IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BETTYE JONES, et al.,	
Plaintiffs,	
v.	**Case No. 2:12-cv-00185-LA**
JUDGE DAVID G. DEININGER, et al., (all sued in their official capacity),	
Defendants.	

REBUTTAL DECLARATION OF LELAND BEATTY

Leland Beatty hereby declares as follows:

1.   I previously submitted a declaration in this case that explained my analysis of how the Wisconsin voter identification requirements impact different ethnic populations in Wisconsin. *See* Declaration of Leland Beatty (dated Apr. 22, 2012) ("Beatty"). I submit this Rebuttal Declaration to respond to the May 31, 2012 Declaration of M.V. (Trey) Hood III ("Hood").

A.   Differences Between Our Identification of Individuals Without a Current Driver's License or State Identification Card

2.   Professor Hood used a different matching methodology and came up with a lower percentage of Wisconsin registered voters who lack a driver's license or state identification card ("proper identification"). Specifically, my estimate is that 11.1 percent of Wisconsin registered voters lack proper identification. Beatty ¶ 8. Professor Hood estimates that between 6.15

percent and 9.34 percent of Wisconsin registered voters lack proper identification. *See* Hood, at 7 (Table 1).

3.   When Professor Hood and I sought to match individuals appearing in the Government Accountability Board's ("GAB's") registered voter files with those appearing in the State Department of Motor Vehicles ("DMV") records of individuals with proper identification based on first name, last name, and date of birth, our match rate was virtually identical. I found that 86.78 percent of Wisconsin registered voters could be matched based on these variables. Professor Hood found that 86.87 percent of Wisconsin registered voters could be matched based on these variables. *See* Hood, at 7 (Table 1).

4.   I estimated that 11.1 percent of Wisconsin registered voters—a total of 360,387 registered voters—lack a Wisconsin driver's license or state identification card. Professor Hood estimated that 6.15 to 9.34 percent—a total of between 200,069 and 306,894 registered voters— lack such identification Accordingly, my estimate of registered voters differed from Professor Hood's estimate by somewhere between 160,318 registered voters (using Professor Hood's 6.15 percent estimate) and 53,493 registered voters (using his 9.34 percent estimate). The differences between our two estimates can be explained almost completely by two methodological differences.

1.   Individuals With Matching Driver's License Numbers But Not Non-Matching Personal Identification Data

5.   *First*, Professor Hood treated an individual as having proper identification if there was a match between the drivers license number contained in the voter registration files and the DMV files. In conducting this match, Professor Hood did not require that there be any match

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between the individuals' name or date of birth. Accordingly, Professor Hood would treat as a "match" a GAB record and a DMV record with the same drivers license number even if those files were for people with different names or dates of birth. Indeed, because I treated as "matched" GAB and DMV files reflecting the same name and date of birth, Professor Hood's methodology would make a difference here *only* for files that matched driver's license numbers but *did not* match names or dates of birth.[1]

6.   To give one example, in the voter file State ID number Redacted belongs to Redacted, born Redacted 1980, residing in Milwaukee County. In the Driver's License/State ID file, this state ID number is assigned to Redacted, born Redacted 1971, residing in Marinette County.

7.   This methodological difference accounts for Professor Hood having treated 2.6 percent of Wisconsin registered voters—a total of 85,622 registered voters—as having proper identification when I classified them as not having proper identification.

8.   I am uncomfortable treating an individual as having proper identification simply because they have a matching driver's license number in GAB and DMV files if their names or dates of birth do not match. The fact that their personal identification is different undermines any confidence that this is really the same person.

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[1] I also treated as "matched" any registered voter if their Last Name, Date of Birth and Zip Code in the GAB registered voter file matched a unique record in the DMV's driver's license and state identification card file. This produced a "match" for an additional 76,283 registered voters. Professor Hood treated all these voters as "matched" also I mention it here because my treating these voters as "matched," because they did have a match for significant personal identification data, reduced the extent to which my estimate would have varied from Professor Hood's had I not treated these individuals as matched.

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2. Driver's License in the GAB Records But Not the DMV Records

9.   The second main reason for a difference in my estimate as compared to Professor Hood's estimate is that Professor Hood treated an individual as having a Wisconsin driver's license or state identification number if there was a license or identification number in their GAB files, even if there was *not* a record of that individual having a current driver's license or state identification at DMV. *See* Hood ¶ 12.

10.   This methodological difference accounts for Professor Hood treating 3.3 percent of Wisconsin registered voters—a total of 106,825 such voters—as having proper identification, when I did not treat those voters as having proper identification.

11.   Professor Hood seems to recognize that these individual do not really have a current Wisconsin driver's license. Instead, he states that they should be treated as having one because: (a) an expired license can still be used to vote so long as it expired after the last general election; and (b) "the fact that these registrants at one time were in possession of a driver's license or state ID card is an indication that they could obtain one again." *See* Hood ¶ 12.

12.   I believe it is more appropriate to treat these individuals as not having a Wisconsin driver's license or state identification card. At best, their card is expired and they are thus impacted by the Wisconsin voter identification law. If they wish to continue voting in Wisconsin, they will have to go through the steps of securing a new driver's license or state identification card.

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3. These Two Methodological Issues Explain Virtually the Entire Difference Between My Estimates and Professor Hoods

13. Between them, these three methodological issues result in Professor Hood treating 195,599 registered voters as having a Wisconsin driver's license or state identification card that I did not treat as having such identification. Since the maximum difference in our estimates was 198,578 registered voters (using Professor Hood's "lower" estimate of 6.1 percent lacking proper identification), these two methodological issues are responsible for 98.5% percent of the difference between my estimate and Professor Hood's estimate.

B. Even Using Professor Hood's Methodology, It is Clear That the Wisconsin Voter Identification Requirement Has a Disparate Impact on Non-White Voters

14. Professor Hood's analysis came up with a lower percentage of Wisconsin registered voters who lack a Wisconsin driver's license or state identification card. But Professor Hood did not follow up to examine whether his lower estimate ultimately contradicts my conclusion that non-white Wisconsin registered voters are significantly less likely to possess these forms of identification.

15. Had Professor Hood done so, he would have found that his methodology confirms my conclusion. I used his exact methodology, and then examined the race of those registered voters lacking proper identification using the data from Ethnic Technologies discussed in my original report. I found that 11.69 percent of non-white Wisconsin registered voters lack a driver's license or state identification card as compared to only 4.36 percent of white voters:

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Hood Match Scheme: Share Without DL_ID Match by White/NonWhite			
Race	Total	No DL_ID Match	Share Without Match
Non-White	309,714	36,214	11.69%
White	2,945,663	128,353	4.36%
Total	3,255,377	164,567	5.06%

16.   Further, using Professor Hood's methodology together with the race data from Ethnic Technologies, I determined that African Americans and Hispanics are more than twice as likely to lack proper identification

Hood Match Scheme: Share Without DL_ID Match by Race			
Race	Total	No DL_ID Match	Share Without Match
African American	172,251	15,431	9.0%
Hispanic	51,974	5,035	9.7%
White	2,945,663	128,353	4.4%
Other/Unknown	84,601	15,431	18.2%

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17.   There is accordingly a significant disparity the percentage of non-white registered voters who lack the identification required by the Wisconsin law whether one uses the matching methodology endorsed by my original declaration or by Professor Hood.

C.   Use of Ethnic Technologies

18.   Finally, I note that Professor Hood expresses concern that I did not explain the methodology that Ethnic Technology used to determine the race of the Wisconsin registered voters who lack a Wisconsin driver's license or state identification card.

19.   It is a standard practice in the field of elections analysis to use a firm like Ethnic Technologies to analyze the ethnic make-up of a particular group of voters. This is particularly important in well-integrated places such as Houston and Dallas, Texas, where Ethnic

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Technologies match work has made significant differences in my work. To my knowledge there are only two firms in the country that provide this sort of information (the other being CPM Technologies) and Ethnic Technologies has the reputation of being the more reliable.
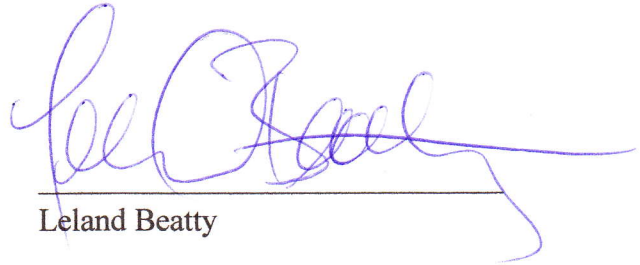
20.   Ethnic Technologies determines the race of voters based on an analysis of surnames, as well as by "geocoding," an analysis of where an individual lives and whether their neighborhood location helps identify their ethnicity.[2] There is an extensive body of academic literature that confirms the accuracy of the methods the firm uses.

21.   In 2007, before Ethnic Technologies implemented its newest version of first-name analysis, the National Cancer Institute commissioned a study that examined Ethnic Technologies' methodology that concluded Ethnic Technologies methodology was highly accurate but likely under-identified African Americans. *See Triangulating Differential Nonresponse by Race in a Telephone Survey*, by DeFrank, Bowling, Rimer, Gierisch, and Skinner, *Preventing Chronic Disease,* Vol. 4 No. 3, July 2007. Other scholarly articles that confirm that accuracy of Ethnic Technologies' methodology include: (1) Mateos, P. (2007), *A review of name-based ethnicity classification methods and their potential in population studies*, Population Space Place, 13: 243ñ263. doi: 10.1002/psp.457; (2) Mateos, P., Webber, R. & Longley, P (2006) *How segregated are name origins? A new method of measuring ethnic residential segregation*, in: Priestnall, G and Aplin, P, (eds.) *Proceedings of the 14th GIScience Research UK Annual Conference* (GISRUK 2006). (pp. 285 - 291) University of Nottingham: Nottingham, UK; and

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[2]   Ethnic Technologies has a detailed explanation of its methodology for determining ethnicity on its website. *See* http://www.ethnictechnologies.com.

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(3) *Onomastics and Its Uses*, Joel T. Rosenthal, Journal of Interdisciplinary History, Summer 2005, Vol. 36, No. 1 , Pages 57-62.

22.   I declare under penalty of perjury that the foregoing is true and correct. Executed on June 20, 2012 in Austin, Texas.

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Leland Beatty