1537 not counted the reasons were:

<u>Reason</u>	<u>Number</u>	<u>%</u>
Not registered to vote	440	29
Voted wrong precinct	849	55
Unacceptable ID	67	4
No signature on envelope	60	4
Non matching signature	12	1
No printed name on envelope	62	4
Already voted	22	1
Other	25	1

As noted earlier the number of overall rejected provisional ballots as well as the number of wrong precinct ballots were down markedly from '06 to '10. In both years the later type were rare events—0.45 percent in 2006 and 0.29 percent in 2010.

It is disappointing to have any vote cast not to be counted but both in 2006 and 2010 there were systems and procedures in place to minimize them while at the same time protecting the rights of all.

For 8,999 voters in the November 2010 general election they were directed to the correct precinct and successfully voted a provisional ballot. 849 voted in the wrong precinct. The testimony of poll-workers as well as logic and experience tell us that this small number out of almost 300,000 votes occurred for a variety of reasons. These reasons include:

- Poll-worker error
- Voter error
- Incorrect information from fellow voters
- Incorrect information from campaign workers
- Incorrect information from friends or relative, and
- Other reasons.

It is very likely that a number of mistakes by the voter and others contributed to the incorrect casting of the provisional ballot. As we will see in the next section of the report we'll probably never know what really happened in a large majority of these rejected votes.

Before we move to the next section some have noted that neighborhoods with high concentrations of disadvantaged voters have higher numbers of provisional votes as well as more rejected provisional ballots. The explanation for that is simple. Poorer and disadvantaged people are much more likely than other voters to be renters rather than homeowners. Social scientists know with certainty that they are much more likely to move between elections than are homeowners. Thus the difference in numbers and rates...more moves...more provisional ballots...more potential for error by somebody.

Based on my personal experience and the testimony I have reviewed the regular staff of the Board of Elections acted professionally in an attempt to count every vote they could under existing rules and standards including votes where a Board worker made an error that in turn prompted a wrong precinct ballot to be cast.

The Question of Causation

From a research and scientific standpoint this case appears to revolve around a single question. "What caused 849 provisional ballots to be cast in the wrong precinct?"

These 849 plus the 8,999 provisional votes already counted total 9,843 or a little more than 3 percent of all ballots cast. Thus 91 percent of all the provisional ballots filled out properly by eligible voters were counted.

The transcripts of the Board of elections meetings on December 16 and 17, 2010 and other dates show that several dozen of the wrong precinct ballots were caused, at least in part, by poll-worker error or error by regular Board staff. But what of all the others?

We are never likely to know in a definitive way.

Many of us have personal experience with the confusion at a busy polling place. Many things can cause error in such an environment including...voter error, poll-worker error, incorrect advice from others, voter frustration or the need to hurry to another commitment.

Why won't we ever definitively know?

The transcripts of the testimony from the poll-workers testifying in December illustrates why. Just six weeks after the election the poll-worker memories about what happened with particular voters was very fuzzy. They were busy and processing hundreds of voters. The workers testified about their efforts to get voters to the right precinct and did so between 91 and 99 percent of the time depending on whether the denominator in the calculation is total provisional votes in the precinct or total votes in the precinct. There were just 1.25 wrong precinct vote rejections in the average precinct out of more than 425 votes cast per precinct. It is no surprise that poll-workers would have fuzzy memories of one or two voters in particular especially because most of the time multiple poll-workers at the precinct were involved in processing those voters. [Note: memories today, eight months after the event will be worse.]

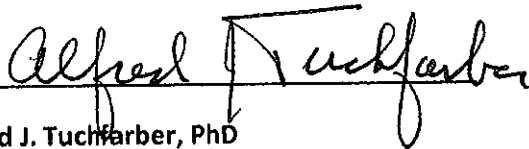
Researchers and scientists usually ask the question, "how can I get valid and reliable information to test my theory of hypothesis?" As a public opinion, political and survey researcher I see no valid and reliable method to recreate exactly what happened in a very large majority of the 849 wrong precinct votes. Poll-worker memories were fuzzy at six weeks and surely more so today. If the extraordinary step of interviewing the voters at issue were taken their memories would also be fuzzy and subject to numerous types of errors and biases.

If there is not definitive factual evidence in the contemporaneous records it is very unlikely we will ever know the true source of error that caused a large majority of the 849 wrong precinct errors.

Key Conclusions

Based on my review of numerous documents and the facts of this case of which I am aware I come to the following conclusions:

1. Multiple precinct polling locations were not a significant or important cause of wrong precinct voting because such voting was equally prevalent in single precinct polling places.
2. Poll-workers were well trained in good procedures to assist voters in the provisional voting process and handled themselves professionally with few exceptions and with a very high overall success rate of getting voters to the correct precinct.
3. There are no scientifically valid and reliable methods known to me that are available at this late date to resolve the question of exactly which of the 849 wrong precinct provisional votes to count or not count other than the records contemporaneous with the election.
4. The November 2010 Hamilton County, Ohio elections were not unusual in any major procedural way and produced only garden variety errors common to elections in Ohio and other states.
5. No logic exists that will avoid "false positive" [counting provisional ballots that should not be counted] or "false negatives" [not counting provisional ballots that should be counted] or both as the 849 wrong precinct provisional votes are evaluated.



Alfred J. Tuchfarber, PhD

July 2, 2011

Vita (abbreviated)

June 2011

ALFRED JOHN TUCHFARBER

Address:

5232 Adena Trail

Cincinnati, OH 45230

513.232.7178

Alfred.Tuchfarber@uc.edu

EDUCATION

Ph.D. University of Cincinnati, August 1974, in Political Science.

Dissertation topic: Random Digit Dialing: A Test of Accuracy and Efficiency.

M.A. University of Cincinnati, 1972, in Political Science

B.A. University of Cincinnati, 1969, in Political Science, with high honors

EMPLOYMENT EXPERIENCE

Professor Emeritus of Political Science; McMicken College of Arts and Sciences, University of Cincinnati, 2009-present.

Professor of Political Science; McMicken College of Arts & Sciences, University of

Cincinnati, 1994-2009.

Director; Institute for Policy Research, University of Cincinnati, 1981 – 2003

Director & Founder; University of Cincinnati Institute for Health Policy and Health
Services Research, 1993 – 2003.

Associate Professor of Political Science; McMicken College of Arts & Sciences,
University of Cincinnati, 1980 – 1994.

Founder and Director; The Ohio Poll, 1981 – 1999.

Director; Behavioral Sciences Laboratory, University of Cincinnati, 1975 – 1981.

Founder and First Director; Greater Cincinnati Survey, 1978 – 1991 and 1994 – 2003.

Associate Director; Behavioral Sciences Laboratory, University of Cincinnati, 1974 –
1975.

Assistant Director; Behavioral Sciences Laboratory, University of Cincinnati, 1971 –
1974.

Research Consultant and Data Analyst; Medical Computer Services, University of
Cincinnati, 1970 – 1971.

GRANTS AND CONTRACTS

Dr. Tuchfarber has been awarded over \$10,000,000 in grants and contracts as principal or co-principal investigator.

BOOKS, MONOGRAPHS, AND BOOK CHAPTERS

"The Republican Tidal Wave of 1994" with Stephen E. Bennet, Andrew E. Smith, and Eric W. Rademacher. In Ripley, Randall B. and Elliot E. Slotnick (eds.): *Readings in American Government and Politics*, 3rd edition. Allyn and Bacon, 1998.

"Pseudo-Opinions and Public Affairs" with George Bishop, Robert Oldendick, and Stephen Bennett. In Eleanor Singer and Stanley Presser: *Survey Research Methods: A Reader*. University of Chicago Press, 1989.

"Cincinnati Public Housing: Why So Few White Applicants", The Stephen H. Wilder Foundation, 1988.

"The Changing Structure of Mass Belief Systems: Fact or Artifact" with George Bishop, Robert Oldendick, and Stephen Bennett. In M. Janovitz and P Hersch (eds): *Reader in Public Opinion and Mass Communication*, 3rd edition. The Free Press, 1981.

"The Presidential Debates as a Device for Increasing the "Rationality" of Electoral Behavior" with George Bishop and Robert Oldendick, in Bishop, Meadow, and Jackson-Beeck (eds.): *The Presidential Debates: Media, Electoral, and Policy Perspectives*. Praeger, New York. 1978.

Random Digit Dialing: Lowering the Cost of Victimization Surveys with William R

Klecka, The Police Foundation, 1976.

"Reducing the Cost of Victim Surveys" with William R. Klecka, Barbara Bardes, and Robert Oldendick. In: Wesley Skogan (ed.): *Sample Surveys of the Victims of Crime*. Ballinger Books. 1976.

SELECTED ARTICLES

Schneider AT, AM Pancioli, JC Khoury, E Rademacher, A Tuchfarber, R Miller, D Woo, B Kissela, JP Broderick. 2003. "Trends in Community Knowledge of the Warning Signs and Risk Factors for Stroke." *Journal of the American Medical Association*, 289:343-346.

Khoury J, B Juesekam K Sauerbeck, R Miller, S Salisbury, R Shukla, A Tuchfarber, E Rademacher, G LeMasters, J Broderick. 2001. "Attributable Risk: What is the Appropriate Population Prevalence for Public Health Decision-Making?" *American Journal of Epidemiology*. Supplement: S86.

Rademacher EW, AJ Tuchfarber. 1999. "Pre-Election Polling and Political Campaigns" In B Newman (ed.): *Handbook of Political Marketing*. Thousand Oaks, CA.

"Public Perception of Stroke Warning Signs and Knowledge of Potential Risk Factors" with Pancioli A, Broderick J, Kothari R, Brott T, Miller R, Khoury J and Jauch E. *Journal of the American Medical Association*, 279(16): 1288-1292, 1998.

"Affirmative Action: Why Do Whites Oppose It, and Will It Play a Role in November?"

with Stephen E. Bennett, Eric W. Rademacher, and Andrew E. Smith. *The Public Perspective*, 7(3):42-45. April/May 1996.

"The Republican Tidal Wave of 1994: Testing Hypotheses About Realignment,

Restructuring, and Rebellion," with Stephen E. Bennett, Andrew E. Smith, and Eric W. Rademacher; *Political Science & Politics*, 28 (4): December 1995.

"Partisan Leaners Are NOT Independents," with Andrew E. Smith, Eric W. Rademacher,

and Stephen E. Bennett, *The Public Perspective*, 6(6): Oct./Nov. 1995.

"Question Form and Context Effects in the Measurement of Partisanship: Conflicting

Evidence and Rival Hypotheses," with George F. Bishop and Andrew E. Smith, *American Political Science Review*, 88 (4): 1994.

"Proportional Representation: A Trial Resuscitation of a Comatose Patient," with Bruce

Petrie, Sr. , *National Civic Review*, 79 (1); 1990.

"Maplethorpe in Cincinnati: What Are the Community's Standards?" *The Public*

Perspective; 1 (5):1990.

"Ohio: Presidential Politics in 'The Heart of It All' "; *Election Politics*; 5 (1): 1988.

"Opinions on Fictitious Issues: The Pressure to Answer Survey Questions," with George

F. Bishop and Robert W. Oldendick, *Public Opinion Quarterly*; Vol. 50: 1986.

"What Must My Interest in Politics Be If I Just Told You 'I Don't Know?'" with George Bishop and Robert W. Oldendick, *Public Opinion Quarterly*, Vol. 48: 1984.

"Effects of Filter Questions in Public Opinion Surveys," with George F. Bishop and Robert W. Oldendick, *Public Opinion Quarterly*, Vol. 47, 1983.

"Effects of Presenting One Versus Two Sides on an Issue in Survey Questions," with George F. Bishop and Robert W. Oldendick, *Public Opinion Quarterly*, Vol. 46: 1982.

"Pseudo-Opinions on Public Affairs," with George F. Bishop, Robert W. Oldendick, and Stephen E. Bennett, *Public Affairs Quarterly*, Vol. 44: 1980 (summer) Reprinted in Singer and Presser, *Survey Research Methods: A Reader*, University of Chicago Press, 1989.

"Questions About Question Wording: A Rejoinder to Revisiting Mass Belief Systems Revisited," with George Bishop, Robert Oldendick, and Stephen Bennett, *American Journal of Political Science*, February 1979.

"Random Digit Dialing: An Empirical Test of Comparability to Personal Surveys," with William R. Klecka, *Public Opinion Quarterly*, Spring 1978.

"Effects of Question Wording and Format on Political Attitude Consistency," with George Bishop and Robert Oldendick, *Public Opinion Quarterly*, Spring, 1978.

"Change in the Structure of American Political Attitudes: The Nagging Question of Question Wording," with George Bishop and Robert Oldendick, *American Journal of Political Science*, August 1978.

OTHER PUBLICATIONS

Dr Tuchfarber has over one hundred other papers and publications.

OTHER ACTIVITIES

Dr. Tuchfarber has been very active in professional organizations, civic organizations, politics, and community organizations. He has chaired and served on dozens of boards and committees.

Professor Tuchfarber has also been very active in University and department affairs at the University of Cincinnati.

He has consulted widely including many times as an expert witness for both plaintiff and defendants. There has been no expert witness work in the last five years.

Expert Testimony

Dr. Tuchfarber has not testified as an expert in last 4 years.

Earlier cases where Dr. Tuchfarber was qualified as an expert in federal court:

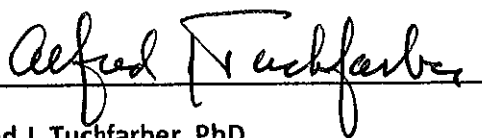
1. Mallory v Eyrich
C-1-86-1056 1991
2. Clarke v City of Cincinnati
C-1-92-278 1992/3
3. Mallory v Ohio
C-2-95-381 1996/7
4. Cox et al. v USX et al.
CV 88-N-2069-S 1996/7

Compensation

Dr. Tuchfarber is being compensated at a rate of \$300/per hour for his study and testimony in this case.

Items Used for Hunter v Board Report

1. All training, skills and experience.
2. Three decades of personal [voting] and professional interaction [research] with the Hamilton County Board of Elections and various Secretaries of State.
3. Official 2006 election results and provisional 2010 results.
4. 2006 and 2010 provisional ballot vote summary to State.
5. Single precinct v multiple precinct polling place report on numbers of provisional votes rejected.
6. Testimony of poll-workers and board staff at various Board of Elections meetings.
7. Faux/Burke analysis/affidavits.
8. Returned poll-worker questionnaires, to a limited degree.
9. Poll-worker procedure manuals.
10. Samples of signage, maps, address matching lists.
11. 2010 election schedule.
12. Notice of polling place/ absentee request sent to known voter address.



Alfred J. Tuchfarber, PhD

July 2, 2011