

From: **J. Morgan Kousser** [REDACTED]  
Date: Wed, Mar 16, 2011 at 5:18 PM  
Subject: technical expert for CRC  
To: [votersfirstact@crc.ca.gov](mailto:votersfirstact@crc.ca.gov)

Dear Sir/Ms.,

I understand that the two contenders for technical expert for the CRC are Karin MacDonald of the Statewide Database and Douglas Johnson of the Rose Institute. The purpose of this email is to warn you AGAINST hiring Johnson.

I've been an expert witness in many minority voting rights cases in California under both the national and state voting rights acts, as well as in the last two redistricting cycles. Since the CVRA was passed, I've been the chief expert for minority plaintiffs in four cases. In the last of them, *Avitia v. Tulare County Local Healthcare District*, Doug Johnson was brought in by the District to help Nielsen, Merksamer's attorneys depose me. Although he's a very pleasant person, the fact that he would lend his talents in this (and apparently, other) cases to helping local governments preserve at-large districts, which make it much more difficult for minorities to be elected, where there is racially polarized voting, casts grave doubt on his candidacy for technical expert. He will and should be perceived as an active opponent of minority voting rights, and hiring him would undercut at the outset the CRC's reputation for playing fair with minorities.

As the CRC's attempt to hire outside counsel to protect it from VRA challenges makes clear, you're concerned about having a plan challenged in court as discriminatory against minorities. Hiring a technical expert who'd previously worked to protect discriminatory electoral structures isn't a good start toward winning such lawsuits.

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. . . without the clarity that makes doubt productive, historians will never be able to fulfill their highest moral responsibility, to build a better world . . .

-- from "The New Postmodern Southern Political History"

Perfection . . . in *any* institution is a dangerous myth; there is only the repeated correction of imperfections. As long as there is discrimination, there will always be more work to do.

-- from "The Strange, Ironic Career of Section 5 of the Voting Rights Act"