

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas, LUPE TORRES, in his official capacity as Medina County Elections Administrator; TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

Intervenor-Defendants.

Civil Action

Case No. 5:21-cv-649-JKP-HJB

**PLAINTIFF VOTE.ORG'S MOTION FOR SUMMARY JUDGMENT AND
MEMORANDUM OF LAW IN SUPPORT**

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TO THE HONORABLE JASON PULLIAM:

MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and the Court’s Standing Order governing motions for summary judgment, Plaintiff Vote.org (“Vote.org”) respectfully moves for summary judgment as to Counts I and II of its Complaint (ECF No. 1) and asks the Court to enter an order enjoining Defendants and Intervenor from enforcing Section 14 of HB 3107, 87th Leg., Reg. Sess. (Tex. 2021), to reject voter registration applications that lack “original” or wet-ink signatures. In support of this Motion, Vote.org states as follows:

STATEMENT OF GROUNDS AND CAUSES OF ACTION

Pursuant to Local Rule CV-7(C)(1) and Section 1(a)(1) of the Court’s Standing Order in Civil Cases, Vote.org brings its Motion for Summary Judgment on Counts I and II of its Complaint and seeks to enjoin enforcement of Section 14 of HB 3107, 87th Leg., Reg. Sess. (Tex. 2021) (amending Texas Election Code § 13.143(d-2)) (hereinafter, the “Wet Signature Rule”). As set forth herein, the Wet Signature Rule requires all voters who submit applications by facsimile to also send a physical copy of the application form, signed with the voter’s “original” (or wet-ink) signature, in order to complete the registration process.

Vote.org is entitled to judgment as a matter of law under Count I because the Wet Signature Rule violates Section 101 of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B) (the “Materiality Provision”), by denying individuals the right to vote based on an error or omission—the failure to sign an application with a “wet” or “original” signature—that is not material in determining whether an individual is qualified to vote. Vote.org is also entitled to judgment as a matter of law

under Count II because the Wet Signature Rule imposes burdens on the right to vote that cannot be justified by a sufficiently weighty state interest.¹

INTRODUCTION

Each year, the State of Texas accepts tens of thousands of voter registration applications submitted through Department of Public Safety (“DPS”) offices by combining applicants’ personal information with an image of their signature affixed to the application form. In processing these applications, election officials do not use the signatures for identity verification; in fact, they do not inspect the signatures at all during the registration process, other than to confirm that they appear on the application. Like the forms submitted through DPS, election officials do not use the signatures on paper applications to verify eligibility; forms submitted directly from prospective voters are reviewed only to match a voter’s personal identifying information with DPS records, or to confirm that a signature appears on the form, and nothing more. DPS applications and paper applications are similar in all material respects, with one exception: a recently enacted Texas law—Section 14 of HB 3107—now requires all voters who submit applications by facsimile to also send a physical copy of the application form, signed with the voter’s “original” (or wet-ink) signature, in order to complete the registration process.

Vote.org, a non-profit 501(c)(3) organization, created a technology platform to simplify and streamline political engagement. One of its innovative tools is a web application that allows its users to complete a voter registration application digitally by uploading an image of their original signature onto an application form, after which the voter can arrange to have the form

¹ A Statement of Undisputed Material Facts in support of this Motion is attached as Exhibit 1. An Appendix of evidence supporting this Motion is attached as Exhibit 2.

printed, faxed, and mailed to their county registrar. In 2018, Vote.org launched its web application as a pilot program in Bexar, Travis, Cameron, and Dallas Counties (“Defendants”)² with great excitement from election officials. But five days before the general election, the Secretary of State’s Office (“the Secretary”) issued a press release announcing that all paper application forms require a wet signature. At that time, there was no such statutory requirement in the Election Code, and at least one county continued to accept application forms with digital signatures. But shortly thereafter, the Secretary drafted and submitted proposed legislation to codify the Wet Signature Rule for the specific purpose of preventing further use of Vote.org’s web application in Texas. The Legislature adopted the Secretary’s proposal and enacted the requirement through Section 14 of HB 3107, which amended Texas Election Code § 13.143(d-2).

It is undisputed that the signatures on voter registration applications have no role in determining voter eligibility during the registration process,³ and yet using an imaged—rather than wet-ink—signature on a paper application will result in rejection. *See, e.g.,* Garza Dep., at 85:17 – 88:18. No party has offered a logical explanation for this meaningless technicality. To the contrary, some Defendants have expressly admitted that “there is no practical purpose for requiring a wet-ink signatures [sic] as opposed to an electronic or imaged signature on voter registration applications, for purposes of registering an individual to vote” Scarpello Resp. to Pl.’s Interrog. No. 2 at 4 (Nov. 8, 2021); *see also* Elfant Resp. to Pl.’s Interrog. No. 2 at 7 (Oct. 29, 2021) (“Defendant Elfant is not aware of any difference in purpose or function between a ‘wet

² Where used herein, “Intervenors” collectively refers to Ken Paxton, Lupe Torres and Terrie Pendley. The “State” refers to the State of Texas.

³ *See, e.g.,* February 9, 2022 Deposition of Bruce Elfant (“Elfant Dep.”), at 104:19-22, February 11, 2022 Deposition of Michael Scarpello (“Scarpello Dep.”), at 77:4-6, and March 4, 2022 Deposition of Remi Garza (“Garza Dep.”), at 103:19-22.

ink’ signature and an electronic or imaged signature.”). The Wet Signature Rule also serves no fraud-prevention interest because election officials do not inspect or compare signatures before adding individuals to the voter rolls; they spend mere “seconds” confirming simply that a signature is present. *See, e.g.*, February 2, 2022 Deposition of Jacquelyn Callanen (“Callanen Dep.”), at 159:2-6; Garza Dep., at 107:17-108:1. And the State’s proffered interest in preserving “the solemnity of voter registration,” *see* Ken Paxton’s Mot. to Dismiss (ECF No. 53), at 19, is incomprehensible considering the State’s acceptance of imaged signatures on hundreds of thousands of voter registration applications submitted through DPS, and electronic signatures on numerous other “solemn” transactions, including executing an advance health directive, Tex. Health & Safety Code § 166.011, signing a divorce decree, *Bartee v. Bartee*, No. 11-18-0017-CV, 2020 WL 524909, at *3 (Tex. Ct. App. Jan. 31, 2020), and closing on real property. Tex. Prop. Code § 12.0013.

The voting process demands even stronger protections against unjustified burdens, and federal law prohibits election officials from imposing rules merely for the sake of rules. Accordingly, Vote.org brought this lawsuit under: (1) the Civil Rights Act of 1964, which forbids anyone from denying any individual the right to vote because of an error or omission in an application that is “*not material in determining whether such individual is qualified under State law to vote . . .*” 52 U.S.C. § 10101(a)(2)(B) (emphasis added), and (2) the First and Fourteenth Amendments to the U.S. Constitution, which prohibit state or local officials from imposing burdens on the franchise that cannot be justified by a sufficiently weighty state interest. By Defendants’ admissions, the Wet Signature Rule is a meaningless procedural hurdle for voter registration applicants; it cannot withstand scrutiny under either cause of action. Therefore, the

Court should grant Vote.org's Motion as to Counts I and II of its Complaint and enjoin enforcement of this arbitrary restriction on the right to vote.

STANDARD OF REVIEW

Summary judgment is appropriate “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A dispute is “material” only if it “might affect the outcome of the suit under the governing law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute is “genuine” where “there is sufficient evidence favoring the nonmoving party” to support a verdict for that party. *Id.* at 249. While all evidence and reasonable inferences are viewed in the light most favorable to the nonmovant, and all disputed facts are resolved in favor of the nonmovant, the judge’s function “is not ‘to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.’” *Tolan v. Cotton*, 572 U.S. 650, 656 (2014) (quoting *Anderson*, 477 U.S. at 249).

Once the moving party has met its burden, the nonmoving party must “do more than simply show that there is some metaphysical doubt as to the *material* facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (emphasis added). “Unsubstantiated assertions, improbable inferences, and unsupported speculation are not sufficient to defeat a motion for summary judgment.” *Heinsohn v. Carabin & Shaw, P.C.*, 832 F.3d 224, 226 (5th Cir. 2016). The nonmoving party must identify specific facts that show a genuine dispute for trial. *Matsushita*, 475 U.S. at 587. Should the nonmoving party fail “to address or respond to a fact raised by the moving party and supported by evidence, then the court may consider the fact as undisputed” and “[s]uch undisputed facts may form the basis for a summary judgment.” *Broad. Music, Inc. v. Bentley*, Civil

Action No. SA-16-CV-394-XR, 2017 WL 782932, at *2 (W.D. Tex. Feb. 28, 2017). Vote.org satisfies this burden and is entitled to judgment as a matter of law.

ARGUMENT

This Motion asks three simple questions: *First*, does Vote.org have standing to challenge the Wet Signature Rule? It does. The undisputed evidence shows that the Wet Signature Rule was promulgated in response to Vote.org's web application, and forced Vote.org to divert resources in order to advance its mission in Texas. Consequently, Vote.org has suffered an injury in fact that is caused by the law, directly traceable to Defendants' enforcement of the law, and redressable by granting this Motion and the requested injunction. *Second*, is an "original," wet-ink signature on a voter registration application material to determining voter eligibility? It is not. Defendants concede that original, wet-ink signatures are not used for any purpose in the registration process other than to confirm an application is complete, and the original paper applications are either destroyed once scanned or filed away. *Third*, does the Wet Signature Rule advance a sufficiently weighty state interest to justify the burden it imposes on the right to vote? It does not. The undisputed evidence shows there is no interest—much less one sufficiently weighty to justify its burdens—that is advanced by demanding "original," wet-ink signatures from a subset of voters while accepting imaged signatures from other applicants. And because there is no genuine issue of material fact as to these questions, Vote.org is entitled to judgment as a matter of law on Counts I and II of its Complaint.

A. Vote.org has standing because it has suffered a concrete injury as a direct result of the Wet Signature Rule, which is traceable to and redressable by Defendants.

To establish standing, a plaintiff "must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a

favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). Vote.org satisfies all three requirements.

First, Vote.org satisfies the “injury in fact” requirement because it invested substantial resources in developing a web application to simplify the process of completing voter registration forms, but is precluded by Texas law from using a critical feature of that web application—the e-sign function, which allows voters to upload an image of their signature onto the application form. *See* February 10, 2022 Deposition of Andrea Hailey (“Hailey Dep.”), at 51:14-53:1, 108:12-24. As a result, Vote.org has to divert its limited staff resources and time from other voter engagement efforts, both in Texas and across the country, to reconfigure the web application and find alternative, less efficient ways to help voters navigate registration requirements and develop other platforms to encourage political participation. *See, e.g., id.* at 108:25-110:13, 137:18-142:4, 297:23-299:9. Vote.org has thus suffered an “invasion of a legally protected interest” that is “concrete and particularized” and “actual or imminent, not ‘conjectural’ or ‘hypothetical,’” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990)), and was forced to “divert resources from its usual activities in order to lessen the challenged restriction’s harm to its mission.” *Lewis v. Hughs*, 475 F. Supp. 3d 597, 612 (W.D. Tex. 2020) (citing *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982)), *rev’d and remanded on other grounds sub nom. Lewis v. Scott*, 28 F.4th 659 (5th Cir. 2022). In fact, the Secretary’s office, which drafted Section 14 of HB 3107, testified that it included the Wet Signature Rule specifically to frustrate the use of Vote.org’s web application. Ingram Dep., at 102:3-14, 103:13-104:8.

Second, Vote.org’s injuries are “fairly traceable to the challenged conduct” of the Defendants—namely, their enforcement of the Wet Signature Rule pursuant to Section 14 of HB

3107, which precludes them from accepting voter registration applications that are signed with imaged signatures. Elfant Resp. to Pl.’s Reqs. for Admis. Nos. 1 & 2; Pendley Resp. to Pl.’s Reqs. for Admis. No. 2; Torres Resp. to Pl.’s Reqs. for Admis. No. 2; Scarpello Resp. to Pl.’s Reqs. for Admis. Nos. 1 & 2; State Resp. to Pl.’s Reqs. for Admis. Nos. 1 & 2.

Third, Vote.org’s injury will be redressed by a favorable decision of this Court enjoining enforcement of the Wet Signature Rule. Without the law, at least some counties, if not all, would accept and process applications signed with imaged signatures, Scarpello Dep., at 63:18-64:1; 64:7-12; 96:3-17; 152:5-153:5; Elfant Dep., at 146:5-15, which would allow Vote.org to enable the e-sign function of its web application. Hailey Dep., at 80:24-81:10. Thus, Vote.org has standing to bring this lawsuit.

B. The Wet Signature Rule violates the Civil Rights Act because a wet signature is not material to determining an individual’s eligibility to vote.

Section 101 of the Civil Rights Act provides that “[n]o person acting under color of law shall[] . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is *not material in determining whether such individual is qualified under State law to vote* in such election.” 52 U.S.C. § 10101(a)(2)(B) (emphasis added). “There are two types of non-material omissions possible under the [Civil Rights Act]: (1) failure to provide information, such as race or social security number, that is not directly relevant to the question of eligibility; and (2) failure to follow needlessly technical instructions, such as the color of ink to use in filling out the form.” *Diaz v. Cobb*, 435 F. Supp. 2d 1206, 1213 (S.D. Fla. 2006) (finding question regarding mental capacity or felony conviction material because both were qualifications for voting); *see also Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1309 (N.D. Ga. 2018) (finding

requirement of elector's date of birth on absentee ballot not material); *Wash. Ass'n of Churches v. Reed*, 492 F. Supp. 2d 1264, 1270 (W.D. Wash. 2006) (finding required disclosure of social security number not "material" because it did not establish requirements for eligibility to vote). Both categories of requirements are unlawful because the Materiality Provision "was intended to address the practice" of demanding "unnecessary information for voter registration." *Schwier v. Cox*, 340 F.3d 1284, 1294 (11th Cir. 2003). The Wet Signature Rule is no different: the specific instrument an applicant uses to enter their signature is irrelevant in determining whether they are qualified to vote. *Cf. Diaz*, 435 F. Supp. 2d at 1213 (suggesting use of "wrong" color of ink on form is not material).

The term "qualified under State law to vote" in the context of the Materiality Provision refers to the state's statutory or constitutional requirements for voting. *See Schwier*, 340 F.3d at 1297; *Reed*, 492 F. Supp. 2d at 1270 (looking to state constitution's voter eligibility requirements). If the required information is not "directly relevant" to the State's ability to verify that a voter meets those qualifications, it is not "material." *Diaz*, 435 F. Supp. 2d at 1213. A person is "qualified" to vote under Texas law if they are (1) "18 years of age or older"; (2) "a United States citizen"; (3) not "totally mentally incapacitated" or "partially mentally incapacitated without the right to vote"; (4) "ha[ve] not been finally convicted of a felony or, if so convicted" have "fully discharged [their] sentence" or "been pardoned or otherwise released from the resulting disability to vote"; (5) "a resident of this state"; and (6) a "registered voter." Tex. Elec. Code § 11.002.⁴

⁴ A person is "eligible for registration as a voter" if they meet the same requirements, with three minor differences: (1) they must be at least 17 years and 10 months of age at the time the application is submitted; (2) they must be a "resident of the county in which application for registration is made"; and (3) they need not already be a registered voter. Tex. Elec. Code § 13.001.

The method by which an applicant enters their signature (*i.e.*, in wet ink or digitally) is irrelevant to the State's requirements. No state actor involved at any stage of the voter registration process uses a voter's "wet" signature to verify eligibility to vote. *E.g.*, State Resp. to Pl.'s Req. for Admis. No. 4. For example, when an applicant attempts to register, the Secretary checks that individual's "last name, the date of birth, and whatever number provided, either their driver's license number or [S]ocial [Security number]" against the information in the DPS database. *See* March 4, 2022 Deposition of Keith Ingram ("Ingram Dep."), at 70:6-71:17. If those fields match, the voter is assigned a voter-unique identifier. *Id.* Neither the Secretary nor Defendants use a "wet" signature to determine eligibility to vote. *Elfant Dep.*, at 107:13-108:17, 109:22-110:8. In fact, the Secretary's office does not even have access to the registrant's "wet" signature: Defendants do not provide or make available any voter's signature to the State. *See* February 23, 2022 Deposition of Lupe Torres ("Torres Dep."), at 44:19-45:14, 70:5-8; February 25, 2022 Deposition of Terrie Pendley ("Pendley Dep."), at 50:14-51:5, 52:16-53:5, 75:5-16; *Ingram Dep.*, at 74:1-13. The only signatures the State sees are imaged signatures provided with applications completed through DPS. *Ingram Dep.*, at 81:8-22; *Callanen Dep.*, at 131:8-14; *Elfant Dep.*, at 103:15-104:9. Even then, no one in the Secretary's office looks at those signatures. *Ingram Dep.*, at 82:1-3. Indeed, the State has conceded in other litigation that "electronic signatures comply with signature requirements under the NVRA," and that the State "never uses physical, manual, or wet ink handwritten signatures on paper for voter registration purposes." *Stringer v. Pablos*, 320 F. Supp. 3d 862, 899 (W.D. Tex. 2018), *rev'd on other grounds and remanded sub nom. Stringer v. Whitley*, 942 F.3d 715 (5th Cir. 2019).

Defendants also concede that their only use for a signature on a voter registration application is to verify that it exists. *Torres Dep.*, at 68:3-14; *Pendley Dep.*, at 71:18-72:2, 85:21-

86:9; Scarpello Dep., at 74:20-75:9, 76:19-22, 85:19-86:6; Elfant Dep., at 129:10-21. Defendants do not use the signatures for identity verification during the registration process. Scarpello Dep., at 77:4-6; Torres Dep., at 61:13-22; Scarpello Dep., at 75:8-9, Elfant Dep., at 104:19-22. And even if they did, an imaged signature serves every purpose that a “wet” signature does. Elfant Resp. to Pl.’s Interrog. No. 2 at 7 (Oct. 29, 2021) (“Defendant Elfant is not aware of any difference in purpose or function between a ‘wet ink’ signature and an electronic or imaged signature.”); Scarpello Resp. to Pl.’s Interrog. No. 2 at 4 (Nov. 8, 2021) (“[T]here is no practical purpose for requiring a wet-ink signatures [sic] as opposed to an electronic or imaged signature on voter registration applications, for purposes of registering an individual to vote”); Torres Dep., at 77:4-9. In fact, Defendants receive and process thousands of voter registration applications through DPS each year, *e.g.*, Torres Resp. to Pl.’s Interrog. No. 6, Garza Resp. to Pl.’s Interrog. No. 7, all of which contain electronic (not “wet”) signatures, Callanen Dep., at 132:3-5, Scarpello Dep., at 60:6-8, Elfant Dep., at 104:5-14, and treat them with no greater scrutiny than they do applications with “wet” signatures. *See* Elfant Resp. to Pl.’s Reqs. for Admis. No. 3; Pendley Resp. to Pl.’s Reqs. for Admis. No. 3; Torres Resp. to Pl.’s Reqs. for Admis. No. 3; Scarpello Resp. to Pl.’s Reqs. for Admis. No. 3; State Resp. to Pl.’s Reqs. for Admis. No. 3.

Defendants have previously argued that the Wet Signature Rule helps prevent “fraud.” *E.g.*, Intervenor-Defendant Ken Paxton’s Mot. to Dismiss (ECF No. 53), at 18. This is unpersuasive for several reasons. First, regardless of whether it is true (it is not), preventing “fraud” does not render a requirement “material” under the Materiality Provision. *Schwier v. Cox*, 412 F. Supp. 2d 1266, 1276 (N.D. Ga. 2005), *aff’d*, 439 F.3d 1285 (11th Cir. 2006) (finding that role of mandatory disclosure of social security number in preventing “fraud” did not render requirement material);

Reed, 492 F. Supp. 2d at 1270 (following *Schwier* to find that requirement’s function of preventing fraud did not render requirement “material”).

Second, Defendants do not use the “wet” or “original” signature—or any signature—to detect “fraud” in voter registration, nor could they. Instead, Defendants claim they use the signature to detect fraudulent *voting* in the unlikely event of an investigation or audit. But the registrant’s application signature is only one of several others to which the ballot signature may be compared and is only sometimes used. Scarpello Dep., at 84:3-85:1; Pendley Dep., at 70:14-18, 71:18-21. Nonetheless, even in this unlikely scenario, an imaged signature serves the same purpose as a wet signature: most Defendants compare two digital versions of a voter’s signature; they do not use any “wet” signature. Scarpello Dep., at 153:17-154:3; Callanen Dep., at 134:16-136:6, 140:1-12; Elfant Dep., at 253:10-16; Torres Dep., at 75:6-22.

Third, the notion that the Wet Signature Rule reduces fraud is speculative. Defendants have spoken to no experts on the subject, Torres Dep. at 97:20-98:1; Pendley Dep., at 102:6-9; Ingram Dep., at 213:16-214:5; they have conducted no independent research, Torres Dep., at 98:2-4; Pendley Dep., at 102:10-17; Ingram Dep., at 212:4-213:1; they have no direct experience to support the claim, Torres Dep., at 98:5-8; Pendley Dep., at 102:18-22; and they are aware of no instances in which an electronic signature was used fraudulently on a voter registration application. Torres Dep., at 98:10-13, 98:21-99:8; Pendley Dep., at 103:1-12, 104:2-12; Ingram Dep., at 218:13-219:5.

In sum, a “wet” or “original” signature on a voter registration application is not material to the requirements for voter eligibility under Texas state law. It does not demonstrate the age of an applicant, the applicant’s U.S. citizenship, the length of time the applicant has resided in Texas or a county, or the applicant’s criminal status. No Defendant uses it to verify an applicant’s identity

during the registration process. And while the State insists—with no evidence—that the requirement eventually militates against fraud, as a matter of law, that has no bearing on whether the Wet Signature Rule is material in determining an applicant’s *eligibility to vote*. It therefore violates the Materiality Provision and must be enjoined.

C. Because no sufficiently weighty state interest exists to justify the Wet Signature Rule, it is unconstitutional.

The Wet Signature Rule is not only immaterial to an individual’s qualification to vote, it imposes unnecessary obstacles in the registration process—particularly for individuals who lack access to printers—and unduly burdens the rights of Texas voters, while advancing no state interest that is sufficiently weighty to justify this burden; thus it violates the First and Fourteenth Amendments to the United States Constitution.

To determine whether a state law imposes an undue burden on the right to vote in violation of the First and Fourteenth Amendments, federal courts apply the *Anderson-Burdick* balancing test, which “weigh[s] ‘the character and magnitude of the asserted injury’ . . . against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule.’” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)). When the burden is severe, the state’s asserted interest must be compelling, and the challenged restriction must be narrowly tailored to advance it. *Tex. Indep. Party v. Kirk*, 84 F.3d 178, 182 (5th Cir. 1996). But even if the burden is less than severe, the challenged restriction must be supported by “interest[s] sufficiently weighty to justify the limitation.” *Norman v. Reed*, 502 U.S. 279, 288-89 (1992); *see also Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1318-19 (11th Cir. 2019) (“[E]ven when a law imposes only a slight burden on the right to vote, relevant and legitimate interests of sufficient weight still must justify that burden.”). Thus, for all burdens,

however slight, the Court must take “into consideration ‘the extent to which [the State’s] interests make it necessary to burden the plaintiff’s rights.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). Because the Wet Signature Rule does not advance any interest sufficiently weighty to justify the burdens it imposes on the right to vote, the Court must enjoin its enforcement.

1. The Wet Signature Rule burdens the right to vote.

The Wet Signature Rule imposes an unmistakable burden on Texans attempting to register to vote. Because paper applications must be signed in wet ink, a potential applicant must obtain a physical copy of a voter registration form. For Texans who do not have printers at home, this requirement imposes additional steps to the application process, as they must find a third party who will either provide access to a printer or allow them to print an application form. *See* December 13, 2021 Expert Report of Dr. Lisa Bryant (“Bryant Rep.”) at 11-13. Dr. Lisa Bryant explained that this burden “disproportionately falls on younger, lower-income, and minority voters who are more likely to be smartphone dependent and have limited access to computers or other devices or office equipment that would facilitate compliance with the wet signature rule.” *Id.* at 2, 4-5, 7-8. And while prospective voters may travel to their county officials’ offices to request an application form, or find a voter registration drive distributing the forms, or even request a form in the mail, each of these options imposes additional logistical hurdles.

There can be no dispute that adding procedural hoops to the registration process burdens the right to vote. *See, e.g., Stringer v. Pablos*, No. SA-16-CV-257-OG, 2020 WL 532937, at *7 (W.D. Tex. Jan. 30, 2020) (finding that restriction on voter registration imposes a burden on the fundamental right to vote); *Greidinger v. Davis*, 988 F.2d 1344, 1354 (4th Cir. 1993) (holding plaintiff’s right to vote was “substantially burdened” by state voter registration law). Indeed, when asked by Intervenor-Defendant Ken Paxton whether the Wet Signature Rule makes it harder for

someone to vote in Texas, Defendant Scarpello responded in the affirmative and explained: “[i]f you can’t register to vote, you can’t vote. [The Wet Signature Rule] makes it harder to register to vote . . . [particularly] [s]omeone who sends in an electronic copy of a registration, who wants -- who wants to send in an electronic copy of a voter registration.” Scarpello Dep., at 101:2-8.

2. Defendants identify no state interest advanced by the Wet Signature Rule that is sufficiently weighty to justify its burden on the right to vote.

No party to this action has advanced a sufficiently weighty state interest that can justify the burden imposed by the Wet Signature Rule. In assessing this claim, the Court must weigh the burden on voters against “the precise interests put forward by the State as justifications” for the law. *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). Even the slightest burdens on the right to vote “must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation,’” *Fla. Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1256–57 (N.D. Fla. 2016) (quoting *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1352 (11th Cir. 2009)), and no matter the magnitude of the burden the Court must take “into consideration ‘the extent to which [the State’s] interests make it necessary to burden the plaintiff’s rights.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). Stated differently, the State must demonstrate why it can accept imaged signatures from hundreds of thousands of voters—specifically, voters who register through DPS—while demanding wet signatures from others. *See, e.g., Obama for Am. v. Husted*, 697 F.3d 423, 434 (6th Cir. 2012) (finding “no corresponding satisfactory reason to prevent non-military voters from casting their ballots” in the same manner as military service members and their families); *see also Anderson*, 460 U.S. at 805 (rejecting state’s justification for the law where the law’s impact was both too broad and too narrow to serve that interest).

The State has previously offered three purported justifications for the Wet Signature Rule, all of which are unavailing. First, the State argued that the burden imposed by the law is either nonexistent or minimal. But there is no genuine dispute that the Wet Signature Rule requires some voters to navigate additional logistical hurdles in order to hand-sign a physical copy of their application in wet ink—rather than signing it digitally, consistent with common practice for other important transactions—or risk disenfranchisement. *See* Bryant Dep., at 104:19-105:25; Garza Dep., at 93:4-12 (discussing complaints from voters regarding how it is “difficult to register to vote in Texas”). That the burden may not impact *every* voter does not eliminate the State’s obligation to identify an interest sufficiently weighty to justify the law.

Second, as it did in its failed motion to dismiss, the State may argue once again that “Texas provides voters with multiple methods by which to register.” Mot. to Dismiss (ECF No. 53), at 16. But this Court has made clear that the availability of alternate means of registering to vote do not “eliminate or render harmless” the burdens imposed by a restriction on the right to vote. *Mi Familia Vota v. Abbott*, 497 F. Supp. 3d 195, 219 (W.D. Tex. 2020) (quoting *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F.2d 328, 338 (5th Cir. 1981)).

Third, the State has speculated that the Wet Signature Rule helps combat voter fraud and promotes “election integrity” or “solemnity” in the voter registration process. Mot. to Dismiss (ECF No. 53), at 19. But the undisputed evidence rejects this theory. As explained above, Defendants concede that they do not use the signatures for any purpose in the registration process, *see supra* pp. 11-12, but even if they did, an imaged signature would serve the same purpose as a wet-ink or copy of an “original” signature because signature comparisons often occur using digital

images of the relevant samples. *See supra* p. 12.⁵ And Defendants are unaware of any voter fraud related to wet, imaged, digital, or electronic signatures. *See, e.g.*, Garza Dep., at 117:1-14. That is consistent with Dr. Bryant’s analysis. She explained that “the wet signature rule does not make voter rolls more accurate or elections more secure, but the additional burdens and costs it imposes fall most heavily on those who are least equipped to overcome these unnecessary hurdles in the voting process.” Bryant Rep. at 20. In fact, the Secretary testified that the only major or recurring issue related to voter registration signatures was “storage capacity” within the Texas Election Administration Management (“TEAM”) system. Ingram Dep., at 214:17-215:1.

Finally, the State’s purported interest in maintaining solemnity is not only speculative and impermissibly vague, but it is also unrelated to the Wet Signature Rule. Texas law permits—and even encourages—the use of electronic signatures in various other “solemn” activities and transactions, including voter registration when submitted through DPS.⁶ *See, e.g.*, Tex. Elec. Code § 20.066(a)(2) (requiring DPS to notify registrants their electronic signature will be used for their registration application); *see also* Tex. Bus. & Com. Code § 322.007(d) (“If a law requires a

⁵ The arbitrary application inherent with signature matching makes the State’s position even more tenuous and problematic. For instance, because there are no guidelines that inform an election official’s determination that a signature was not applied with wet-ink, voters’ applications may be rejected erroneously and arbitrarily. *See, e.g., Democratic Exec. Comm. of Fla.*, 915 F.3d at 1321 (finding that Florida’s signature-matching requirement “impose[d] . . . a serious burden on the right to vote” in part because of the lack of uniformity in the application of the signature match requirement among county election officials).

⁶ For the purposes of registering to vote, there is no functional difference between applying in person at a DPS office and submitting a voter registration application by facsimile using Vote.org’s web application. *See, e.g., Mot. to Dismiss* (ECF No. 53), at 19-20. Defendants do not use the signatures submitted with either application to verify a voter’s identify as part of the registration process. *See, e.g., Elfant Dep.*, at 104:19-22, Scarpello Dep., at 77:4-6, and Garza Dep., at 103:19-22.

signature, an electronic signature satisfies the law.”). And the State has yet to explain why a wet signature is more solemn than an imaged one.

Defendants cannot survive the Court’s scrutiny by merely brainstorming interests; the challenged restriction must *actually advance* the State’s purported goal. *Soltysik v. Padilla*, 910 F.3d 438, 447 (9th Cir. 2018) (noting even a legitimate, “important government interest,” could not justify the burden imposed because the court “struggle[d] to understand how [the challenged] regime . . . advance[d] that goal.”); *Anderson v. Morris*, 636 F.2d 55, 58 (4th Cir. 1980). As Defendant Scarpello conceded, there are “no practical interests” served by “Section 14 of HB 3107.” Scarpello Resp. to Pl.’s Interrog. No. 3 at 5. Because there is no dispute that the Wet Signature Rule fails to advance a sufficiently weighty interest that would justify its burden on the right to vote, it violates the First and Fourteenth Amendments and must be enjoined.

CONCLUSION

For all the foregoing reasons, Vote.org is entitled to judgment as a matter of law on Counts I and II of the Complaint.

Dated: April 8, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule CV-7(D)(2), counsel for Plaintiff certifies that this motion does not exceed twenty (20) pages, exclusive of the caption, the signature block, any certificate, and any accompanying documents.

/s/ Uzoma N. Nkwonta

Uzoma N. Nkwonta

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,
Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas, LUPE TORRES, in his official capacity as Medina County Elections Administrator; TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

Intervenor-Defendants.

Civil Action

Case No. 5:21-cv-649-JKP-HJB

**VOTE.ORG'S STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT**

In support of its accompanying Motion for Summary Judgment, and in accordance with Western District of Texas Local Rule CV-7(D), Vote.org provides the following statement of undisputed material facts:

A. The Texas voter registration process

1. Texans are eligible to register to vote if they: (i) are 18 years of age or older; (ii) are a U.S. citizen; (iii) are a resident of the Texas county in which the application is made; (iv) have not been found mentally incapacitated; and (v) have not been convicted of a felony or have been discharged of the sentence or pardoned. *See* Tex. Elec. Code § 13.001.

2. Voter registration applications must include the following information: a voter's name, address, date of birth, driver's license number, personal identification number, or social security number, as well as statements indicating that the applicant is eligible to vote. *See* Tex. Elec. Code § 13.002.

3. Every voter registration application must be "signed by the applicant," affirming that they meet the voter registration requirements; that the information they have provided is true and accurate; and that they understand there could be penalties for registering to vote with inaccurate information. *See, e.g.*, Tex. Elec. Code § 13.002(a)-(b); Ingram Dep., at 159:7-161:20.

4. Before the enactment of HB 3107, in order for "a registration application submitted by telephonic facsimile machine to be effective, a copy of the registration application" must have been received by the registrar "not later than the fourth business day after the transmission by telephonic facsimile machine is received." Texas Election Code § 13.143(d-2).

5. To submit a voter registration application in Texas, an individual may fill out and submit a paper application at a voter registration agency in the county where they reside. *See* Tex. Elec. Code § 20.001.

6. A prospective registrant can also fill out paper application and submit it by personal delivery, by mail, or by telephonic facsimile to their county registrar. Tex. Elec. Code § 13.002(a). If a prospective registrant sends a paper application directly to the Texas Secretary of State (the "Secretary"), the Secretary will send the paper application to the appropriate county registrar. Ingram Dep., at 65:8-13.

7. A prospective registrant may also submit an application through the Texas Department of Public Safety ("DPS"), which processes hundreds of thousands of voter registration applications and voter registration updates each year. *See, e.g.*, Callanen Resp. to Pl.'s Interrog.

No. 7; Elfant Resp. to Pl.'s Interrog. No. 7; Garza Resp. to Pl.'s Interrog. No. 7; Scarpello Resp. to Pl.'s Interrog. No. 7.

8. Applications processed by DPS are submitted to the Secretary who, in turn, sends the applications to the registrars of the counties in which the registrants reside to be input into each county's respective voter registration system. Ingram Dep., at 70:15-71:17.

9. A registrant who submits a voter registration application to DPS completes their application by creating an electronic signature, which is then submitted with the voter registration application. *See* Tex. Elec. Code § 20.066(a)(2); *see also* *Stringer v. Pablos*, 320 F. Supp. 3d 862, 872-74 (W.D. Tex. 2018); *rev'd and remanded on other grounds sub nom. Stringer v. Whitley*, 942 F.3d 715 (5th Cir. 2019). Despite receiving those signatures, the Secretary does not review them, retain them, or use them to process voter registration applications. *See* Ingram Dep., at 81:20-82:3.

10. Electronic signatures on applications submitted through DPS are used to check that the registrant has affirmed that the information contained in applications is correct and that the registrant understands the voter registration requirements; the signatures serve no other purpose in the voter registration process. *See id.*; Ingram Dep., at 171:2-172:11; Torres Dep., at 68:3-14; Pendley Dep., at 71:18-72:2, 85:21-86:9; Scarpello Dep., at 74:20-75:9, 76:19-22, 85:19-86:6.

11. Voter registration applications that are not submitted through DPS must be submitted by personal delivery, by mail, or by telephonic facsimile machine in accordance with Texas Election Code §§ 13.143(d) and (d-2) and must be signed by the applicant. *See* Tex. Elec. Code § 13.002(a). For applications submitted by fax to be effective, the voter must also send a copy of the original registration application containing the voter's original signature by personal

delivery or mail, and the original application must be received by the registrar not later than the fourth business day after the transmission by fax. *See* Tex. Elec. Code § 13.143(d-2).

12. When a county registrar receives a voter registration application (submitted using any of the methods discussed above), the registrar inputs the information from the application into a computer program and that computer program makes the information available to the Secretary. *See* Ingram Dep., at 66:7-18; 67:6-18; 67:19-69:15.

13. County registrars treat voter registration applications received from DPS—which contain electronic signatures—the same as paper voter registration applications that contain wet-ink or original signatures. Callanen Dep., at 132:3-5, Scarpello Dep., at 60:6-8, Elfant Dep., at 104:5-14; Torres Resp. to Pl.’s Reqs. for Admis. Nos. 2 & 3; Pendley Resp. to Pl.’s Reqs. for Admis. Nos. 2 & 3; Garza Resp. to Pl.’s Reqs. for Admis. Nos. 2 & 3.

14. After receiving a voter registration application information from a county registrar, the Secretary checks the registrant’s last name, date of birth, and either their social security number or driver’s license number against the information in the DPS database. Ingram Dep., at 70:6-71:17. If those fields match, the registrant is assigned a Voter Unique Identifier (“VUID”). *See id.*

15. Once a registrant is issued a VUID, they are registered to vote and may vote in any future election that takes place 30 days or more after their registration date, barring the receipt of any disqualifying information. *Id.* at 86:18-87:7. There is no additional eligibility check that occurs before a voter may cast a ballot in an election. *Id.*

16. No county registrar provides the Secretary with an image, scan, or picture of a registrant’s original signature. *Id.* at 73:16-74:13. Even when an individual registers to vote using a paper application, the Secretary does not receive an image, copy, or picture of the voter’s original

signature at any point in the voter registration process. *Id.* at 73:19-74:13; Torres Dep., at 44:19-45:14, 70:5-8; Pendley Dep., at 50:14-51:5, 52:16-53:5, 75:5-16.

17. Neither the Secretary nor the county registrars use voter signatures on registration applications to determine whether a voter is eligible to vote in Texas or to confirm a registrant's identity during the voter registration process. *See* Ingram Dep., at 75:10-19; 164:11-165:14.

B. Limited usage of voter registration application signatures in proceedings unrelated to the voter registration process.

18. Apart from serving as an affirmation of the accuracy of the information contained in the voter registration application, Defendants identified only two additional uses for voter registration application signatures—neither of which relate to the voter registration process or depend on the availability of a wet-ink signature. *See id.* at 154:20-155:8.

19. First, signatures on voter registration applications *may* be used by Early Voting Ballot Boards¹ (and, to the extent they exist, Signature Verification Committees²) to verify the authenticity of a signature on a mail-in ballot. *See id.* at 184:1-185:1; Scarpello Dep., at 103:8-104:16.

20. Neither the Early Voting Ballot Boards nor the Signature Verification Committees are involved in the voter registration process. *E.g.*, Callanen Dep., at 114:16-115:20.

21. Second, a signature on a voter registration application is one signature among others that can be used as an exemplar signature during an election contest where there is a question as

¹ Early Voting Ballot Boards are charged with processing early voting results, and thus are responsible for determining whether to accept or reject mail-in ballots. *See* Tex. Elec. Code § 87.001; Ingram Dep., at 179:14-20.

² Signature Verification Committees may be appointed by the early voting clerk upon request from at least 15 voters from its county. Following the Committees' review, the ballots are returned to the Early Voting Ballot Board for a final decision on whether to accept the mail-in ballot. *See* Tex. Elec. Code § 87.027(i); Ingram Dep., at 188:9-18.

to the authenticity of a signature in a pollbook. *See* Callanen Dep., at 153:4-155:19; 156:11-19; Callanen Resp. to Pl's. Interrog. No. 2.

22. Defendants and Intervenor are aware of no instances in which an electronic or imaged signature—in any context—was used fraudulently on a voter registration application. Torres Dep., at 98:10-13, 98:21-99:8; Pendley Dep., at 102:18-104:6; Ingram Dep., at 218:13-219:5.

C. Vote.org's e-sign function and the Secretary's response

23. Vote.org invested substantial resources in developing a web application that allows prospective voters—including voters in Texas—to fill out voter registration applications using their smartphones or other devices with access to the internet. Hailey Dep., at 51:14-53:1; 109:3-11.

24. In 2018, Vote.org developed and launched an e-sign tool for its web application. The e-sign function was created to address hurdles facing individuals who lacked access to printers or physical copies of voter registration forms. *See id.*

25. Vote.org launched the e-sign function of its web application as a pilot program in four Texas counties: Bexar County, Cameron County, Dallas County, and Travis County. Hailey Dep., at 129:10-130:18.

26. The e-sign function allowed Texas registrants to (i) fill out a voter registration form; (ii) take a picture of their original signature; (iii) upload an image of that signature to the form; and (iv) review the completed form prior to submission. Hailey Dep., at 49:11-50:13, 176:5-16.

27. Once voters completed the registration application form, they could choose to send their registration forms directly to a third-party faxing service that would fax the application to their county registrar, and to a printer that would print and mail their completed form as well. Hailey Dep., at 49:11-50:13.

28. In 2018, at least one of the Defendants accepted and processed voter registration applications that were prepared and signed using Vote.org's web application and e-sign function. *See, e.g.,* Elfant Dep., at 146:16-22, 153:7-154:5.

29. In October 2018, however, representatives from the Secretary's Office contacted Defendants and instructed them to reject applications received from voters who used Vote.org's web application to prepare and sign their forms. *See, e.g.,* Garza Dep., at 133:5-8, 133:15-134:1, 134:20-135:4; Elfant Dep., at 394:16-397:7.

30. On October 4, 2018, the Texas Secretary issued a statement warning Texas voters that any "web site that misleadingly claims to assist voters in registering to vote online by simply submitting a digital signature is not authorized to do so." Ingram Dep., Ex. E, Texas Secretary, Secretary Pablos Reminds Texans to Exercise Caution When Registering to Vote (Oct. 4, 2018).

31. The Secretary's announcement was intended to discourage voters from using the e-sign function of Vote.org's web application. *See* Ingram Dep., at 102:3-14, 103:13-104:8.

32. At least one of the Defendants rejected voter registration applications sent by telephonic facsimile and signed with imaged signatures after the Secretary's announcement, including those sent by voters who used Vote.org's web application. *See* Callanen Resp. to Pl.'s Interrog. No. 1; Scarpello Resp. to Pl.'s Req. for Admis. No. 1; Garza Resp. to Pl.'s Req. for Admis. No. 1; Garza Dep., at 116:8-117:8; Lopez Dep., at 124:3-126:2.

33. Even after the Secretary's announcement, Defendant Elfant continued to accept and process voter registration applications sent by telephonic facsimile and signed with imaged signatures. Elfant Dep., at 67:21-68:8; 146:18-148:17. Travis County subsequently sent the voter information from those applications to the Secretary. *See id.* at 153:10-154:5.

34. The Secretary could not distinguish between voter registration applications signed with a wet-ink or original signature and applications signed using imaged signatures—and could not do so today if asked. Ingram Dep., at 224:5-10.

D. The codification of the Wet Signature Rule to prevent the use of Vote.org’s e-sign function

35. HB 3107 is the Secretary’s “clean-up bill.” *Id.* at 92:4-13. The Secretary proposed each change to the provisions of HB 3107, and the Secretary helped write the language that was included in Section 14 of HB 3107—the Wet Signature Rule. *Id.* at 94:11-14.

36. The Secretary drafted the Wet Signature Rule and the corresponding changes to Texas Election Code § 13.143(d-2) in direct response to Vote.org’s e-sign function, motivated by a desire to prevent Vote.org from using the e-sign function in Texas. *Id.* at 102:3-104:8.

37. Section 14 of HB 3107 requires Defendants to enforce the Wet Signature Rule by designating voter registration applications that lack a wet-ink or “original” signature as incomplete. *See, e.g.,* Callanen Dep., at 248:3-249:7; 249:18-250:13; Elfant Dep., at 67:10-68:8. Defendants must treat such applications as if they were not signed at all. *See id.; see also* Elfant Resp. to Pl.’s Reqs. for Admis. Nos. 1 & 2; Pendley Resp. to Pl.’s Reqs. for Admis. No. 2; Torres Resp. to Pl.’s Reqs. for Admis. No. 2; Scarpello Resp. to Pl.’s Reqs. for Admis. Nos. 1 & 2. If applicants do not correct the defect within 30 days, the voter registration application is rejected. *See, e.g.,* Callanen Dep., at 249:18-250:13.

38. But Defendants accept and process voter registration applications submitted through DPS, even though those applications contain imaged or electronic signatures. *See, e.g.,* Ingram Dep., at 81:8-82:14; *see also* Elfant Resp. to Pl.’s Reqs. for Admis. No. 3; Pendley Resp. to Pl.’s Reqs. for Admis. No. 3; Torres Resp. to Pl.’s Reqs. for Admis. No. 3; Scarpello Resp. to Pl.’s Reqs. for Admis. No. 3.

E. The burdens imposed by the Wet Signature Rule

39. Because of HB 3107, Vote.org cannot use its web application to advance its mission to simplify political engagement, increase voter turnout, and strengthen American democracy. Hailey Dep., at 108:12-24. Instead, Vote.org is forced to reallocate its limited time, staff, and resources from other efforts to reconfigure the web application and find alternative platforms to help voters participate in the political process. Hailey Dep., at 114:12-115:11, 258:17-260:13; 297:23-299:9.

40. With the passage of HB 3107, Defendant Elfant will no longer accept voter registration applications that are sent by telephonic facsimile and signed with imaged signatures. Elfant Dep., at 67:10-20. All counties must treat such applications as incomplete. *See id.*

41. The Wet Signature Rule increases the costs of registering to vote and burdens Texas voters by “adding unnecessary resource-intensive steps to the registration process.” December 13, 2021 Expert Report of Dr. Lisa A. Bryant (“Bryant Rep.”), at 2.

42. The Wet Signature Rule creates administrative, informational, and temporal burdens for voters. *See id.*; *see also* Bryant Dep., 104:19-105:25. Those burdens disproportionately fall on younger, lower-income, and minority voters. Bryant Rep., at 2.

43. Voters must research and understand all of the steps to complete a voter registration application in Texas. *Id.* at 8. The more complicated this process is, the more likely it is to dissuade new voters, including young voters, minority voters, and low-income voters. *Id.* at 4-6.

44. Rather than allowing voters to complete the voter registration process using their smartphone or computer, the Wet Signature Rule requires voters to print and sign their voter registration applications with a wet-ink signature. To do so, they must: (i) have access or travel to

a printer, (ii) print their voter registration application, (iii) procure an envelope and stamp, and (iv) mail their voter registration application. *Id.* at 8.

45. The requirement that a voter print their voter registration application is a particular burden for young people because 28 percent of young people nationwide rely *entirely* on a smartphone to access the internet at home. Bryant Rep., at 12. This burden is compounded by the fact that young voters often lack reliable transportation. *Id.* at 7.

46. Across the State, 16 percent of Texans rely entirely on a smartphone to access the internet. Bryant Rep., at 13. That percentage is higher in counties with lower average household incomes. *See id.* at 13-15. For example, in Cameron County, 26 percent of residents are smartphone dependent, and in some counties in the southern and western portions of the State, nearly 60 percent of households are smartphone dependent. *See id.* at 13. Those counties tend to have lower median household incomes and higher Hispanic populations. Bryant Rep., at 13-14.

47. The burden imposed by the Wet Signature Rule will also disproportionately deter low-income voters, who face more significant transportation issues than others, and are more likely to work hourly jobs and have less time off to navigate logistical hurdles like locating an accessible printer and mailing their voter registration applications. Bryant Rep., at 9, 11-12.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas, LUPE TORRES, in his official capacity as Medina County Elections Administrator; TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

Intervenor-Defendants.

Civil Action

Case No. 5:21-cv-649-JKP-HJB

APPENDIX TO PLAINTIFF VOTE.ORG'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Local Rule CV-7(c)(1), Plaintiff Vote.org submits this Appendix to its Motion for Summary Judgment, filed contemporaneously herewith.

Dated: April 8, 2022

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,

Defendants.

Civil Action

Case No. 5:21-cv-649

Related to *Stringer, et al. v. Hughs, et al.*, No. 5:20-cv-00046-OLG

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**52 U.S.C. § 10101 and the First and
Fourteenth Amendments to the U.S.
Constitution**

Plaintiff VOTE.ORG, by and through its undersigned counsel, files this COMPLAINT for DECLARATORY and INJUNCTIVE RELIEF against Defendants JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator, BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector, REMI GARZA, in his official capacity as the Cameron County Elections Administrator, and MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator, and alleges as follows:

NATURE OF CASE

1. Registering to vote in Texas is a cumbersome process, and intentionally so. Despite a concerted effort to modernize election procedures, when it comes to voter registration—and, for that matter, other procedures that expand access to the franchise—Texas continues to embrace and reinforce antiquated rules that serve no purpose other than to make voting harder. For instance, Texas does not provide online registration, and for years the Secretary of State (the “Secretary”)

ignored federal laws that require the State to allow voters to simultaneously update their driver's licenses and voter registration information.

2. This lawsuit challenges yet another outdated and unlawful voter registration rule. Under Texas law, voters must sign their registration applications with original, *wet* signatures (the “Wet Signature Rule”)—a perplexing requirement given that the method by which a voter enters their signature has absolutely nothing to do with their eligibility to register.

3. In 2018, this antiquated rule resulted in the rejection of voter registration applications signed using a web application developed by Plaintiff Vote.org, simply because the applications were signed with imaged rather than wet signatures. Indeed, five days before the voter registration deadline for the 2018 midterm election, then-Secretary of State Roland Pablos instructed county registrars to reject all registration applications prepared using the e-signature function of Plaintiff's web application, claiming that the registration applications were incomplete because they lacked original, wet signatures.¹

4. During the 2021 legislative session—mere months after Texas officials sought to overturn the 2020 presidential election results and disenfranchise millions of voters in *other states*, and on the heels of an election that the State's elections administrators described as safe and secure—the Texas Legislature codified the Wet Signature Rule through House Bill 3107 (“HB 3107”). *See* HB 3107, 87th Leg., Reg. Sess. (Tex. 2021).

5. HB 3107 provides that in order “[f]or a registration application submitted by telephonic facsimile machine to be effective, a copy of the *original* registration application

¹ The rule announced by Secretary Pablos was the subject of a lawsuit filed by the Texas Democratic Party, DSCC, and DCCC against the Secretary on January 6, 2020. *See* Compl. for Declaratory & Injunctive Relief, *Tex. Democratic Party v. Hughs*, No. 5:20-cv-00008-OLG (W.D. Tex. Jan. 6, 2020), ECF No. 1. That lawsuit was dismissed following the Fifth Circuit's determination that the claims against the Secretary were barred by sovereign immunity.

containing the voter's original signature must be submitted." *Id.* § 14 (amending Tex. Elec. Code § 13.143(d-2)). In other words, a voter cannot complete their registration form electronically, nor can they use an imaged signature; instead, the voter must provide a copy of their registration application with a wet-ink signature affixed.

6. For a bill that makes various upgrades to the Election Code—including allowing documents to be filed via e-mail, *see id.* § 1 (amending Tex. Elec. Code § 1.007(c))—the Wet Signature Rule is a conspicuous addition. It contradicts the State's longstanding recognition that electronic signatures carry the force of law, *see, e.g.*, Tex. Bus. & Com. Code § 322.007(d) ("If a law requires a signature, an electronic signature satisfies the law."), and is irreconcilable with the State's ongoing practice of accepting electronic or imaged signatures on voter registration applications submitted through state agencies.

7. Voters who renew their licenses or change their addresses through the Texas Department of Public Safety ("DPS"), for instance, can enter their signatures on electronic keypads; these signatures are then stored electronically, allowing DPS officials to piece together a voter registration application by combining the personal information populated on the renewal or change of address form with the voter's signature from the electronic file. This information, once compiled, becomes the voter's registration application and is approved if the applicant meets the eligibility requirements.

8. Thus, even with the Wet Signature Rule enshrined in the Election Code, thousands of Texans will continue to register at state agencies with imaged or electronic signatures, which undermines any suggestion that the Wet Signature Rule is somehow essential to protecting election integrity.

9. Instead, the Wet Signature Rule—from its inception at the Secretary’s whim shortly before the 2018 midterm election to its codification through HB 3107—is an assault on innovative methods of expanding voter participation like the e-signature function of Plaintiff’s web application.

10. The ability to complete and sign registration applications electronically is critical to ensure that voters with limited access to printers or mailing facilities, or who otherwise need assistance to register to vote, have meaningful opportunities to do so. The Wet Signature Rule imposes unnecessary roadblocks that are not only hopelessly out of step with other provisions of Texas law, but also create undue burdens for voters and the organizations that help them register, all while failing to advance any sufficiently weighty state interest that could justify such restrictions.

11. Accordingly, the Wet Signature Rule violates the U.S. Constitution and the federal Civil Rights Act by selectively targeting and burdening private organizations’ efforts to increase voter turnout, and by imposing an arbitrary barrier to registration that has already denied many Texans the opportunity to vote for reasons entirely unrelated to their eligibility. For these reasons and those stated below, Plaintiff requests that the Court declare that the Wet Signature Rule violates the Civil Rights Act of 1964 and the First and Fourteenth Amendments to the U.S. Constitution, and enjoin Defendants from enforcing the Wet Signature Rule.

JURISDICTION AND VENUE

12. Plaintiff brings this action under 52 U.S.C. § 10101 and 42 U.S.C. §§ 1983 and 1988 to redress the deprivation, under color of state law, of rights secured by the federal Civil Rights Act and the U.S. Constitution.

13. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws

of the United States and involve the assertion of deprivation, under color of state law, of rights under the U.S. Constitution and federal law.

14. This Court has personal jurisdiction over Defendants, who are sued in their official capacities.

15. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events that give rise to Plaintiff's claims occurred and will occur in this judicial district.

16. This Court has the authority to enter declaratory judgment and provide injunctive relief under Federal Rules of Civil Procedure 57 and 65 and 28 U.S.C. §§ 2201 and 2202.

PARTIES

17. Plaintiff Vote.org is the largest 501(c)(3) nonprofit, nonpartisan voter registration and get-out-the-vote ("GOTV") technology platform in the country. Vote.org uses technology to simplify political engagement, increase voter turnout, and strengthen American democracy. Vote.org works extensively to support low-propensity voters, including racial and ethnic minorities and younger voters who tend to have lower voter-turnout rates. In total, Vote.org has registered more than 6.7 million new voters and verified more than 16 million voters' registration statuses. Since 2012, it has helped over 776,000 Texans register to vote and 1.9 million Texans verify their registration statuses.

18. In preparation for the 2018 elections, Vote.org invested significant resources in developing and launching a web application that helped Texans complete their voter registration forms, just as it had done successfully in Alaska, Colorado, the District of Columbia, Kansas, and South Carolina. The e-signature function of Vote.org's web application allowed potential registrants in Bexar, Cameron, Dallas, and Travis Counties to enter information into a virtual voter registration application; sign the form by uploading an image of their signature into the web application; review their signed voter registration application; fax the completed application to

their county registrar; and generate a hard copy to be mailed to the county registrar, as required by Texas law.

19. Between late September and early October of 2018, more than 2,400 voters in Texas used Vote.org’s web application, including the e-signature function, to complete their voter registration applications. Just five days before the registration deadline, Secretary Pablos called the validity of those 2,400 voter registrations into question. He claimed, without any basis in the law, that registration forms prepared using Vote.org’s web application were invalid because they did not contain original, wet signatures. His announcement—and the decision of Texas counties to abide by it—effectively ended Vote.org’s use of the e-signature function included in its voter registration web application.

20. Section 14 of HB 3107—the Wet Signature Rule—is simply a codification of the rule that Secretary Pablos devised in 2018. It continues to prevent Vote.org from making full use of one of its most effective tools: the e-signature function of its voter registration web application. No longer able to use features of its web application that it created specifically for Texas, Vote.org has been forced to divert resources from its general, nationwide operations—as well as its specific programs in other states—to redesign its Texas voter registration and GOTV programs and utilize more expensive (and less effective) means of achieving its voter registration goals in the State.

21. Defendant Jaquelyn Callanen is sued in her official capacity as the Bexar County Elections Administrator. In this capacity, she serves as the voter registrar for Bexar County and oversees its voter registration activities. *See* Tex. Elec. Code §§ 12.001, 13.004, 13.071–13.072, 15.022. This includes “review[ing] each submitted application for registration to determine whether it complies with Section 13.002” of the Election Code. *Id.* § 13.071; *see also id.* § 13.002

(enumerating registration application requirements). The Bexar County Elections Administrator is sued for the manner in which she enforces the Wet Signature Rule.

22. Defendant Bruce Elfant is sued in his official capacity as the Travis County Tax Assessor-Collector. In this capacity, he serves as the voter registrar for Travis County and oversees its voter registration activities. *See id.* §§ 12.001, 13.004. 13.071–13.072, 15.022. This includes “review[ing] each submitted application for registration to determine whether it complies with Section 13.002” of the Election Code. *Id.* § 13.071; *see also id.* § 13.002 (enumerating registration application requirements). The Travis County Tax Assessor-Collector is sued for the manner in which he enforces the Wet Signature Rule.

23. Defendant Remi Garza is sued in his official capacity as the Cameron County Elections Administrator. In this capacity, he serves as the voter registrar for Cameron County and oversees its voter registration activities. *See id.* §§ 12.001, 13.004. 13.071–13.072, 15.022. This includes “review[ing] each submitted application for registration to determine whether it complies with Section 13.002” of the Election Code. *Id.* § 13.071; *see also id.* § 13.002 (enumerating registration application requirements). The Cameron County Elections Administrator is sued for the manner in which he enforces the Wet Signature Rule.

24. Defendant Michael Scarpello is sued in his official capacity as the Dallas County Elections Administrator. In this capacity, he serves as the voter registrar for Dallas County and oversees its voter registration activities. *See id.* §§ 12.001, 13.004. 13.071–13.072, 15.022. This includes “review[ing] each submitted application for registration to determine whether it complies with Section 13.002” of the Election Code. *Id.* § 13.071; *see also id.* § 13.002 (enumerating registration application requirements). The Dallas County Elections Administrator is sued for the manner in which he enforces the Wet Signature Rule.

STATEMENT OF FACTS AND LAW

25. Texas law provides several avenues through which eligible citizens may submit their voter registration applications to their county registrars: by personal delivery, mail, or fax. *See id.* § 13.002(a).

26. Prior to the enactment of the Wet Signature Rule, none of these options required a wet signature on a voter's registration application. Although a voter who chose to register by fax was required to mail a copy of the application to their registrar, the previous version of Section 13.143(d-2) did not require that the copy include an original, wet signature.

27. In 2018, Plaintiff deployed a web application to assist voters with completing their registration forms. As discussed above, five days before the registration deadline, Secretary Pablos indicated that any applications signed using Plaintiff's web application were invalid because every registration required an original, wet signature. A spokesperson for Secretary Pablos went so far as to declare that use of the web application's e-signature function to prepare voter registration applications was "illegal."

28. Secretary Pablos's announcement created confusion among Texas counties and voters, who were forced to reconcile the inherent conflict between the registration laws and the newly announced rule.

29. For example, the day after Secretary Pablos announced the Wet Signature Rule, the Travis County Tax Assessor-Collector said that he would process and accept registration applications without wet signatures despite the new rule. According to his legal counsel, state law allowed for copies of voter registration forms to be submitted without wet signatures. The next day, the Travis County Tax Assessor-Collector reversed course and claimed that between 400 and 500 applications submitted without wet signatures would be rejected. He also acknowledged that not all affected voters would be able to resubmit their applications and register before the deadline.

After much confusion and multiple conversations between county officials and Secretary Pablos, the Travis County Tax Assessor-Collector decided that he would accept the applications given the limited time remaining before the deadline, but would follow the new rule moving forward and reject any future applications without wet signatures.

30. In addition to its problematic inception, the Wet Signature Rule contradicts well-established federal and state laws that recognize the validity of electronic and other non-ink signatures.

31. For example, the Texas Administrative Code authorizes election officials to capture voters' signatures using electronic devices for election day signature rosters, and specifically defines "Electronic Signature" as "a digitized image of a handwritten signature." 1 Tex. Admin. Code § 81.58(a)–(b). The Texas Business and Commerce Code recognizes that a signature "may not be denied legal effect . . . solely because it is in electronic form" and expressly states that "[i]f a law requires a signature, an electronic signature satisfies the law." Tex. Bus. & Com. Code § 322.007(a), (d). And if a person completes a voter registration application through DPS, the agency must "inform the applicant that the applicant's electronic signature provided to the department will be used for submitting the applicant's voter registration application." Tex. Elec. Code § 20.066(a)(2).

32. The processing of voter registration applications through DPS underscores that the Wet Signature Rule serves no useful or justifiable purpose. DPS employs a system that, like Plaintiff's web application, allows voters to sign voter registration applications using electronically captured signatures. When an applicant interacts with DPS—whether by applying for or renewing a driver's license or changing their address—they complete the relevant DPS forms and sign an electronic keypad. The electronic keypad is just that: it is not a physical, paper form but rather a

separate electronic device with a space for an applicant to sign. DPS then captures and electronically stores the signatures entered into the keypad. *See Stringer v. Pablos*, 320 F. Supp. 3d 862, 872–74 (W.D. Tex. 2018), *rev'd and remanded on other grounds sub nom. Stringer v. Whitley*, 942 F.3d 715 (5th Cir. 2019).

33. DPS reviews its own forms and selects information relevant to voter registration and then combines this information with the electronically stored signatures to create separate voter registration applications, which it then submits electronically to the Secretary's office. The Secretary then transmits the information to local registrars to complete the registration process. *See id.* at 872–73.

34. DPS applicants do not review or complete this voter registration application, nor do they ever physically sign the application form. *See id.* And DPS acknowledged in previous litigation that the information it transmits to the Secretary's office includes only a “digital image” of the applicant's signature taken from DPS forms. App. to Pls.' Mot. for Summ. J. at 117, *Stringer v. Pablos*, No. 5:16-cv-00257-OLG (W.D. Tex. June 30, 2017), ECF No. 77-1. An applicant's wet-ink signature on DPS's physical forms is not used for any purpose in the voter registration process. *Id.* at 39; *see also Stringer*, 320 F. Supp. 3d at 873.

35. In short, the inconsistency between DPS's practices and the Wet Signature Rule for faxed and mailed registration applications demonstrates that the latter serves no legitimate governmental interest—let alone an interest sufficiently weighty to justify the added burdens on voting—and is entirely unrelated to any determination of an individual's eligibility to register to vote.

36. For some eligible Texans, the burdens caused by the Wet Signature Rule will be insurmountable. In order to register under the Wet Signature Rule, a voter needs access to a printer

to print and sign an application. If the voter lacks access to a printer, then they must wait for local officials or another third party to provide a physical copy of the form for them to sign. For many voters—such as those whose local officials choose not to distribute applications, who do not have access to registrar’s offices due to lack of transportation, or who live in rural areas outside the reach of third-party organizations—these options are insufficient and create unnecessary barriers to the franchise.

CLAIMS FOR RELIEF

COUNT I

52 U.S.C. § 10101; 42 U.S.C. § 1983 Violation of Section 1971 of the Civil Rights Act of 1964 Against All Defendants

37. Plaintiff realleges and reincorporates by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

38. Section 1971 of the Civil Rights Act of 1964 provides that

[n]o person acting under color of law shall . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2).

39. The Wet Signature Rule is immaterial to determining whether an elector is qualified to vote in Texas. In prior litigation involving the State’s voter registration procedures, the Secretary’s office admitted that “it never uses physical, manual, or wet ink handwritten signatures on paper for voter registration purposes.” *Stringer*, 320 F. Supp. 3d at 899. DPS utilizes electronic signatures for voter registration purposes. And Texas expressly permits election officials to collect electronic signatures for election day signature rosters.

40. Defendants' enforcement of the Wet Signature Rule will deprive Texans—including the voters that Plaintiff helps register—of the constitutional right to vote, as well as the rights secured to them by Section 1971 of the Civil Rights Act of 1964.

COUNT II

U.S. Const. Amends. I, XIV; 42 U.S.C. § 1983 Undue Burden on the Right to Vote Against all Defendants

41. Plaintiff realleges and reincorporates by reference all prior paragraphs of this Complaint and the paragraphs below as though fully set forth herein.

42. Under the First and Fourteenth Amendments to the U.S. Constitution, a state cannot utilize election practices that unduly burden the right to vote.

43. When addressing a challenge to a state election practice, a court balances the character and magnitude of the burden that the challenged practice imposes on any First and Fourteenth Amendment rights the plaintiff seeks to vindicate against the justifications offered by the state in support of the challenged law. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

44. “However slight th[e] burden may appear . . . it must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008) (controlling op.) (quoting *Norman v. Reed*, 502 U.S. 279, 288–89 (1992)).

45. The Wet Signature Rule imposes yet another logistical hurdle that eligible Texans must navigate to exercise their most fundamental right. In order to register, a voter must have access to a printer (to print and sign their applications form) or wait for their local officials or another third party to provide a physical copy of the form for them to sign—and then must mail their original application form to their county registrar.

46. These additional procedural hurdles imposed by the Wet Signature Rule cannot be justified by any legitimate state interest. Texas statutes already recognize electronic signatures as legally binding. *See Stringer*, 320 F. Supp. 3d at 895–96. And election officials are not expected to, and typically do not, analyze or compare signatures on voter registration applications. *See id.* at 874.

47. The Wet Signature Rule thus furthers no legitimate governmental interest. Consequently, the burden it imposes on voters—including the voters that Plaintiff helps register—violates the First and Fourteenth Amendments to the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment:

- a. Declaring that the Wet Signature Rule, as it appears in Section 14 of HB 3107 (amending Texas Election Code § 13.143(d-2)), and any other provisions requiring a voter to sign an application form with an original, wet signature in order to register to vote, violate Section 1971 of the Civil Rights Act of 1964 and the First and Fourteenth Amendments to the U.S. Constitution;
- b. Preliminarily and permanently enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to the Wet Signature Rule;
- c. Awarding Plaintiff its costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- d. Granting such other and further relief as the Court deems just and proper.

Dated: July 8, 2021.

Respectfully submitted,

/s/ John R. Hardin

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**Pro Hac Vice Application Forthcoming*

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,

Plaintiff

v.

Civil Action No. 5:21-cv-649-JKP-HJB

JACQUELYN CALLANEN, in her official
capacity as the Bexar County Elections
Administrator; BRUCE ELFANT, in his
official capacity as the Travis County Tax
Assessor-Collector; REMI GARZA, in his
official capacity as the Cameron County
Elections Administrator; Michael Scarpello,
in his official capacity as the Dallas County
Elections Administrator,

Defendants.

**TEXAS ATTORNEY GENERAL KEN PAXTON'S MOTION TO DISMISS AND FOR
JUDGMENT ON THE PLEADINGS PURSUANT TO FEDERAL RULES OF CIVIL
PROCEDURE 12(b)(1) AND 12(c)**

INTRODUCTION

Plaintiff Vote.org, an internet company promoting a smartphone app meant to process voter registration applications, asks the Court to enjoin recently enacted legislation in Texas clarifying when an original signature is required on a voter's application. House Bill 3107 (HB 3107) allows voters to submit a registration application through telephonic facsimile machine. *See* Tex. Elec. Code § 13.143(d-2). The new legislation clarifies that the registration is effective when the voter mails the original application form with the original signature. *See id.* Defendant-Intervenor Ken Paxton, in his official capacity as Attorney General of Texas (OAG), files this Motion to Dismiss and for Judgment on the Pleadings to defend the constitutionality of this duly enacted legislation from Plaintiff's jurisdictionally flawed attack. Plaintiff cannot establish standing to maintain this suit—it has no personal stake in the exercise of the franchise and it can allege no unconstitutional harm stemming from the County Defendants'¹ enforcement of HB 3107.

Moreover, each of Plaintiff's claims fails individually. Plaintiff cannot prevail on Count I because it does not have a private cause of action and because it does not allege that HB 3107 was racially motivated. Count II should be dismissed because HB 3107 is constitutional. It imposes, at most, a minimal burden on voters but advances weighty state interests in protecting the franchise. Additionally, while the law and our Constitution protect the rights of voters to register and cast a ballot, these guarantees do not afford Plaintiff's organization a right to suspend the signature requirement so that it may use its preferred technology in facilitating the registration of others.

For the reasons explained below, OAG respectfully requests that the Court dismiss Plaintiff's claims. *See* Fed. R. Civ. P. 12(b)(1), (c).

¹ For the sake of brevity, this term will refer collectively to County Defendants Jacquelyn Callanen, in her official capacity as the Bexar County Elections Administrator; Bruce Elfant, in his official capacity as the Travis County Tax Assessor-Collector; Remi Garza, in his official capacity as the Cameron County Elections Administrator; and Michael Scarpello, in his official capacity as the Dallas County Elections Administrator.

ARGUMENT

I. Legal Standard

A. Rule 12(b)(1)

Federal Rule of Procedure 12(b)(1) governs motions to dismiss for lack of subject-matter jurisdiction. Fed. R. Civ. P. 12(b)(1). When the court lacks the statutory or constitutional power to adjudicate a claim, the claim is properly dismissed for lack of subject-matter jurisdiction. *Hooks v. Landmark Indus., Inc.*, 797 F.3d 309, 312 (5th Cir. 2015). The party asserting jurisdiction bears the burden of proving jurisdiction exists. *Exelon Wind 1, L.L.C. v. Nelson*, 766 F.3d 380, 388 (5th Cir. 2014). If there is no subject-matter jurisdiction, the claim must be dismissed. Fed. R. Civ. P. 12(h)(3); *see also Home Builders Ass’n, Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998).

B. Rule 12(c)

Federal Rule of Procedure 12(c) allows a party to “move for judgment on the pleadings.” Fed. R. Civ. P. 12(c). A court may hear a party’s motion for judgment on the pleadings after the pleadings are closed. Fed. R. Civ. P. 12(c). The standard for deciding a Rule 12(c) motion is the same as the standard for evaluating a Rule 12(b)(6) motion to dismiss for failure to state a claim. *Vanderbrook v. Unitrin Preferred Ins. Co.*, 495 F.3d 191, 205 (5th Cir. 2007); *Martin v. City of Jersey Village*, No. 4:10-CV-2070, 2010 WL 5092811, at *1 (S.D. Tex. Dec. 7, 2010).

When considering a Rule 12(b)(6) motion to dismiss, a court must “accept the complaint’s well-pleaded facts as true and view them in the light most favorable to the plaintiff.” *Johnson v. Johnson*, 385 F.3d 503, 529 (5th Cir. 2004). “To survive a Rule 12(b)(6) motion to dismiss, a complaint ‘does not need detailed factual allegations,’ but must provide the plaintiff’s grounds for entitlement to relief—including factual allegations that when assumed to be true ‘raise a right to relief above the speculative level.’” *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). That is, “a complaint must contain sufficient factual matter,

accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570).

II. Plaintiff does not have Article III standing as to any defendant.

Plaintiff cannot establish standing to sue any defendant because it is a corporate party whose personal voting rights are not at stake and because a court order that affects only a limited slate of County Defendants will not redress a statewide harm. Because Plaintiff seeks prospective relief, it must establish an “imminent” future injury. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 564 (1992). The Supreme Court has “repeatedly reiterated that threatened injury must be *certainly impending* to constitute injury in fact.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013) (quotation omitted). Allegations of “an imminent injury” must be “[p]laintiff-specific.” *Stringer v. Whitley*, 942 F.3d 715, 722 (5th Cir. 2019). “[F]uture injury to others is irrelevant; plaintiffs seeking injunctive relief must show a continuing or threatened future injury to themselves.” *Id.* at 721.

The fundamental flaw in Plaintiff’s suit is that it depends on an allegation that the constitutional rights of third parties not before the Court are violated. “A claim of injury generally is too conjectural or hypothetical to confer standing when the injury’s existence depends on the decisions of third parties not before the court.” *Little v. KPMG LLP*, 575 F.3d 533, 540 (5th Cir. 2009). Plaintiff’s theory of standing depends on speculation because it presupposes, without corroboration, that a voter in Texas will attempt to use Plaintiff’s mobile phone app rather than visit a local governmental office, mail in a voter registration form, or register at the time of driver-license renewal, and that voters reside in areas where these alternatives are not easily available. *See* ECF 1 ¶ 18; *Little*, 575 F.3d at 540. This level of speculation is not enough to confer standing.

A. Plaintiff does not have organizational standing because it is not injured.

An organization lacks organizational standing unless it satisfies the same Article III requirements applicable to individuals: injury in fact, causation, and redressability. *See NAACP v. City*

of *Kyle*, 626 F.3d 233, 237 (5th Cir. 2010) (citing *Lujan*, 504 U.S. at 560–61). In an appropriate case, an organization can establish an injury in fact by showing that the challenged law conflicts with the organization’s mission and “perceptibly impair[s]” its activities. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982).

If an organization avoids the impairment of its activities by spending additional resources to combat the effects of the challenged law, then the “drain on the organization’s resources” may constitute an injury in fact. *Id.*; see *City of Kyle*, 626 F.3d at 238. But if the alleged effect of the challenged law on the plaintiff’s activities would not qualify as an injury in fact, the plaintiff’s reaction to the challenged law cannot qualify either. See *Elec. Privacy Info. Ctr. v. Presidential Advisory Comm’n on Election Integrity*, 878 F.3d 371, 379 (D.C. Cir. 2017) (“[A]ny resources [the organizational plaintiff] used to counteract the lack of a privacy impact assessment—an assessment in which it has no cognizable interest—were a self-inflicted budgetary choice that cannot qualify as an injury in fact.” (quotation omitted)). That is because a plaintiff “cannot manufacture standing by choosing to make expenditures based on” an alleged harm that does not itself qualify as an injury in fact. *Clapper*, 568 U.S. at 402.

Here, Plaintiff fails on both theories. It has not plausibly alleged that HB 3107 causes a cognizable injury in fact. And the reactions to HB 3107 do not qualify either.

1. Plaintiff has not plausibly alleged impairment of its activities or direct conflict with its mission.

To establish standing under an impairment theory, Plaintiff must plausibly allege both that HB 3107 makes its “activities more difficult” and that there is “a direct conflict between the defendant’s conduct and the organization’s mission.” *Nat’l Treasury Emps. Union v. United States*, 101 F.3d 1423, 1430 (D.C. Cir. 1996); see also *id.* at 1429 (requiring that the “action challenged” be “at loggerheads with the [plaintiff’s] stated mission”). Plaintiff has not done so here. As a result, “it is entirely speculative whether the defendant’s conduct is impeding the organization’s activities.” *Id.* at 1430.

Plaintiff does not allege that HB 3107 prohibits its activities. Nor could it. The statute does not prohibit working to assist voters in the registration process or “support[ing] low-propensity voters.” ECF 1 ¶ 17. The Complaint admits that voters can register if they have a printer or if they retrieve an application from their local government officials; the voter can then either hand deliver their application or mail it to the local registrar. *See id.* ¶¶ 36, 45. Contrary to Plaintiff’s assertions, common sense suggests a voter need not wait for an election official to personally deliver the voter a registration application if the voter lacks a printer. *See id.* ¶ 36. Plaintiff offers no reasons for why it cannot direct its outreach programs to facilitating these mechanisms in a way that complies with state law, but merely makes ungrounded assertions that it should be entitled to utilize any technology it wants in registering voters. *See id.* ¶¶ 18–20.

Recognizing this, Plaintiff instead relies on the contention that HB 3107 “prevent[s] Vote.org from making **full use** of one of its most effective tools, the e-signature function of its voter registration web application.” ECF 1 ¶ 20 (emphasis added); *accord id.* ¶¶ 18, 19. But there is no “direct conflict” between HB 3107 and Plaintiff’s mission. *Nat’l Treasury Emps. Union*, 101 F.3d at 1430.

In *National Treasury Employees Union*, a public-sector union wanted to challenge the Line Item Veto Act. *Id.* But the union’s “mission [wa]s to obtain improved worker conditions—a mission not necessarily inconsistent with the Line Item Veto Act.” *Id.* Thus, the union rested its standing on the possibility the President would use his line-item veto authority to affect benefits for government workers. The court found no standing: “For a myriad of reasons, a given President may be disinclined to exercise the item veto power as to government employee benefits.” *Id.* Such a speculative possibility could not be an injury in fact. *See Clapper*, 568 U.S. at 409.

The same is true here. HB 3107 is not in “direct conflict” with Plaintiff’s mission of voter outreach. Plaintiff does not allege that any of the voters it assists are unable to register. Indeed, Plaintiff conspicuously fails to allege that HB 3107 will cause it to be unable to help any prospective Texas

voter to register. Thus, Plaintiff cannot establish that the statute impairs its organizational activities or directly conflicts with its mission.

2. Plaintiff cannot establish standing based on diversion of resources.

Plaintiff cannot claim standing based on a diversion of resources. ECF 1 ¶ 17–20, 26–27, 36. “Not every diversion of resources to counteract the defendant’s conduct . . . establishes an injury in fact.” *City of Kyle*, at 626 F.3d at 238. The Fifth Circuit explained in *City of Kyle* that a redirection of resources involving litigation or legal counseling in response to the need to comply with the law is not necessarily sufficient to establish an injury in fact and, therefore, standing. *Id.* (citing *La. ACORN Fair Housing v. LeBlanc*, 211 F.3d 298, 305 (5th Cir. 2000); *Ass’n for Retarded Citizens of Dall. v. Dall. Cty. Mental Health & Mental Retardation Ctr. Bd. of Trs.*, 19 F.3d 241, 244 (5th Cir. 1994)). Showing that an organization has suffered a “drain on resources” is sufficient to establish standing when an organization’s staff has “stopped everything else” in order to “counter defendant’s conduct.” *ACORN*, 211 F.3d at 305 (quoting *Alexander v. Riga*, 208 F.3d 419, 427 (3rd Cir. 2000)).

Plaintiff’s allegation that it could not make “full use” of an e-signature registration tool that it “invested significant resources in developing and launching” does not establish an injury in fact under these principles. ECF 1 ¶ 18; *see City of Kyle*, at 626 F.3d at 238. First, the tangential impact HB 3107 is alleged to have on Plaintiff does not rise to the level of a “drain on resources” the Fifth Circuit has articulated is necessary to establish organizational standing. ECF 1 ¶ 20 (stating that Plaintiff cannot make “full use” of the registration tool, which leads to use of “more expensive (and less effective) means of achieving its voter registration goals in the State.”); *see City of Kyle*, at 626 F.3d at 238. Second, Plaintiff has “not identified any specific projects that [it] had to put on hold or otherwise curtail in order to respond to” HB 3107. *See City of Kyle*, 626 F.3d at 238. Vague references to the effect on “general nationwide operations” and “programs in other states” do not suffice. ECF 1 ¶ 20.

Moreover, the alleged effects of HB 3107 on Plaintiff's activities are not injuries in fact, so Plaintiff's reactions are not either. As discussed above, a plaintiff "cannot manufacture standing by choosing to make expenditures based on" an alleged harm that is not itself an injury in fact. *Clapper*, 568 U.S. at 402. That general principle applies with equal force to organizational standing. In *National Treasury Employees Union*, because the possibility that the President would line-item veto benefits for government workers was not an injury in fact, the union's reaction to that possibility was also not an injury in fact. 101 F.3d at 1430. "Absent a direct conflict between [the union's] mission and the Line Item Veto Act, we are unsure whether [the union's] additional expenditure of funds is truly necessary to improve the working conditions of government workers or rather is unnecessary alarmism constituting a self-inflicted injury." *Id.* Likewise, Plaintiff's inability to have its software tool work in the precise manner it would prefer does not constitute a legally cognizable injury. Accordingly, Plaintiff has failed to demonstrate organizational standing.

B. Plaintiff does not have associational standing because it lacks members.

To the extent Plaintiff seeks to establish standing as an association acting on behalf of individual members, that claim also fails to establish subject-matter jurisdiction in this Court. An association or organization claiming to act on behalf of others must satisfy the three part test articulated in *Lujan* to establish standing. *City of Kyle*, 626 F.3d at 237. Thus, Plaintiff must "identify members who have suffered the requisite harm" to establish injury in fact. *Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009); *see also City of Kyle*, 626 F.3d at 237 (requiring evidence of "a specific member"). Plaintiff does not describe itself as a membership organization, ECF 1 ¶¶ 17–20, and not having members is fatal to associational standing. *See Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 344 (1977) (requiring "indicia of membership in an organization" for associational standing); *City of Olmsted Falls v. FAA*, 292 F.3d 261, 267–68 (D.C. Cir. 2002) (holding a city could not assert associational standing because it did not have members). Plaintiff may work on behalf of individual

voters, but beneficiaries of a plaintiff's services do not qualify as members for associational standing. *See Ne. Ohio Coal. for Homeless v. Blackwell*, 467 F.3d 999, 1010 n.4 (6th Cir. 2006) (“[T]he Northeast Ohio Coalition for the Homeless apparently seeks to assert a form of representational standing never recognized by any court—standing on behalf of the group served by the organization.”); *id.* at 1013 (McKeague, J., concurring). Absent plausible allegations that HB 3107 will lead to the rejection of registration applications from identified members, Plaintiff cannot establish associational standing.

C. Plaintiff cannot show statutory standing because artificial entities do not have voting rights.

Even if Plaintiff had Article III standing, it would lack statutory standing. *See Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 128 n.4 (2014). Section 1983 provides a cause of action only when *the plaintiff* suffers “the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. It does not provide a cause of action to plaintiffs claiming an injury based on the violation of a *third party’s* rights. *See Coon v. Ledbetter*, 780 F.2d 1158, 1160 (5th Cir. 1986) (“[L]ike all persons who claim a deprivation of constitutional rights, [plaintiffs] were required to prove some violation of their personal rights.”).

Section 1983 “incorporates, but without exceptions, the Court’s ‘prudential’ principle that the plaintiff may not assert the rights of third parties.” David P. Currie, *Misunderstanding Standing*, 1981 Sup. Ct. Rev. 41, 45. When “[t]he alleged rights at issue” belong to a third party, rather than the plaintiff, the plaintiff lacks statutory standing, regardless of whether the plaintiff has suffered his own injury. *Danos v. Jones*, 652 F.3d 577, 582 (5th Cir. 2011); *see also Conn v. Gabbert*, 526 U.S. 286, 292–93 (1999) (holding that a lawyer “clearly had no standing” to bring a § 1983 claim for an injury he suffered as a result of “the alleged infringement of the rights of his client” because a plaintiff “generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties”).

Here, all of Plaintiff's claims depend on the right to vote. ECF 1 ¶¶ 25, 29, 35–36. But Plaintiff is an artificial entity without voting rights. Plaintiff claims it suffered injury in having to expend resources to comply with the law, but this injury is different in kind from that necessary to establish standing in a voting rights case. “[A] plaintiff who has been subject to injurious conduct of one kind [does not] possess by virtue of that injury the necessary stake in litigating conduct of another kind, although similar, to which he has not been subject.” *Nat’l Federation of the Blind of Tex., Inc. v. Abbott*, 647 F.3d 202, 209 (5th Cir. 2011) (quoting *Blum v. Yaretsky*, 457 U.S. 991, 999 (1982)); cf. *Vieth v. Pennsylvania*, 188 F. Supp. 2d 532, 546 (M.D. Pa. 2002) (“It goes without saying that political parties, although the principal players in the political process, do not have the right to vote.”). Plaintiff is necessarily asserting the rights of third parties and therefore cannot sue under § 1983. Because this follows from the statute itself, Plaintiff cannot invoke any prudential exceptions. See *Warth v. Seldin*, 422 U.S. 490, 514 (1975).

III. Plaintiff’s claims fail as a matter of law.

A. Plaintiff’s Section 1971 claim should be dismissed.

In Count I, Plaintiff contends that requiring a signature on a voter’s registration violates Section 1971 of the Civil Rights Act. This claim should be dismissed because Section 1971 cannot be enforced as a private right of action, even under Section 1983. The statute contains no indication that Congress intended to create either a private right or a private remedy, and the detailed remedial scheme Congress did provide is at odds with the enforcement procedures set out in Section 1983. However, even if there was a private cause of action, Plaintiff’s claim would still fail because only racially motivated deprivations of rights are actionable under Section 1971. *Broyles v. Tex.*, 618 F. Supp. 2d 661, 697 (S.D. Tex. 2009), *aff’d*, 381 Fed. Appx. 370 (5th Cir. 2010). But Plaintiff makes no allegations to that effect. The only reference to race contained in the Complaint concerns the actions taken by Plaintiff, not the State. Plaintiff therefore has failed to plead an element necessary for its claim to

proceed. The claim fails as a matter of law.

1. Plaintiff has not asserted an actionable claim under Section 1971.

Plaintiff has not met the necessary pleading requirements to qualify for relief for its Section 1971 claim. “[W]ell-settled law establishes that § 1971 was enacted pursuant to the Fifteenth Amendment for the purpose of eliminating racial discrimination in voting requirements.” *Broyles v. Tex.*, 618 F. Supp. 2d 661, 697 (S.D. Tex. 2009) (quoting *Ind. Democratic Party v. Rokita*, 458 F. Supp. 2d 775, 839 (S.D. Ind. 2006)). Accordingly, “only racially motivated deprivations of rights are actionable under 42 U.S.C. § 1971.” *Id.* Plaintiff’s Complaint, however, contains no allegations that HB 3107 (or the signature rule it clarified) was racially motivated. It only references race one time and that is in the context of describing Plaintiff’s mission. *See* ECF 1 ¶ 17 (stating that Plaintiff works “to support low-propensity voters, including racial and ethnic minorities and younger voters who tend to have lower voter-turnout rates”). Instead, Plaintiff argues that HB 3107 poses an obstacle to voters who lack access to a printer, particularly if they live in a rural community or if their local officials choose not to distribute applications. Even if this allegation was true—and it is not—the conduct would not be actionable under Section 1971. *See Kirksey v. City of Jackson*, 663 F.2d 659, 664 (5th Cir. 1981) (requiring discriminatory intent). The claim should be dismissed.

2. There is no private cause of action under Section 1971

The failure to identify actionable conduct under Section 1971 is but one of multiple deficiencies dooming Plaintiff’s claim. The claim also fails because Section 1971 does not create a private cause of action. Congress created a cause of action in Section 1971 for “the Attorney General,” not private plaintiffs. 52 U.S.C. § 10101(c). Plaintiff presumably relies on an implied cause of action, but that does not work either. As many courts recognize, Section 1971 did not create an implied cause of action. *See, e.g., McKay v. Thompson*, 226 F.3d 752, 756 (6th Cir. 2000) (“Section 1971 is enforceable by the Attorney General, not by private citizens.”); *Mixon v. State of Ohio*, 193 F.3d 389, 406 n.12 (6th

Cir. 1999); *Gilmore v. Amityville Union Free Sch. Dist.*, 305 F. Supp. 2d 271, 279 (E.D.N.Y. 2004); *Spivey v. State of Ohio*, 999 F. Supp. 987, 996 (N.D. Ohio 1998); *McKay v. Altobello*, No. 2:96-cv-3458, 1996 WL 635987, at *2 (E.D. La. Oct. 31, 1996); *Cartagena v. Crew*, No. 1:96-cv-3399, 1996 WL 524394, at *3 n.8 (E.D.N.Y. Sept. 5, 1996); *Willing v. Lake Orion Cmty. Sch. Bd. of Trustees*, 924 F. Supp. 815, 820 (E.D. Mich. 1996); *Good v. Roy*, 459 F. Supp. 403, 405–06 (D. Kan. 1978); *but see Schnier v. Cox*, 340 F.3d 1284, 1297 (11th Cir. 2003) (permitting plaintiff to bring a private cause of action via Section 1983).

This authority is in keeping with the modern approach to implied causes of action. In *Alexander v. Sandoval*, 532 U.S. 275, 287 (2001), the Supreme Court rejected the looser approach to implying causes of action prevalent in the 1960s. Today, “private rights of action to enforce federal law must be created by Congress.” *Id.* at 286. “The judicial task is to interpret the statute Congress has passed to determine whether it displays an intent to create not just a private right but also a private remedy.” *Id.* Unless Congress expresses that intent, “a cause of action does not exist and courts may not create one, no matter how desirable that might be as a policy matter, or how compatible with the statute.” *Id.* at 286–87. To be sure, federal courts have not always followed that strict approach. There was a time when federal courts “assumed it to be a proper judicial function to ‘provide such remedies as are necessary to make effective’ a statute’s purpose.” *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1855 (2017) (quoting *J.I. Case Co. v. Borak*, 377 U.S. 426, 433 (1964)). However, that time has passed. Since jettisoning the “*ancien regime*,” *id.* at 1855, the Supreme Court has “not returned to it.” *Sandoval*, 532 U.S. at 287; *see also Stokes v. Sw. Airlines*, 887 F.3d 199, 205 (5th Cir. 2018) (rejecting reliance “on pre-*Sandoval* reasoning”).

Yet, Section 1971 contains no indication of an intent to create a private right, much less a private remedy. The statute’s text is focused on the local official it regulates, not individual voters. *See* 52 U.S.C. § 10101(a)(2) (“No person acting under color of law shall . . .”). “Statutes that focus on the

person regulated rather than the individuals protected create no implication of an intent to confer rights on a particular class of persons.” *Sandoval*, 532 U.S. at 289 (quotation omitted). Section 1971 “is framed in terms of the obligations imposed on the regulated party” (the local official) while voters are “referenced only as an object of that obligation.” *Logan v. U.S. Bank Nat’l Ass’n*, 722 F.3d 1163, 1171 (9th Cir. 2013); *see also Conservation Force v. Delta Air Lines, Inc.*, 190 F. Supp. 3d 606, 616 (N.D. Tex. 2016), *aff’d*, 682 F. App’x 310 (5th Cir. 2017) (holding that under *Sandoval*, the Air Carrier Access Act does not imply a private right of action).

Indeed, although Section 1971 refers to “the right of any individual to vote in any election,” 52 U.S.C. § 10101(a)(2)(B), it does not contain any “rights-creating” language.” *Sandoval*, 532 U.S. at 288. The right to vote to which Section 1971 refers is based on rights created by virtue of *state* law. *See, e.g., Rodriguez v. Popular Democratic Party*, 457 U.S. 1, 9 (1982). Even if Section 1971 referred to federal rights created elsewhere, *see, e.g., U.S. Const. amend. XV*, such a reference would not transform Section 1971 itself into a rights-creating provision. Thus, Section 1971 does not create a federal right “in clear and unambiguous terms,” *Gonzaga Univ. v. Doe*, 536 U.S. 273, 290 (2002), meaning that Plaintiffs cannot bring a private cause of action.

Additionally, Section 1971 does not create private remedies. It instead authorizes the Attorney General to bring suit. *See* 52 U.S.C. § 10101(c). Plaintiff attempts to get around this limitation by dressing up their Section 1971 claim in the trappings of Section 1983, but this does not work. Congress provided a detailed remedial scheme in Section 1971 that is inconsistent with Section 1983 suits. For example, procedural protections like the ability to request a three-judge district court in Section 1971 suits are not available under Section 1983. *See* 52 U.S.C. § 10101(g). “Courts should presume that Congress intended that the enforcement mechanism provided in the statute be exclusive.” *Alsbrook v. City of Maumelle*, 184 F.3d 999, 1011 (8th Cir. 1999) (en banc); *see also Sandoval*, 532 U.S. at 290 (“The

express provision of one method of enforcing a substantive rule suggests that Congress intended to preclude others.”).

The main case holding otherwise, *Schwier v. Cox*, does not grapple with *Sandoval* and makes other errors besides. 340 F.3d 1284, 1297 (11th Cir. 2003). First, the *Schwier* court limited its *Sandoval* analysis to a “see also” citation and emphasized legislative history. *See* 340 F.3d at 1295–96. But as Judge Lynn has explained, *Sandoval* requires that “[l]egislative history and contemporaneous legal context [be] eschewed in favor of plain language interpretation.” *Conservation Force v. Delta Air Lines, Inc.*, 190 F. Supp. 3d 606, 615 (N.D. Tex. 2016), *aff’d*, 682 F. App’x 310, 311 (5th Cir. 2017) (per curiam) (affirming “[e]ssentially for the reasons stated in the district court’s comprehensive and well-reasoned opinion”). And plain language of Section 1971 does not create a federal right. *See Gonzaga Univ.*, 536 U.S. at 290. Section 1971 at most references a preexisting right, which is not “‘rights-creating’ language.” *See Sandoval*, 532 U.S. at 288–90.

Second, *Schwier* relies on the repudiated reasoning from *Allen v. State Bd. of Elections*, 393 U.S. 544 (1969). *See Schwier*, 340 F.3d at 1294. *Allen* exemplifies the methodology the Supreme Court has abandoned in favor of “a far more cautious course before finding implied causes of action.” *Ziglar*, 137 S. Ct. at 1855. It is thus no longer the courts’ job to “provide such remedies as” it deems “necessary to make effective a statute’s purpose effective,” *id.* (internal quotation marks omitted), as the court in *Allen* and *Schwier* sought to accomplish. The very premise off which *Allen*, *Schwier*, and *Schwier*’s progeny builds their findings is in error. *See, e.g., Tex. Democratic Party v. Hughes*, 474 F. Supp. 3d 849, 859 (W.D. Tex. 2020), *rev’d and remanded*, 860 F. App’x 874 (5th Cir. 2021).

B. HB 3107 is constitutional under *Anderson-Burdick*

The crux of Plaintiff’s claim in Count II is that asking a voter to put pen to paper when registering to vote is simply too much under our Constitution and that voters have a fundamental right to sign their applications electronically. Neither case law nor common experience supports that

view. Requiring an ink signature is not a “new” phenomenon the State of Texas invented on its own. People are asked to physically sign documents to accomplish a myriad of everyday tasks, including by this Court.² It is not a serious inconvenience. *See Lemons v. Bradbury*, 538 F.3d 1098, 1104 (9th Cir. 2008) (holding that a system analyzing voters’ signatures imposed “only a minimal burden”). Moreover, the requirement advances weighty state interests that more than outweigh any *de minimis* burden experienced by voters. The rule is therefore constitutional under the *Anderson-Burdick* rubric.

1. Any burden imposed on voters is minimal if that.

“Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; ‘as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.’” *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)). For this reason, the Supreme Court has implemented a sliding-scale framework that governs the level of scrutiny applied to “constitutional challenges to specific provisions of a State’s election laws” under “the First and Fourteenth Amendments.” *Richardson v. Tex. Sec’y of State*, 978 F.3d 220, 234 (5th Cir. 2020) (cleaned up) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 798 (1983)).

The framework has three parts but effectively it requires courts to balance “the character and magnitude of the asserted injury” to the rights the plaintiff seeks to vindicate against “the precise interests put forward by the State as justifications” for the challenged rule, all while taking into consideration “the extent to which those interests make it necessary to burden the plaintiff’s rights.” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). When a state election law imposes only

² The United States District Court for the Western District of Texas requires that any pleading or motion that adds or seeks to add a new party must be filed traditionally, which includes an original signature. *See* United States District Court, Western District of Tex., Administrative Policies & Procedures for Electronic Filing in Civil & Criminal Cases §5(a), available at <https://bit.ly/3GONQDI>.

“reasonable, nondiscriminatory restrictions” upon the First and Fourteenth Amendment rights of voters, “the state’s important regulatory interests are generally sufficient to justify” the restrictions. *Anderson*, 460 U.S. at 788. The State, after all, has considerable power “to engage in ‘substantial regulation of elections’ to ensure that elections are well run. *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 394 (5th Cir. 2013) (quoting *Storer*, 415 U.S. at 730).

In this case, the challenged law, HB 3107, does not encroach on the right to vote whatsoever, and even if it did, the law survives *Anderson-Burdick* review because any burden is miniscule. The Constitution does not include a freestanding right to for individuals to register to vote in whatever manner they or Plaintiff deem most convenient. When considering a challenge to the limited availability of absentee ballots, the Supreme Court distinguished “the right to vote” from the “claimed right to receive absentee ballots.” *McDonald v. Bd. of Election Comm’rs of Chi.*, 394 U.S. 802, 807 (1969). It concluded that the plaintiffs’ inability to vote by mail did not implicate the right to vote because it did not “preclude[] [the plaintiffs] from voting” via other methods. *Id.* at 808. The same reasoning applies here, as Texas provides voters with multiple methods by which to register. Registering to vote via a telephonic facsimile machine is but one.

As per the Election Code, any “person desiring to register to vote” can submit his or her application to the county registrar by personal delivery, by mail, or by fax machine. Tex. Elec. Code § 13.002(a). If the person needs assistance, the applicant has the option of appointing an agent to submit the application on his behalf pursuant to § 13.003. Further, the Election Code designates certain government offices to act as “voter registration agencies,” including the Department of Public Safety (DPS), the Health and Human Services Commission, and public libraries. *Id.* § 20.001. Each of these offices “shall provide a voter registration application form to each” qualified individual “in connection with the person’s application for initial services” and “any recertification, renewal, or change of address, unless the person declines in writing.” *Id.* at § 20.031. If the voter utilizes the

service, then the office “shall deliver to the voter registrar . . . each completed registration application.” *Id.* § 20.35.

Because the challenged statute does not affect voters’ numerous other options for registering to vote it does not affect the “right to vote,” only the “claimed right” to utilize a specific web application developed by Plaintiff. *See McDonald*, 394 U.S. at 807. Indeed, if anything, HB 3107 helps *expand* voters’ ability to register. The fax machine option only exists because Texas recognizes that voters may need to register or update their information close to an election deadline. The State therefore allows voters to submit their application in a way that avoids any incidental delays, before expecting voters to complete the remaining registration requirement—i.e., providing a wet signature. *See* Tex. Elec. Code § 13.143 (measuring a registration’s effective date from the date the transmission is received by the registrar). Accordingly, the challenged provision represents a limited exception to the default rule that individuals, not utilizing the services of a voter registration agency, provide their original signature at the time they initially submit their application. It is an accommodation, not a restriction.

However, even if this Court disagreed, there is no reason to suspect that voters will be unable to register to vote. Signature requirements are a familiar aspect of modern life that Texans are well equipped to navigate, especially in light of the numerous application methods Texas affords voters. The most Plaintiff offers to the contrary is an improbable hypothetical where a voter not only lacks a printer, but also has no access to the registrar’s office and lives in an area where local officials and third-party organizations refuse to distribute ballots. But even accepting those facts as true, the voter would still have the option of visiting the Secretary of State’s website and requesting a postage-page application be sent to the voter’s residence, among other options. *See Request for Voter Registration Applications*, TEXAS SECRETARY OF STATE, <https://www.sos.state.tx.us/elections/voter/reqvtr.shtml> (last visited Nov. 5, 2021).

Also, Plaintiffs conflate the *burden of complying* and the *consequence of not complying*. Under *Anderson-Burdick*, the former matters; the latter does not. *See Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 198 (2008) (lead opinion) (analyzing the burden on voters of obtaining identification rather than the consequence of attempting to vote without identification); *id.* at 209 (Scalia, J., concurring in the judgment) (same). That is why the Supreme Court has always analyzed “the magnitude of burdens . . . categorically and [has] not consider[ed] the peculiar circumstances of individual voters or candidates.” *Id.* at 206. To the extent HB 3107 imposes a burden, that burden is uniform and *de minimis*: to register to vote, one must physically sign the application. It poses no real barrier to an individual who wants to vote.

2. The State’s interests more than justify the supposed burden placed on voters.

Because HB 3107 imposes only minimal, non-discriminatory burdens if any, the statute is subject to relaxed scrutiny. *See Burdick*, 504 U.S. at 434. Texas therefore need only point to a “legitimate state interest[]” to justify HB 3107 under the *Anderson-Burdick* test. *Tex. Indep. Party v. Kirk*, 84 F.3d 178, 184 (5th Cir. 1996). Texas meets this requirement easily, as the weighty and compelling interests advanced by this rule justify HB 3107 under any level of scrutiny.

First, HB 3107 helps maintain accurate voting rolls and combat fraud. *See Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2340 (2021).

One strong and entirely legitimate state interest is the prevention of fraud. Fraud can affect the outcome of a close election, and fraudulent votes dilute the right of citizens to cast ballots that carry appropriate weight. Fraud can also undermine public confidence in the fairness of elections and the perceived legitimacy of the announced outcome.

Id. Inaccuracies in voter registration are a serious problem: “It has been estimated that 24 million voter registrations in the United States—about one in eight—are either invalid or significantly inaccurate.” *See Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833, 1838 (2018). “Any corruption in voter registration affects a state’s paramount obligation to ensure the integrity of the voting process and threatens the

public's right to democratic government." *Steen*, 732 F.3d at 394. Accordingly, Texas has a weighty "interest in preventing voter registration fraud," *id.* at 394–95, and other inaccuracy-causing conduct.

Requiring an original signature is a stronger and more certain method to guarantee the signature's authenticity—and thereby, the applicant's identity—than an electronic signature. That is so because it is harder to forge an individual's handwritten signature than it is to copy a previously-executed electronic signature or to use software to generate such a signature. Requiring a signature also impresses upon the applicant the importance of providing accurate information. And because a signature could be used against a fraudster, HB 3107 both deters fraud and assists law enforcement in detecting and prosecuting that fraud.

Plaintiff argues that the use of electronic signatures by DPS somehow invalidates the interest explained above. *See* ECF 1 ¶¶ 7–8, 32–35. But the argument is plainly erroneous because it fails to recognize the glaring reason why the safeguards implemented in these two circumstances differ. When someone registers through DPS, the applicant appears in person and has with him documentation that verifies his identity. The pertinent employee can readily determine that the applicants are who they say they are. The same is not true when an applicant registers via fax machine, much less a web application where a third party submits the application on the applicant's behalf.

Second, Texas has an interest in maintaining the solemnity of voter registration. The right to vote has been called "sacred." *Trustees of Dartmouth Coll. v. Woodward*, 17 U.S. (4 Wheat.) 518, 701 (1819); *Save Our Aquifer v. City of San Antonio*, 237 F. Supp. 2d 721, 727 (W.D. Tex. 2002). The exercise of a sacred right should be undertaken seriously, not casually. The State's signature requirement helps impress upon would-be voters the serious nature of the rights and obligations connected to voting. People are accustomed to important events requiring signatures. An application for a marriage license must be signed in person. *See* Tex. Fam. Code § 2.002(5). Purchasing a home often requires in-person signatures, and the same is true for consenting to a medical procedure. Requiring that kind of signature

sets the activity apart from routine events, such as online transactions that require only an electronic “signature” like clicking “I agree” to various unread terms and conditions.

In light of these interests, HB 3107 is constitutional under the *Anderson-Burdick* framework. Plaintiff’s claim that the wet-signature requirement violates the First and Fourteenth Amendments clearly lacks merit. The Court should enter judgment on the pleadings and dismiss that claim.

CONCLUSION

For each of the foregoing reasons, Plaintiff’s claims should be dismissed.

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Date: November 9, 2021

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2021 a true and correct copy of the foregoing document has been sent by electronic notification through ECF by the United States District Court, Western District of Texas, San Antonio Division, to:

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,

Plaintiff,

v.

JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; REMI GARZA, in his official capacity as the Cameron County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas, LUPE TORRES, in his official capacity as Medina County Elections Administrator; TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

Intervenor-Defendants.

Civil Action

Case No. 5:21-cv-649-JKP-HJB

DECLARATION OF DR. LISA A. BRYANT

I, Dr. Lisa Bryant, declare the following:

1. Attached is a true and accurate copy of my Expert Report signed and dated December 13, 2021.
2. If called as a witness, I will testify truthfully to the expert opinions and conclusions offered in my Expert Report and the bases for those opinions, all of which are matters within my personal knowledge.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based on my information and understanding.

Executed on April 8, 2022.

A handwritten signature in black ink, appearing to read "Lisa A. Bryant".

Dr. Lisa Bryant

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EXPERT REPORT

Vote.org

v.

Jacquelyn Callanen, et al.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION
Case No: 5:21-cv-649

December 13, 2021

A handwritten signature in black ink, reading "Lisa A. Bryant". The signature is written in a cursive, flowing style. A diagonal watermark "RETRIEVED FROM DEMOCRACYDOCKET.COM" is visible across the signature.

Lisa A. Bryant, Ph.D.

STATEMENT OF INQUIRY

I have been retained as an expert by Elias Law Group LLP, counsel for Plaintiff Vote.org to examine whether the Wet Signature Rule, as defined in Plaintiff's Complaint, burdens the right to vote for citizens of Texas. I am being compensated at the rate of \$200 per hour. My compensation is in no way contingent on the results of my analysis.

SUMMARY OF OPINIONS

I reviewed Texas House Bill 3107 (HB 3107), which became law on June 15, 2021 and went into effect on September 1, 2021. HB 3107 made multiple changes to the State's election code, including amending Section 13.143(d-2), which requires that registration applications submitted via telephonic facsimile must be accompanied by an original paper registration application that contains an "original" signature in order to be considered a valid, successful registration. Furthermore, the original application containing the wet signature must be received by the registrar no later than the fourth business day after the facsimile (fax) is received.

I reviewed the State's voter registration data, discovery responses and pleadings filed in this matter, including the applications of those who attempted to register to vote in 2018 using an electronic signature, and census data for the state of Texas.¹ Additionally, I am drawing upon my expertise and training as a scholar of election administration and voter participation.

It is my considered opinion that the Wet Signature Rule codified in House Bill 3107 increases the costs of registering to vote and burdens Texas voters by requiring them to submit registration applications with a pen-ink or "wet" signature, adding unnecessary resource-intensive steps to the registration process. This burden disproportionately falls on younger, lower-income, and minority voters who are more likely to be smartphone dependent and have limited access to computers or other devices or office equipment that would facilitate compliance with the wet signature rule. Accepting applications with electronic signatures will reduce the registration costs or burdens some of these groups already face.

BACKGROUND AND QUALIFICATIONS

I am an Associate Professor of Political Science at California State University, Fresno. I earned my PhD in political science at the University of New Mexico in 2014. I have been employed by California State University, Fresno since 2014 and received tenure and promotion to Associate Professor in 2020. My curriculum vitae, including publications and reports with organizations, is attached as Appendix A.

I study American politics and within the subfield, my areas of expertise are in election administration, political behavior, gender and representation, public opinion, and survey and experimental methodology. I teach courses on these topics at the undergraduate and graduate

¹ I use the term electronic signature throughout this report to indicate an electronic, digital, or imaged signature used with the intent to sign a document or record.

levels. I am the author of ten peer-reviewed journal articles and book chapters. My articles have appeared in top journals in my field, such as *Electoral Studies*, *American Politics Research*, *Political Behavior*, and *Publius: the Journal of Federalism*. I have also written five invited book chapters or encyclopedia entries, and over a dozen professional papers and reports. I am first author on a book under contract at New York University Press, *Working Parents Represent: How Parenthood Influences the Legislative Agenda of Mothers in Congress*, with my co-author Julia Marin Hellwege. I currently serve on the editorial board of two peer-reviewed research journals: *Political Methodology* and the *Journal of Election Administration Research*, of which I am an inaugural board member. I am a member of the American Political Science Association and the Midwestern Political Science Association and have been active in the profession, serving as the section organizer for the Civic Engagement Division of APSA and a board member of the Midwest Women's Caucus for Political Science. I have given over 50 presentations at various conferences. In 2021, I was co-chair and co-program organizer of the Election Science, Reform, and Administration Conference (ESRA) and I was identified and invited to be listed as an expert in election sciences by the MIT Election Data and Science Lab (MEDSL).

I have particular expertise in election administration, and specifically on voter registration, voter confidence and voter mobilization. I have two publications based on large scale voter registration efforts where I partnered with state election officials and the nonpartisan Election Registration Information Center (ERIC) and the Pew Charitable Trusts, also a nonpartisan organization. In my peer-reviewed article with Christopher B. Mann, PhD, we partnered with chief election officials in Delaware and Oregon and identified eligible but unregistered citizens using ERIC data. Once identified, we contacted them via direct mail notifying them of their eligibility and providing instructions on how to register. I used a similar approach in my study with Michael Hanmer, PhD where we partnered with the Pennsylvania Department of State to conduct the largest nonpartisan outreach to eligible but unregistered citizens by state officials, reaching out to nearly 2.4 million unregistered citizens.² As a result of my extensive work using ERIC data, I was asked to be on ERIC's research advisory board.³

In graduate school, I worked with Dr. Lonna Atkeson for 6 years to develop the first ecosystems approach to studying elections. I directly contributed to conducting statewide election observations, fielding voter and poll worker surveys, and analyzing the data. I also contributed to multiple executive reports summarizing the observations with both qualitative and quantitative data and making recommendations to improve the election experience. I spent a summer shadowing all of the positions in the Bernalillo County Clerk's Office to learn the voter registration system and write procedures for the office. I also helped develop procedures for election audits in New Mexico and wrote a chapter in the book *Confirming Elections*, edited by R. Michael Alvarez, Lonna Rae Atkeson, and Thad Hall. Lastly, I am frequently contacted by journalists seeking information about elections, voter registration, voter behavior, and campaigns, and have been interviewed and quoted by several national media outlets including *The New York Times*, *Los Angeles Times*, and *NPR*.

² Due to language requirements under provisions of the Voting Rights Act, outreach was done in English and Spanish in Pennsylvania.

³ Serving on the advisory board precludes me from continuing research with ERIC data because it could present a conflict of interest.

MATERIALS REVIEWED

To establish an expert opinion in this case, I reviewed a variety of materials from academic, governmental, legal, marketing, and media sources. Building on my existing knowledge, experience, and expertise, I consulted scholarly literature on voter registration and the cost of voting. I also reviewed literature on access to and the use of technology, and the use of electronic signatures in legal documents and in voter registration procedures, specifically. My review also included data sources obtained through a records request and discovery responses in this case. Finally, I relied on data and statutes made publicly available by various agencies and counties in Texas and on Census data made available by the federal government. I make note of those sources throughout the report and they are listed in Appendix B.

DISCUSSION

The Calculus of Voting

The likely effects of HB 3107 may best be understood using the “calculus of voting.” The calculus of voting is the dominant theoretical framework used by scholars to study voter turnout. In this theory, which was originated by Anthony Downs in his 1957 book, *An Economic Theory of Democracy*, researchers attach costs to the various acts required to vote. There is a general understanding that voting is considered to be a time consuming and costly activity and a person will only vote if the benefits outweigh the costs. Because the odds of one person’s vote being the deciding vote in any election are miniscule, the best way to increase turnout is to decrease the costs that are associated with voting. The voting process requires multiple steps and each comes with an associated cost. A voter must research candidates and issues, which takes time. A voter must go to the voting center on or before Election Day. This requires time, transportation, and knowledge of voting locations and policies. With the exception of North Dakota, a citizen must register to vote before they can cast a ballot.⁴ Registration is often considered one of the heaviest burdens or highest cost activities a citizen must overcome in the voting process. In fact, in the 2020 Cost of Voting in the American States Index, five of the nine factors considered in the cost equation are related to registration.⁵ The Cost of Voting Index (COVI) considers state election laws that systematically influence the cost of voting. A state’s composite score, or index value, represents the totality of time and effort associated with casting a vote in that state. Findings indicate that turnout is lower in states with higher index values, or states where it is more costly to vote.⁶

Under the calculus or cost of voting theory, time, resources, and activities are all required to overcome the administrative requirements and barriers to registering to vote and casting a ballot.

⁴ North Dakota is the only state that does not require voter registration.

⁵ Scot Schraufnagel, Michael J. Pomante II, and Quan Li. 2020. “Cost of Voting in the American States: 2020 | Election Law Journal: Rules, Politics, and Policy.” *Election Law Journal: Rules, Politics, and Policy*. <https://www.liebertpub.com/doi/10.1089/elj.2020.0666>.

⁶ Li, Quan, Michael J. Pomante, and Scot Schraufnagel. “Cost of voting in the American states.” *Election Law Journal: Rules, Politics, and Policy* 17, no. 3 (2018): 234-247.

This cost of the registration burden is not the same for all Americans, due to differences in both geography (i.e., state policies) and personal resources. Election administrators have the power to control the costs through policy and many jurisdictions have been actively reducing costs and trying to eliminate burdens to voters.

Texas is ranked 50th in the 2020 COVI, indicating it has the most restrictive electoral climate or highest costs associated with voting.⁷ Requiring a registration application that contains an original wet signature (even when a copy of the voter registration application has already been submitted via telephonic facsimile) adds additional administrative burdens. Requiring receipt of the wet signature copy within four business days of the original facsimile submission further increases these costs.

Previous research on voter turnout finds that many citizens report not participating in elections due to the complexities of the registration process.⁸ According to a recent study on the cost of voting in the United States, the decentralized and dynamic nature of election laws creates considerable confusion for American voters.⁹ Issues such as lack of knowledge about state registration policies, where to get registration forms, or state registration deadlines are key reasons for not registering.¹⁰ The burden of registration can be reduced through policies such as allowing online voter registration (OVR), moving registration deadlines closer to Election Day, automatic voter registration (AVR), same day registration (SDR), and opt-out rather than opt-in registration policies through the DMV.^{11,12} Registration can also be made more complicated and burdensome through policies, such as requiring registration be completed using only paper forms, requiring additional documents such as copies of birth certificates or identification cards be included with a mailed registration form, requiring citizens to present documents or applications in person prior to Election Day, or placing registration deadlines well before Election Day. Requiring multiple steps to register to vote, such as allowing a voter to complete a voter form online, but then also requiring they print, sign again, and mail the form to the local election officials creates an additional burden or cost increase, which can lead to decreased registration attempts and fewer successful registrations.

⁷ Ibid.

⁸ Merivaki, Thessalia and Daniel A. Smith. (2020) “Challenges in Voter Registration.” *The Future of Election Administration*, 59–82. https://doi.org/10.1007/978-3-030-14947-5_5; Merivaki, Thessalia. 2021. *The Administration of Voter Registration, Expanding the Electorate Across and Within the States*. Palgrave.

⁹ Schraufnagel, Scot, Michael J. Pomantee II, and Quan Li. 2020. “Cost of Voting in the American States: 2020 | Election Law Journal: Rules, Politics, and Policy.” *Election Law Journal: Rules, Politics, and Policy*. <https://www.liebertpub.com/doi/10.1089/elj.2020.0666>.

¹⁰ Merivaki, Thessalia. (2018). “Access denied? Investigating voter registration rejections in Florida.” *State Politics & Policy Quarterly*, 19(1), 53-82.

¹¹ Brians, Craig Leonard, and Bernard Grofman. 2001. “Election Day Registration’s Effect on U.S. Voter Turnout.” *Social Science Quarterly* 82(1): 170–83. <https://onlinelibrary.wiley.com/doi/abs/10.1111/0038-4941.00015>.

¹² Opt-in refers to the process of offering voter registration to citizens when they obtain a driver’s license or other government service, allowing them to “opt-in” to being a registered voter. Opt-out means that citizens will be registered to vote unless they indicate they do not want to be, requiring them to “opt-out” of being a registered voter.

It is well documented by over 40 years of research that the burdens of voter registration can both prevent people from registering and depress turnout. Powell (1986) found that registration requirements also help explain why education and income are strongly correlated with lower voter turnout in the U.S., but not in other democracies. Wolfinger and Rosenstone (1980) estimated that registration requirements decrease turnout by approximately 9 percentage points, while Powell (1986) found it might be as high as 14 percentage points. Mitchel and Wlezian (1995) found a decrease of 7.6 percentage points, while Burden and Neiheisel (2013) found a negative effect of only 2 percentage points.¹³ Although the effect sizes vary widely due to the cross-sectional nature of the studies and changes in policies over time, they are consistent in their findings that registration requirements are linked to a decrease in turnout and that “voter registration arrangements . . . carry much of the burden of sustaining a system of limited electoral participation.”¹⁴

It is important to note that these effects are not felt equally across groups. The registration requirement has been found to reduce participation rates among disadvantaged groups based on income, education, race, ethnicity, age, and English language proficiency.¹⁵ Research shows that young people who are inexperienced with the registration process, people who rent rather than own, and those who have moved between elections may be more impacted by voter registration requirements than others.¹⁶ Looking at the existing research on each of these groups helps us better understand the burdens they already face in the voting process and will help us understand how a wet signature or printing requirement could increase their cost of voting even more.

A. Young voters

It is well known that young people are among the least likely to be registered to vote, though there are some signs that has been changing in recent years. According to CIRCLE, an organization

¹³ Wolfinger, Raymond E., and Steven J. Rosenstone. 1980. *Who votes?* Yale University Press.; Powell, G. Bingham. 1986. "American voter turnout in comparative perspective." *American Political Science Review* 80, no. 1: 17-43.; Mitchell, Glenn E., and Christopher Wlezien. 1995. "The impact of legal constraints on voter registration, turnout, and the composition of the American electorate." *Political behavior* 17, no. 2: 179-202.; Burden, Barry C., and Jacob R. Neiheisel. 2013. "Election administration and the pure effect of voter registration on turnout." *Political Research Quarterly* 66, no. 1: 77-90.

¹⁴ Piven, Frances Fox and Richard A. Cloward. (1988) *Why Americans Don't Vote*. Pantheon. (Quoted material appears on page 21.)

¹⁵ Ritter, Michael and Caroline J. Tolbert. 2021. *Accessible Elections: How the States Can Help Americans Vote*. Oxford.

¹⁶ Hill, Charlotte. 2020. "Young People Face Higher Voting Costs and Are Less Informed about State Voting Laws."; Merivaki, Thessalia. 2021. *The Administration of Voter Registration, Expanding the Electorate Across and Within the States*. Palgrave.; Squire, Peverill, Raymond E. Wolfinger, and David P. Glass. "Residential mobility and voter turnout." *American Political Science Review* 81, no. 1 (1987): 45-65; Jiang, Boqian. "Homeownership and voter turnout in us local elections." *Journal of Housing Economics* 41 (2018): 168-183; Kim, Seo-young Silvia. 2021. "Automatic Voter Registration as a Housewarming Gift: Quantifying Causal Effects on Turnout Using Movers." <https://preprints.apsanet.org/>; Plutzer, E. (2002). "Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood." *American Political Science Review*, 96(1), 41–56.; Bergan, Daniel E., Dustin Carnahan, Nazita Lajevardi, Mel Medeiros, Sarah Reckhow, and Kjerstin Thorson. "Promoting the youth vote: The role of informational cues and social pressure." *Political Behavior* (2021): 1-21.

that studies youth participation at Tufts University, there was an 11% increase in turnout among 18- to 29-year-olds between 2016 and 2020.¹⁷ Even with this increase in participation, young voters still experience a higher cost associated with registration and participation than other voters.

In one of the most thorough examinations to date about the cost of voting among young voters, Charlotte Hill finds that youth are less informed about the voting process, including voter registration policies and requirements, and are more likely than older voters to report that voter registration and voting are difficult.¹⁸ Young voters struggle to find time to vote to a greater extent than older voters due to school and work, and have to balance tradeoffs between voting and earning money more often than older voters. They also face greater transportation issues. In points that directly relate to HB 3107, young voters have greater difficulty with aspects of the voting process that cannot be completed online and disproportionately find voting by mail to be confusing and difficult.¹⁹ Young people are also more likely to be smartphone dependent, which makes printing documents difficult and less likely (this is discussed more in the section on Smartphone Reliance and Printer Access section of the report). A wet signature requirement imposes a disparate burden on young voters who are less likely to use mail and who already find the registration process difficult and cumbersome.

Furthermore, voters are required to re-register to vote after each move unless they live in a state with automatic voter registration, and research finds that this is a “key stumbling block in a trip to the polls” for many individuals and reduces voter registration rates.²⁰ Moving is one of the most common reasons people provide when asked why they are not registered to vote.²¹ Estimates show that as much as 10% of the population moves each year, with young people and low-income individuals being far more likely to move than their older counterparts.²² Young people between the ages of 18 and 29 move more than twice as frequently as those over 30.²³ Scholars have called this a life-cycle effect with clear ramifications for voting behavior.²⁴

¹⁷ “Half of Youth Voted in 2020, an 11-Point Increase from 2016.” 2021. Tufts.edu. <https://circle.tufts.edu/latest-research/half-youth-voted-2020-11-point-increase-2016> (Accessed December 5, 2021).

¹⁸ Hill, Charlotte. 2020. “Young People Face Higher Voting Costs and Are Less Informed about State Voting Laws.” Working paper available at: https://youngamericans.berkeley.edu/wpcontent/uploads/2020/08/Hill_BIFYA_Working_Paper_08_08_2020.pdf.

¹⁹ Ibid.

²⁰ Squire, Peverill, Raymond E. Wolfinger, and David P. Glass. 1987. “Residential Mobility and Voter Turnout.” *American Political Science Review* 81(1): 45–65.

²¹ Merivaki, Thessalia. 2021. *The Administration of Voter Registration, Expanding the Electorate Across and Within the States*. Palgrave.

²² US Census Bureau. 2018. “CPS Historical Geographical Mobility/Migration Graphs.” <https://www.census.gov/library/visualizations/time-series/demo/historic.html>

²³ US Census Bureau. 2016. “Geographical Mobility: 2015 to 2016.” <https://www.census.gov/data/tables/2016/demo/geographic-mobility/cps-2016.html>.

²⁴ Ansolabehere, Stephen, Eitan Hersh, and Kenneth Shepsle. 2012. “Movers, Stayers, and Registration: Why Age Is Correlated with Registration in the U.S.” *Quarterly Journal of Political Science* 7(4): 333–63.

Let us consider how the Wet Signature Rule might impact a young, unregistered Texan who wants to exercise their right to vote. What might that process look like and what are the costs associated with it?

Because they are unfamiliar with the Texas policies, they must first navigate the administrative complexities of figuring out how to register in Texas and determine when and if there is a registration deadline. As a young person, they are likely to go online to find this information, and Google how to register to vote in Texas. Research shows young people are much more likely to use the internet to find information rather than calling or traveling to a location, which would also require time.²⁵ They are very likely conducting this search on a smartphone, as that is the most common way for people under 30 to access the internet.²⁶ While searching they are likely to find an application form online either through votetexas.gov, which provides an “Online SOS Voter Registration Application” as the first option; the Texas Secretary of State’s (SOS) office, which provides the same application; a county elections office website (many of which direct them back to the SOS website application); or through a third-party organization that will likely direct them to the same state application or to a universal voter registration application.

Under HB 3107, upon completing their application, the voter will be informed that they need to print and sign the application and submit it to their local registrar. If the voter submits the application by fax, they must also deliver the original document (with a wet signature) either by mail or in person and the local official must receive the original application within four business days of the initial fax. If the young voter is one of the 32% of Americans who do not have a printer at home, which is likely a safe assumption given their other demographic characteristics, the young voter would have to save the completed form on their device, locate a place to print the form, travel to that location, and in some instances pay to print out the form. They then have to mail or deliver the original application within four days, the latter of which requires additional travel. This requirement adds both time and transportation costs to a process could just as easily have been completed with an electronic signature if the wet signature rule was not in place, significantly reducing the burden to the registrant.

B. Low-income voters

Low-income citizens participate in politics at a lower rate than high-income individuals.²⁷ This participation gap is the result of income-based differences in resources, recruitment, mobilization,

²⁵ Twnege, Jean M. 2021. *IGen: Why Today’s Super-Connected Kids Are Growing up Less Rebellious, More Tolerant, Less Happy--and Completely Unprepared for Adulthood--and What That Means for the Rest of Us*. Simon & Schuster, New York, NY.

²⁶ Anderson, Monica. 2019. “Mobile Technology and Home Broadband 2019.” *Pew Research Center: Internet, Science & Tech*. <https://www.pewresearch.org/internet/2019/06/13/mobile-technology-and-home-broadband-2019>. (Accessed December 5, 2021).

²⁷ Blais, Andre. 2006. “What Affects Voter Turnout?” 2019. *Annual Reviews*.; Rosenstone, Steven J. “Economic adversity and voter turnout.” *American Journal of Political Science* (1982): 25-46.; Brady, Henry E., Sidney Verba, and Kay Lehman Schlozman. 1995. “Beyond SES: A resource model of political participation.” *American political science review* 89, no. 2: 271-294.; Denny, Elaine. 2016. “The Good Intention Gap: Poverty, Anxiety, and Implications for Political Action.” pp. 1–47.

and the individual's ability to absorb increases in the cost of voting.²⁸ Low-income voters often have more restrictions on their time than those with more economic resources.²⁹ For instance, they are more likely to work hourly jobs and have less flexibility to take time off to vote on Election Day.^{30, 31} Like young voters, low income voters are more likely to forego participating in the political process because of the associated costs.

Low-income voters are also less likely to be contacted by voter registration and voter mobilization organizations, and research shows that when people are asked to participate, they are more likely to register and turnout, even if it is the state that is doing the asking.³² Similar to young people, low-income citizens tend to be highly mobile, which requires re-registering with each new residence, another cost associated with participation.³³ Finally, low-income voters are more likely to be smartphone dependent, and less likely to have other computers or devices in the home that would allow them to print and hand-sign their registration applications without incurring additional costs.

C. *Minority voters*

There are wide disparities between racial and ethnic groups in voter registration.³⁴ Existing research has found that socioeconomic factors, such as age, income, education, and a history of discrimination in voting can largely explain the low participation rates of Blacks and, to some degree, Hispanics when compared to whites.³⁵ Research also shows that increasing the costs of

²⁸ Ojeda, Christopher. 2018. "The Two Income-Participation Gaps." *American Journal of Political Science* 62(4): 813-829.

²⁹ Verba, Sidney, Kay Scholzman, and Henry E. Brady. 1995. *Voice and Equality: Civic Voluntarism in American Politics*. Harvard University Press.

³⁰ Hershkoff, Helen. 2019. "The Right to Vote" in *Getting By: Economic Rights and Legal Protections for People with Low Income*, eds. Helen Hershkoff and Stephen Loffredo. Oxford University Press.

³¹ A 2018 workplace benefits study by the Society for Human Resource Management found only 44% of employers provide paid time off to vote. Society for Human Resource Management. 2018. "2018 Employee Benefits: The Evolution of Benefits," <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/2018%20Employee%20Benefits%20Report.pdf>. And a review of state "time off" laws shows that policies vary widely, some restricting time off to salaried employees or employees in particular occupations, such as manufacturing. GovDocs. 2020. "State Voting Laws: Time Off for Employees," <https://www.govdocs.com/state-voting-laws-time-off-for-employees/>.

³² Mann, Christopher B., and Lisa A. Bryant. 2020. "If You Ask, They Will Come (to Register and Vote): Field Experiments with State Election Agencies on Encouraging Voter Registration." *Electoral Studies* 63.; Green, Donald P., and Alan S. Gerber. *Get out the vote: How to increase voter turnout*. Brookings Institution Press, 2019.

³³ US Census Bureau. 2019. "Desire to Move and Residential Mobility: 2010-2011." *Census.gov*. <https://www.census.gov/library/publications/2015/demo/p70-140.html> (Accessed December 5, 2021).

³⁴ Merivaki, Thessalia. 2021. *The Administration of Voter Registration, Expanding the Electorate Across and Within the States*. Palgrave.

³⁵ DeSipio, Louis. 1996. "Making citizens or good citizens? Naturalization as a predictor of organizational and electoral behavior among Latino immigrants." *Hispanic Journal of Behavioral Sciences* 18, no. 2: 194-213; Lien, Pei-te. 1994. "Ethnicity and political participation: A comparison between Asian and Mexican Americans." *Political Behavior* 16: 237-264; Tate, Katherine. 1991. "Black political participation in the 1984 and 1988 presidential elections." *American Political Science Review* 85, no. 4: 1159-1176.

voting usually has greater negative effects for racial and ethnic minorities who often have fewer socioeconomic resources and have a shorter history of electoral participation due to oppression and voter suppression.³⁶ A study of the 2000 election shows the disproportionate impact of administrative changes such as shortening polling hours and not mailing sample ballots which decreased turnout among whites by 4 percentage points, 4.8 percentage points among Blacks, and 6.8 percentage points among Latinos.³⁷ Minority voters are already burdened by several of the administrative policies in Texas, such as voter ID requirements, to a greater degree than white voters and the increased cost of participation imposed by the Wet Signature Rule will disproportionately impact minorities, as research shows they already have a high cost of voting.³⁸

When we think about all of the existing costs associated with voting, from registration rules to voter ID requirements, information collection, administrative hurdles, time, and transportation, it becomes clear that each additional burden imposed on voters lowers the probability that they will actually vote. There comes a point when all of the steps in the process outweigh the perceived benefit of casting an influential or deciding vote. Research supports this and finds that rules that increase the cost of voting such as strict voter identification laws or voter registration requirements *depress* turnout, and a wet signature rule is no exception.³⁹

Lowering the Cost of Voting and HB 3107

States have adopted a number of reforms to help ease the burden of voter registration and modernize the process. Twenty-five states now have policies allowing young people to pre-register prior to their 18th birthday, some allow citizens as young as 16 to pre-register.⁴⁰ Texas allows people to register at 17 years and 10 months of age, the most restrictive of the pre-registration laws. Pre-registration helps ensure that young people will not miss an election due to voter registration cutoffs that precede their 18th birthday. Twenty states have adopted Same Day (SDR) or Election Day Registration (EDR), which allows voters to register and cast a ballot on the same day and have been found to increase registration rates by around 5% when compared to the 30-day deadline (Vonnahme 2012) used in Texas.⁴¹

³⁶ For an overview of the history of suffrage and voting rights in the United States, including voter suppression of minority groups, see: Keyssar, Alexander. 2009. *The Right to Vote: The Contested History of Democracy in the United States*. Basic Books.

³⁷ Wolfinger, Raymond E. Benjamin Highton, and Megan Mullin. 2005. "How Post registration Laws Affect the Turnout of Citizens Registered to Vote." *State Politics & Policy Quarterly* 5:1-23.

³⁸ Zoltan, Hajnal, Nazita Lajevardi, and Lindsay Nielson. 2017. "Voter Identification Laws and the Suppression of Minority Votes". *Journal of Politics*, 79(2):363-379.; Barreto, Matt A., Stephen Nuño, Gabriel R. Sanchez, and Hannah L. Walker. 2018. "The Racial Implications of Voter Identification Laws in America." *American Politics Research* 47(2): 238-49.

³⁹ Zoltan, Hajnal, Nazita Lajevardi, and Lindsay Nielson. 2017. "Voter Identification Laws and the Suppression of Minority Votes". *Journal of Politics*, 79(2):363-379.

⁴⁰ "Preregistration for Young Voters." 2021. Ncsl.org. <https://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx> (Accessed December 3, 2021).

⁴¹ In some states the Election or Same Day registrant's ballot is cast as a provisional ballot that is counted only once the SDR/EDR application is verified.

One of the most popular reforms aimed at reducing registration costs is online voter registration (OVR). OVR was first adopted in Arizona in 2002 (Hicks et al., 2016) and by 2018, 37 states had implemented some form of online registration.⁴² OVR allows citizens to register to vote over the internet, often with no paper or wet signature requirements at all. For example, “in Missouri, residents can register to vote online and provide a signature electronically using a mobile device, tablet computer, or touchscreen computer. The state performs an initial review of the information and prints out the registration form, which it sends to the applicant’s local elections office for verification.”⁴³ The local election authority then “carries out their normal procedures, reviewing each form for completeness and validity, before notifying the applicants of their registration status.”⁴⁴ This process removes the paper/wet-signature burden, eliminating an additional, unnecessary step in the registration process and reducing the overall cost of voting.

By contrast, a wet signature registration requirement places an additional burden on citizens who have already provided the required information to register to vote. Applicants can enter their name, confirm both their age and citizenship, provide the address of their permanent residence, or a mailing address if they do not receive mail at their permanent residence, the location of their former residence, their date of birth, and any other necessary identification, including a Texas state driver’s license number, a state identification card number, or the last four digits of their Social Security number, without printing out the form and entering a wet ink signature. Applicants can also include an electronic signature (“e-signature”) or upload a digital image of their wet signature (similar to making a digital deposit to a bank account using a smart phone by taking a photo of the check and uploading the image). Obtaining the original application form with a wet signature does not make this information more accurate or carry any additional weight or credibility under the law. In fact, according to the Texas Uniform Electronic Transactions Act (2009), “A record or signature may not be denied legal effect or enforceability solely because it is in electronic form” and “If a law requires a signature, an electronic signature satisfies the law.”⁴⁵ Given the state’s long history of accepting electronic signatures for state business, the wet signature requirement serves no election administration purpose other than to increase the cost of voting.

Smartphone Reliance and Printer Access

In an increasingly digital world, the Wet Signature Rule imposes unique burdens on Texas voters. Applicants must obtain a printed copy of each application in order to provide a wet-ink signature, which presents a burden for those without easy access to printers. It is estimated that as

⁴² In addition to reducing the cost of voting for voters, online or electronic registration processing also provides a monetary cost reduction for the state. Maricopa County, AZ estimated that it saved over \$1 million over five years by providing online registration, reducing the cost from \$.83 per paper form to \$.03 per digital application. All of these processes can ensure that eligible citizens are being registered while reducing costs to both the voters and the counties.

⁴³ See more information about state online voter registration policies here: <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>.

⁴⁴ “Kander Unveils New Tool Allowing Missourians to Fill out Their Voter Registration Forms Online.” 2013. *Mo.gov*. <https://www.sos.mo.gov/default.aspx?PageID=5387>.

⁴⁵ “BUSINESS and COMMERCE CODE CHAPTER 322. UNIFORM ELECTRONIC TRANSACTIONS ACT.” 2019. *Texas.gov*. <https://statutes.capitol.texas.gov/Docs/BC/htm/BC.322.htm> (December 5, 2021).

of 2019, almost 40 percent of U.S. households did not have a printer.⁴⁶ Even if some of these individuals are able to print personal items at work or school, those in blue collar, manual, or hourly wage jobs, as well as those who are unemployed, retired, or disabled may not have access to a printer at all.

In addition, a significant number of Americans are entirely dependent on a smartphone. According to a recent study by the Pew Research Center (2021), 85% of adults own a smart phone and a full 15% of American adults are “smartphone only” or smartphone dependent internet users—with no other computer or device in home.⁴⁷ Younger people are more likely to own a smartphone than older Americans: 96% of 18–29-year old’s, compared to only 61% of those 65 and over own smartphones. And smartphone dependence among 18–29-year-olds is nearly double that of the national average, with 28% of young Americans reporting they use only their phones to access the internet.

The digital divide also exists among those with varying income and education levels, and racial or ethnic groups. Nearly one-third (27%) of those who make less than \$30,000 dollars per year are smartphone reliant compared to only 12% of those who make more than \$75,000 dollars per year. Nearly one-quarter (23%) of those with a high school diploma or less are smartphone dependent, compared to only 4% of those with a college degree. One in four (25%) Hispanics are smartphone dependent, compared to 17% of Black and just 12% of white Americans. Finally, Americans with disabilities are less likely to have access to all devices, but are more likely to have smartphone (72%) than a computer (62%) or tablet (47%).⁴⁸

The increasing reliance on smartphones as the sole or primary device used to access the Internet and conduct computer-based functions is important because smartphones were not designed for printing documents and often require printing through a cloud service or third-party application.⁴⁹ According to the 2020 TUP/Technology User Profile Study, only 12% of online adults with a printer in the home use it to print documents from cell phones or smartphones.⁵⁰ The requirement to print a voter registration application before signing it and mailing to the registrar is an additional step that places a higher burden on those who, by necessity, are smartphone dependent. The wet signature requirement also represents a step backward at a time when

⁴⁶ Okubo, N., & Stewart, D. (2020) *Printers Charming: Working and studying at home means printing at home too!* Deloitte.

⁴⁷ Perrin, Andrew. 2021. “Mobile Technology and Home Broadband 2021.” *Pew Research Center: Internet, Science & Tech.* <https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/> (Accessed December 5, 2021).

⁴⁸ Perrin, Andrew, and Sara Atske. 2021. “Americans with Disabilities Less Likely than Those without to Own Some Digital Devices.” *Pew Research Center.* <https://www.pewresearch.org/fact-tank/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/> (Accessed December 4, 2021).

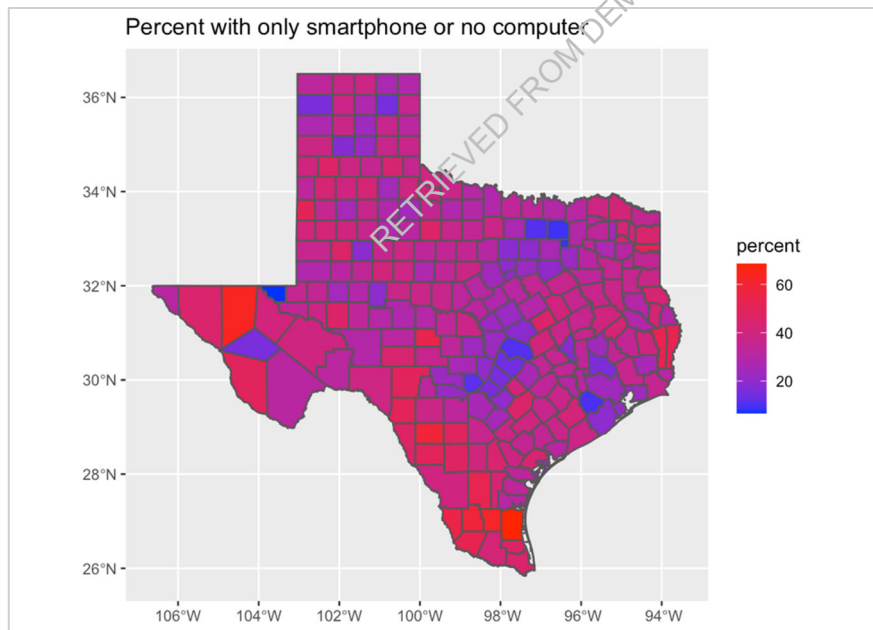
⁴⁹ One of the two most popular third-party printing services, Google Cloud Print, was discontinued on December 30, 2020. Osborne, Charlie. 2020. “Google Is Retiring the Cloud Print Service This Month: What to Do Next.” *ZDNet.* <https://www.zdnet.com/article/google-is-killing-the-cloud-print-service-this-month-what-to-do-next/> (December 4, 2021).

⁵⁰ “Home Printer Trends in the US [TUPdate].” 2021. *MetaFacts.* <https://metafacts.com/home-printer-trends-in-the-us-tupdate/> (Accessed December 5, 2021).

technological advances and the widespread use of smartphones have made e-communications, banking, the medical industry, and even government interactions easier and more accessible.

To better understand access to computers in Texas and how a wet signature requirement impacts voters in various counties or regions, we looked at computer ownership and smartphone dependence in Texas using the U.S. Census Bureau's American Community Survey (2015-2019).⁵¹ Figure 1a shows the percent of the population in each county that owns only a smartphone (no desktop, laptop, or other device) or is smartphone dependent. The redder a county, the higher the percentage of households that own only a smartphone; the bluer the county, the higher the percentage of households that have a laptop or desktop in the home, likely making printing easier. According to the ACS (2015-2019), 16% of Texans rely exclusively on a smartphone for any computing in the home.⁵² Of the six counties examined for this report, Travis County has the lowest smartphone dependence at 9%, while Bexar (17%), Dallas (16%), Medina (17%) and Real (13%) are all similar to the state average. In Cameron County, 26% of residents are smartphone dependent. In some counties, mostly in the western and southern parts of the state, nearly 60% of households report owning only a smartphone and no laptop, desktop, or other device in the home. These regions are also more likely to have high Hispanic populations and have lower median household incomes.⁵³ Throughout the state there are several counties in which nearly 50% of households do not own a laptop or desktop computer. Again, these households are also unlikely to have printers and may have difficulty printing an original application to sign and mail as required by HB 3107.

Figure 1a. Smartphone Only by County



⁵¹ US Census Bureau. 2021. "American Community Survey 5-Year Data (2009-2019)." *Census.gov*. <https://www.census.gov/data/developers/data-sets/acs-5year.html> (December 5, 2021).

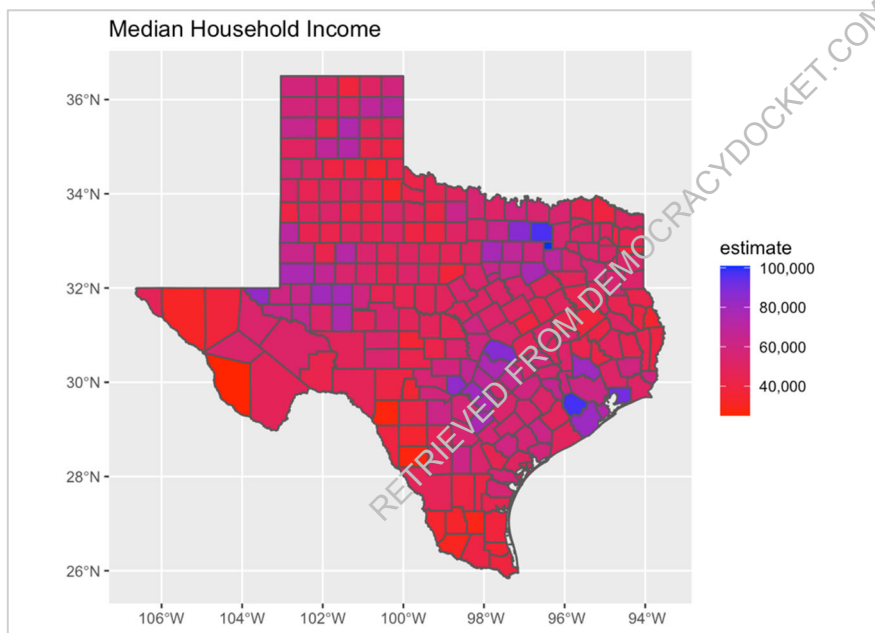
⁵² This is among people with any computing devices in their home.

⁵³ See Appendix D for maps showing Hispanic population by county.

Source: American Community Survey, 5-year (2015-2019)

Figure 1b shows the median household income by county. In this figure, the redder the county, the lower the median household income, the bluer the county, the higher the median household income. Examining the figures side by side it is easy to see correlations between high income and access to desktops or laptops, as opposed to smartphone dependence. For example, Denton and Collin Counties in northern Texas are two of the darkest blue counties in both figures, suggesting that a large number of households in these high-income counties have a computer in the home. In 2019, these counties were approximately 55% white, and had median household incomes of nearly 1.5 times the statewide average.⁵⁴ Conversely, the borderland counties from El Paso down to the southern tip of the state, which have predominantly Hispanic populations, are mostly red in both figures, which suggests that these counties with lower median incomes are more likely to be smartphone dependent with no other computing devices in the home. This further illustrates how the wet signature rule creates a higher burden for minorities and those with lower incomes.

Figure 1b. Median Household Income by County



Source: American Community Survey, 5-year (2015-2019)

The Disparate Impact of HB 3107

The cost of voter registration is not distributed equally across the population and the additional burden of a wet signature requirement is likely not distributed equally either. I analyzed the demographic characteristics of those who attempted to submit voter registration applications

⁵⁴ “Census Reporter.” 2019. *Census Reporter*. <https://censusreporter.org/profiles/04000US48-texas/> (December 6, 2021).

with electronic signatures in Travis County in the 2018.⁵⁵ Of the 962 applications provided by the county, 18 people did not complete all of the required information and were removed from the data set. An additional 7 people gave a permanent address that was not located in Travis County and were removed. This left 937 unique individuals in the analysis who submitted voter registration applications with electronic signatures between September 19, 2018, and the registration deadline of October 9, 2018.

We plotted the addresses of these applicants and determined that the individuals who submitted applications with electronic signatures were spread throughout the county in a pattern consistent with population distribution. It is reasonable to expect that we would see a similar pool of applicants using digitally based application processes across the state and there is no reason to expect that Travis County would be unique in assessing who benefited from the app or was burdened by the wet signature requirement.

A. Young Voters

Applicants who submitted registration applications with electronic signatures ranged from 17 to 91 years of age, but the majority of applicants were 30 and under, and the average age was 30.3 years old, which is slightly younger than the median age in Travis county (34.8 years) and significantly younger than the average age of registered voters in the county (46.3 years).⁵⁶ Over 62% of applicants were between 18 and 30 years old. Of those, about 30% were between 18 and 24, the group least likely to be registered to vote, and 32% were between 25 and 30. Nearly 25% of people who used the app were between 30 and 40 years old and only 13.4% were 41 or older.

Table 1. Ages of Individuals Who Submitted Applications with Electronic Signatures in Travis County compared to Travis County Voter Registration File⁵⁷

AGE	Applicants (%)	Registered Voters (%)
18-24	30.1	8.7
25-30	32.4	13.2
31-35	15.6	12.0
36-40	8.6	10.7
41+	13.4	55.4

Sources: Travis County Records, 2018 and Texas Voter Registration File, January 16, 2021

It is no surprise that young people disproportionately used the app to submit their registration applications. Young people are more likely to be smartphone dependent, and 48% of

⁵⁵ Travis and Cameron County are the only counties that provided copies of all applications they received with digital signatures. Cameron County is a small sample (17); but Travis County is fairly large (937).

⁵⁶ Median age was taken from the 2019 ACS Census data. Statistics available at “Census Reporter.” 2019. Census Reporter. <https://censusreporter.org/profiles/04000US48-texas/> (December 6, 2021).

⁵⁷ There are only 924 individuals used to examine the age of the registrants because year of birth was redacted on copies of applications provided for 12 of the applicants and one registrant was only 17 years of age and removed from this analysis because it is unknown if they were pre-registering within the allotted window due to redaction of the month and day from the date of birth.

18–29-year-olds say they are on their smartphones “almost constantly.”⁵⁸ Young people are also more likely to be first time registrants unfamiliar with the process of registering to vote, so the ability to complete registration applications digitally helps them overcome this hurdle.⁵⁹

While applications with electronic signatures were submitted by people of all ages, it is clear that young voters under 30 bear the greatest burden when election administrators impose additional steps to the registration process by requiring voters to print and hand-sign their applications before mailing or delivering them to the county registrars.

B. Minority Voters

Minority voters have historically been underrepresented in voting. Registration and voting gaps persist for many racial and ethnic minority groups in the U.S. Hispanics, for instance, make up 40% of the general population in Texas and approximately 26% of the voting age population.⁶⁰ They are the single largest minority group in the state, but only make up 20.8% of registered voters.⁶¹ The five percentage point difference between the Hispanic voting age population and percentage of registered voters suggests there is Hispanic underrepresentation among voters in Texas. The same is true of Travis County, where Hispanics make up 34% of the general population, and 21.2% of voting age population, but only 14.7% of registered voters are Hispanic—an almost 7 percentage point gap.

Hispanic voters have multiple burdens to overcome, making their cost of voting quite high. Hispanics in Texas (and nationwide) tend to be younger, more mobile, and have lower incomes than other demographic groups in the U.S. They are more likely than Black or white citizens to be new immigrants or children of immigrants and may be unfamiliar with election processes; in fact, 34% of eligible immigrant voters are Hispanic, compared to 22% who are white and 10% who are Black.⁶² They may also have to overcome language barriers to register and participate in elections. As was shown earlier, they are also far more likely than other racial or ethnic groups to be smartphone dependent. An application that can be used on their smartphone to submit a voter application via fax and mail with an electronic signature, for example, would help reduce those costs. Considering all of these factors, the requirement to hand-sign a voter registration application in wet-ink and mail the original form to the registrar poses significant additional costs on Hispanic voters.

⁵⁸ Perrin, Andrew and Sara Atske. 2021. “About Three-In-Ten U.S. Adults Say They Are ‘Almost Constantly’ Online.” *Pew Research Center*. <https://www.pewresearch.org/fact-tank/2021/03/26/about-three-in-ten-u-s-adults-say-they-are-almost-constantly-online/> (December 6, 2021).

⁵⁹ Plutzer, E. (2002). “Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood. *American Political Science Review*., 96(1), 41–56.; Bergan, Daniel E., Dustin Carnahan, Nazita Lajevardi, Mel Medeiros, Sarah Reckhow, and Kjerstin Thorson. “Promoting the youth vote: The role of informational cues and social pressure.” *Political Behavior* (2021): 1-21.

⁶⁰ CVAP Special Tabulation from ACS 2015-2019 estimates. <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2019.html>.

⁶¹ The Texas voter file includes a Hispanic surname flag, allowing identification of Hispanic voters. There is no similar indicator in the voter file for voters from other racial or ethnic groups.

⁶² Budiman, Abby, Luis Noe-Bustamante, and Mark Hugo Lopez. 2020. “Naturalized Citizens Make up Record One-In-Ten U.S. Eligible Voters in 2020.” *Pew Research Center’s Hispanic Trends Project*.

C. Renters

A large percentage of the applications with electronic signatures were submitted by those in rental housing, specifically apartments.⁶³ Renters are often more transient than homeowners and tend to be registered and turnout at lower rates than homeowners.⁶⁴ They are also more likely to be low-income and Hispanic or Black.⁶⁵ Individuals living in multi-tenant housing are also less likely to be contacted by groups or parties conducting voter registration drives and get out the vote (GOTV) efforts because apartments are often difficult to access and canvass.⁶⁶ The data suggests that renters are disproportionately burdened by the wet signature rule. Just over half (50.7%) of the applications submitted with electronic signatures came from individuals who listed a multi-unit permanent residence, even though only 30.3% of registered voters in Travis County live in an apartment or multi-unit dwelling.

Figure 2a shows areas in the county with high rates of renters. The brighter red the Census tract, the higher the percent of renter occupied housing units.

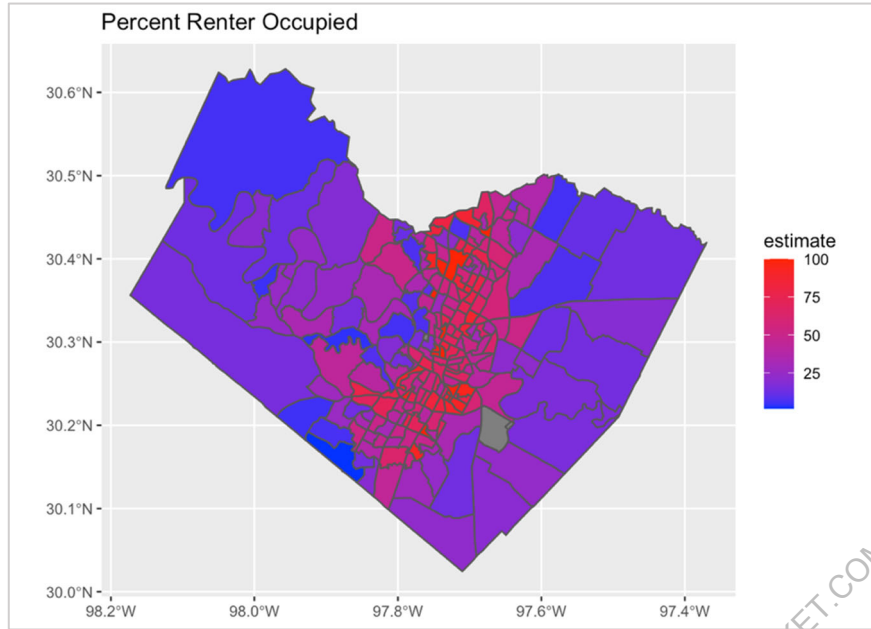
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⁶³ The application and Texas voter file both document apartment or unit numbers in separate fields, allowing for straightforward identification of multi-unit dwellings.

⁶⁴ Squire, Peverill, Raymond E. Wolfinger, and David P. Glass. 1987. "Residential Mobility and Voter Turnout." *American Political Science Review* 81(1): 45–65. <https://www.cambridge.org/core/journals/american-political-science-review/article/abs/residential-mobility-and-voter-turnout/101B4BBEE7BA0EC891E39CB76EDE4C49> (December 5, 2021).

⁶⁵ Haurin, Donald R., Christopher E. Herbert, and Stuart S. Rosenthal. "Homeownership gaps among low-income and minority households." *Cityscape* (2007): 5-51.

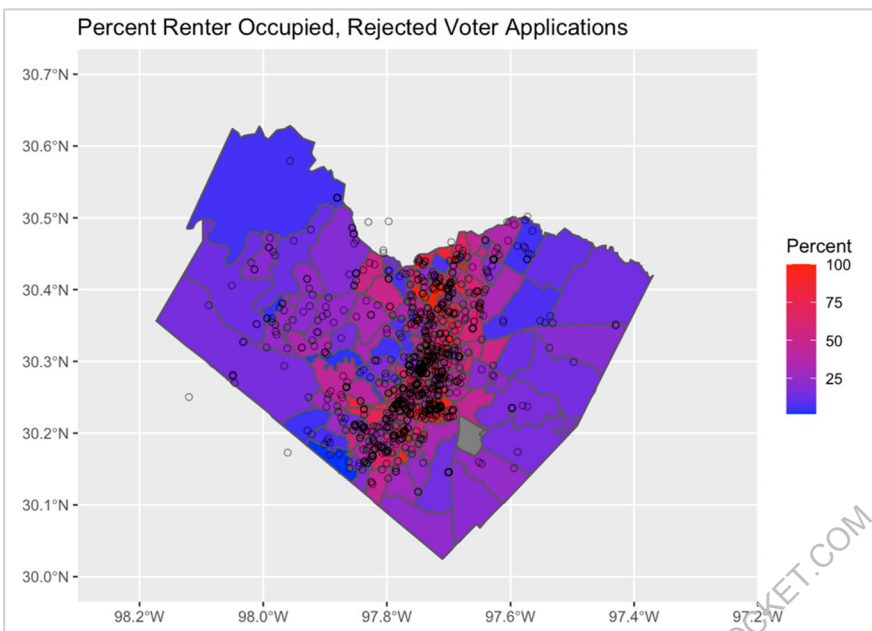
⁶⁶ Michelson, Melissa R., and David W. Nickerson. 2011. "Voter mobilization." *Cambridge Handbook of Experimental Political Science*, 228. Cambridge.

Figure 2a. Rental Occupied Units in Travis County

Source: American Community Survey, 2015-2019

The black circles in Figure 2b show where the applicants reside. As the graph illustrates, the applicants' residences tend to be located in areas with a higher percentage of renter-occupied units, and they are not simply clustered in one or two census tracts. Rather, they are well distributed throughout the population center and rural areas.⁶⁷

⁶⁷ The data used for the maps includes all applications received. There are a few circles outside the county lines in Figure 2b. These are individuals who were marked as having an error in other data analysis for this report, as their application would have been rejected regardless of the signature requirement.

Figure 2b. Applicants Residences and Percentage of Rental Occupied Units in Travis County

Source: American Community Survey, 2015-2019

D. Movers/Re-Registrants

One of the fields on the voter registration application asked registrants to provide an address where they were previously registered if they had been registered to vote before. Using this data, I was able to examine the extent to which the 2018 registration applications were submitted by individuals who were already registered and had moved since the previous election.

Table 2 shows that almost 28% of the registration applications with electronic signatures were submitted by people who indicated they had previously been registered and had moved. Among these movers, 55% had relocated *within* Travis County. This means the county already had their signature on file and they were simply updating their address. Another 26% of registrants had moved within the state of Texas, and because they provided a driver's license or state ID number, their signatures were likely easily accessible as well. Approximately 20% of movers came from out of state.

Table 2. Percent of Applications Received from Re-Registrants or Movers

Moving Status	All Applications (%)	Among Movers Only (%)
Not a mover	72.4	--
Moved w/in County	15.2	54.8
Moved w/in State	7.0	25.5
Moved From Out of State	5.4	19.7

Source: Travis County Records, 2018

The overall impact of the wet signature rule is that it increases the time and effort required to register to vote and increases the overall cost of participation. In my expert opinion, the wet signature rule does not make voter rolls more accurate or elections more secure, but the additional burdens and costs it imposes fall most heavily on those who are least equipped to overcome these unnecessary hurdles in the voting process.

CONCLUSION

I conclude that the wet signature rule increases the cost of voting and disproportionately impacts younger voters, lower-income voters, and Hispanic citizens who are already underrepresented among registered voters. The law increases the cost of voting by requiring a wet signature on a printed copy of an application that can just as easily be completed digitally with an electronic signature and is even published online by the state. Electronic signatures are widely used and accepted under Texas law for many important transactions. A wet-ink signature does not guarantee the eligibility of an applicant any more than an electronic or digital version of their signature. Requiring a wet ink signature for voter registration appears to be designed to make the registration process more difficult and more costly to voters. For all of the reasons outlined above, it is my opinion that the wet signature rule will increase the cost and burdens of participating in the electoral process for Texas voters.

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APPENDIX A Curriculum Vitae

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Associate Professor, Political Science, California State University, Fresno	2020 -
Assistant Professor, Political Science, California State University, Fresno,	2014 - 2020
Survey Director, Institute for Leadership and Public Policy, California State University, Fresno,	2016 - current

Academic Background

Ph.D. University of New Mexico, Political Science	2014
Concentrations: American Politics, Methodology	
M.A. University of New Mexico, Political Science	2009
B.A. University of New Mexico, Political Science	2006
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Additional Training

ICPSR workshop on R, University of Michigan, Ann Arbor	2021
Q1 - QLT Online Teaching Certification	2020
NSF Conference on Politics Experiments: Lab, Field, and Classroom, University of Virginia, Charlottesville	2010
ICPSR workshop on Survey Panel Data, University of Michigan, Ann Arbor	2008

Dissertation

Mobilizing the Immigrant Vote: A Comparison of Mobilization Methods to Increase Turnout Among Minority and Naturalized Citizens.

Peer Reviewed Articles, Book Chapters, and Case Studies

Statistical Skills for the Workplace: A Practical Approach to Teaching Methods with Excel. 2021.
Mallinson, Daniel J., Julia Marin Hellwege, and Eric D. Loepp, eds. *The Palgrave Handbook of Political Research Pedagogy*. Springer International Publishing.
<https://link.springer.com/book/10.1007/978-3-030-76955-0>

The Power of the State: How Postcards from the State Increased Registration and Turnout in Pennsylvania. 2020. *Political Behavior*. doi.org/10.1007/s11109-020-09625-2 Co-Authors: Michael J. Hanmer, Alauna C. Safarpour, Jared MacDonald.

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If You Ask, They Will Come (to Register and Vote): Field Experiments with State Election Agencies on Encouraging Voter Registration. 2019. *Electoral Studies*: Online first (3/20/19). doi.org/10.1016/j.electstud.2019.02.012. Co-Author: Christopher B. Mann.

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Working Moms Represent: How Children Affect the Legislative Agenda of Women in Congress. 2019. *American Politics Research*, 47(3), 447–470. doi.org/10.1177/1532673X18808037. Co-author: Julia Marin Hellwege.

*Awarded the Hahn-Sigelman Prize for the best paper published in *American Politics Research* 2019.

Sampling Hard to Reach Populations: Lessons from Sampling Internally Displaced Persons (IDPs). 2018. *Oxford Handbook of Survey Methodology*, Oxford University Press: New York. Co-author: Prakash Adhikari

Considering Mixed Mode Surveys for Questions in Political Behavior: Using the Internet and Mail to Get Quality Data at Reasonable Costs. 2011. *Political Behavior* 33(1):161-178. Co-authors: Lonna Rae Atkeson, Alex N. Adams, Luciana Zilberman, and Kyle L. Saunders.

A New Barrier to Participation: Heterogeneous Application of Voter Identification Policies. 2010. *Electoral Studies* 29(1): 66-73. Co-authors: Lonna Rae Atkeson, Thad E. Hall, Kyle L Saunders, and R. Michael Alvarez.

Shifting the Blame: Federalism, Causal Attribution and Public Assignment of Blame Following Hurricane Katrina. 2008. *Publius* 38(4): 609-632. Co-authors: Cherie D. Maestas, Lonna Rae Atkeson, and Thomas Croom

Book Under Contract

Working Parents Represent: How Parenthood Influences the Legislative Agenda of Members of Congress. Forthcoming 2022. New York University Press, New York, NY. Co-Author: Julia Marin Hellwege.

Invited Book Chapters, Book Reviews, and Encyclopedia Entries

Book Review - Accessible Elections: How the States Can Help Americans Vote. 2021. *Perspectives on Politics* 19(3): 1010-1011. DOI: https://doi.org/10.1017/S153759271001286

Mail and Absentee Voting. 2020. In *Voting and Political Representation in America: Issues and Trends*, edited by Mark Jones. ABC-CLIO, Santa Barbara, CA.

Election Auditing. 2020. In *Voting and Political Representation in America: Issues and Trends*, edited by Mark Jones. ABC-CLIO, Santa Barbara, CA.

The Cost of Election Audits: Time and Money. *Confirming Elections*, edited by R. Michael Alvarez, Lonna Rae Atkeson and Thad Hall. 2012. Palgrave MacMillan: New York. With Lonna Rae Atkeson.

Moving from Red to Blue: The 2008 New Mexico Presidential, Senate, and First Congressional District Races. 2010. *The Change Election: Money, Mobilization, and Persuasion in the 2008 Federal Elections*, edited by David Magleby, Temple University Press: Philadelphia. With Michael Rocca, Lonna Rae Atkeson, and Yann Kerevel.

Professional Papers and Reports, Newspaper and Professional Blog Posts

Mothers in the US Congress have led the way on children and family issues. LSE USAPP blog. Available at: <http://bit.ly/2TxzFxP>.

More moms in Congress could mean more attention on children and families. February 20, 2019. *LegBranch.org* Available at: <http://tinyurl.com/yymnrad>

Congress has a record number of mothers with children at home. This is why it matters. February, 15, 2019. *Washington Post: Monkey Cage*. Available at: <http://tinyurl.com/y3jfnjw2>

2018 Report on San Joaquin Valley Public Opinion Survey. Institute for Leadership and Public Policy. June 2018. (with Jeffery Cummins)

2017 Report on San Joaquin Valley Public Opinion Survey. Institute for Leadership and Public Policy. June 2017. (with Jeffery Cummins and Annabella España-Nájera)

2016 ERIC Voter Registration Experiments in Three U.S. States. (with Michael Hanmer)

The Public View of the American Election System: An Overview and Summary of Trends. Prepared for the Democracy Fund. 2017. (with Paul Gronke)

Report on Civic Engagement in Fresno County. Prepared for the Edmund G. "Pat" Brown Institute for Public Affairs at Cal State LA. 2016. (with Dr. Raphael Sonenshine)

2012 ERIC Voter Registration Experiments in Delaware. Prepared for the Pew Center on the States and Delaware and Maryland. 2013. (with Christopher B. Mann)

Insights into Immigrant Mobilization: Summary Report on the 2010 MIV Treatment and Control Research Project. 2011. Mobilizing the Immigrant Vote Publication. (with Lolita Roibal)

Assessing Electoral Performance in the 2010 New Mexico General Election. 2011. University of New Mexico. (with Lonna Rae Atkeson, R. Michael Alvarez, and Alex N. Adams)

The City of Albuquerque 2009 Mayoral Election Administration Report. 2010. University of New Mexico. (with Lonna Rae Atkeson, Alex Adams, Angelina Gonzalez-Aller, Willard Hunter, Yann Kerevel, Kimberly Proctor, Lisa Sanchez and Lori Tafoya)

The 2008 New Mexico Post Election Audit Report. 2009. University of New Mexico. (with Lonna Rae Atkeson, R. Michael Alvarez, Thad E. Hall, Yann Kerevel, Morgan Llewellyn, David Odegard)

Selected Grants and Awards

COSS, Faculty Service Award, \$500	2020-2021
Hahn-Sigelman Award for Best Paper Published in APR for	2019-2020
Provost's Promising New Faculty Award, \$4000	2019-2020
MIT Election Data and Science Lab, New Initiatives Grant, \$8,874	2018-2021
COSS Research and Development Grant, \$5000 value	2018-2019
Department of Education, Reimagining History and Civics Education, \$1.7 million, co-PI with Michelle DenBeste	2017-2022
COSS, Research and Development Grant, \$7500	2017-2018
COSS, Research and Development Grant, \$5000 value	2016-2017
Fresno State Talks Selected Scholar Award, \$500	2016
Claude C. Laval Award for Innovative Technology and Research, California State University, Fresno, \$5,000	2015
Graduate Dean's Dissertation of the Year Fellowship, University of New Mexico, \$8,000	2012
Harrell Rodgers MPSA Scholar Award, Policy Studies Organization, Political Science Association, \$500	2012 Midwest
Dorothy Cline Memorial Scholarship, Department of Political Science, University of New Mexico, \$2,500	2011
Graduate Research and Development Grant, University of New Mexico, \$7,500	2009-2010
Dorothy Cline Memorial Scholarship, Department of Political Science, University of New Mexico, \$6,000	2008-2009

Recent Conference Participation

Conference Organizer, Election Science, Research and Administration Conference *with* co-organizers, Charles Stewart, MIT and Lonna Atkeson, UNM/FSU. Virtual Online. July 19-21, 2021.

Giving Voters Choices: An Examination of Vote Mode in California. Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 15-18, 2021. (with Natalie Griswold, undergraduate student).

Pay to Play: Gender and Partisan Differences in Net Worth Between Congressional Candidates. Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 15-18, 2021. (with Ann Patricia Kreuscher, undergraduate student).

Words Matter: A Comparative Text Analysis of Child and Family Centered Bills by Moms and Dads in Congress. Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 15-18, 2021. (with Julia Marin-Hellwege).

Discussant, Election Sciences 2: Public Opinion About Election Administration 2020 and Beyond. Midwest Political Science Association Annual Meeting, Chicago, IL, April 15-18, 2021.

Moderator, Voter Registration Panel, Election Center 3rd Biennial Symposium on Election Administration at Auburn University. Auburn, AL, October 13-15, 2019.

Does Changing Rules Change Voting? Natural Experiment on Increasing Choices. Presented at the American Political Science Association, Washington, D.C., August 29-September 1, 2019.

Representing Families and Children: Parenthood and Policymaking. Presented at the American Political Science Association, Washington, D.C., August 29-September 1, 2019. (with Julia Marin Hellwege)

Changing the Way People Vote? An Examination of the CA Voter's Choice Act. Presented at the Election Science, Reform, & Administration Conference, Philadelphia, PA, July 12-13, 2019.

Partisanship & Local Elections. Presented at the Cooperative Congressional Election Studies Conference, Sundance, UT, May 30-June 1, 2019.

What's in a Bill? Parenthood and Partisanship in Children & Family Legislation. Presented at the American Political Science Association, Boston, MA, August 29-September 1, 2018. (with Julia Marin Hellwege)

A Field Experiment to Examine States' Efforts to Increase Registration and Turnout: Age and Language Effects. Presented at the American Political Science Association, Boston, MA, August 29-September 1, 2018. (with Michael Hanmer, Jared A. McDonald, and Alauna C. Safarpour.)

A Field Experiment to Examine States' Efforts to Increase Registration and Turnout: Pennsylvania. Presented at the Election Sciences, Reform, & Administration Conference, Madison, WI, July 26-27, 2018. (with Michael Hanmer)

A Field Experiment to Examine States' Efforts to Increase Registration and Turnout. Presented at the American Political Science Association Annual Meeting, San Francisco, CA, August 30-September 3, 2017. (with Michael Hanmer)

NSF Muslim American Workshop on Studying Muslims in the American Context. Menlo College, December 2017.

Hacked and Rigged: Voter Perceptions of a Fair 2016 Election. Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 6-9, 2017. (with Paul Gronke)

Mother and Father Know Best: Parenthood and Policymaking. Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 6-9, 2017. (with Julia Marin Hellwege)

Working Moms Represent: Fighting for Family Friendly Policies in Congress. Presented at the Visions in Methodology Conference, UC Davis, Sacramento, CA, May 16-18, 2016. (with Julia Marin Hellwege)

Are Voting Convenience Centers Convenient? Presented at the Midwest Political Science Association, Chicago, IL, April 7-10, 2016. (with Lonna R. Atkeson)

Working Moms Represent: Fighting for Family Friendly Policies in Congress. Presented at the Western Political Science Association, San Diego, CA, March 24-26, 2016. (with Julia Marin Hellwege)

If You Ask, They Will Come (to Register and Vote): Field Experiments with State Election Agencies on Encouraging Voter Registration.” Presented at the 2015 MIT Conference for New Research on Election Administration and Reform, Cambridge, MA, June 8, 2015.

Inviting Backlash? The Use of Stereotypes in Political Advertising.” Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 16-19, 2015.

Restrictive Immigration Policies and Latino Political Participation.” Presented at the Midwest Political Science Association Annual Meeting, Chicago, IL, April 16-19, 2015. With Jason L. Morin.

Research Interests

Political Behavior	Public Opinion
Campaigns and Elections	Political Communication
Gender and Politics	Survey/Experimental Methods
Race and Ethnicity	Public Policy/State Policy
Political Psychology	

Teaching Experience

American Politics	Policy and Public Administration
Campaigns and Elections	Public Opinion and Political Behavior
Data Visualization	Undergraduate Methods of Analysis
Political Psychology	Graduate Methods of Analysis
Political Parties and Participation	State and Local Politics

Manuscript Referee

<i>Political Analysis</i>	<i>American Journal of Political Science</i>
<i>The Journal of Politics</i>	<i>American Political Science Research</i>
<i>Political Research Quarterly</i>	<i>Journal of Women, Politics, & Policy</i>
<i>American Review of Politics</i>	<i>American Politics Research</i>
<i>Political Behavior</i>	<i>Journal of Elections, Public Opinion, and Parties</i>
<i>Election Law Journal</i>	<i>Journal of Experimental Political Science</i>
<i>Politics and Gender</i>	

University Service at California State University, Fresno

CSUF, Executive Search Committee, Government Relations Director, <i>Chair</i>	2021
Department of Political Science Search Committee,	2020 - 2021
CSUF Executive Committee of the Academic Senate	2020 - 2021
CSUF, College of Social Sciences Assembly, <i>Chair</i>	2020 - 2021
CSUF, GE Assessment Subcommittee, <i>Chair</i>	2018 - 2021
COSS, Dean's Investment Ad-hoc Committee, <i>Member</i>	2018 - 2019
CSUF, GE Assessment Subcommittee, <i>Member</i>	2017 - 2018
COSS, Faculty Assembly Executive Committee, <i>Vice Chair or Member</i>	2015 - 2019
COSS, Research Committee, <i>Member and Chair</i>	2016 - 2019
CSUF Academic Senate, <i>Universitywide Senator</i>	2016 - 2021
CSUF Academic Senate, <i>Ex officio Senator</i>	2014 - 2016
Department of Political Science Curriculum Committee, <i>Member</i>	2016-ongoing
Leon Panetta Congressional Fellow Selection Committee, <i>Member</i>	2014-ongoing
Student Unit of the League of Women Voters, <i>Faculty Advisor</i>	2015-2020
Fresno State College Democrats, <i>Faculty Advisor</i>	2015-2017

Committee Work for Discipline

APSA Gender Studies Book Award Committee	2020-2021
APSA Civic Engagement Section Organizer (2021 meeting)	2020-2021
MPSA Women's Caucus Board Member	2019-2025
WPSA Best Dissertation Award Committee	2017

Service to the Community/Board Memberships

NSF Convergence Accelerator - Participant and Reviewer	2021
Political Analysis, Editorial Board Member	2020-ongoing
Electronic Registration Information Center, National Research Advisory Board, Member	2019-ongoing
Fresno County League of Women Voters, Board Member	2015-2020

Professional Research Partnerships

Early Voting Information Center/Democracy Fund. (with Paul Gronke), 2016-2019

Pew Center on the States, ERIC Voter Registration Center. (with Michael Hanmer), 2016-2017

The Edmund G. "Pat" Brown Institute for Public Affairs at California State University,
Los Angeles (with Dr. Raphael Sonenshine), 2016

Bernalillo County Clerk's Office. (with Lonna R. Atkeson, R. Michael Alvarez, and
Alex N. Adams). 2008, 2010, 2012

Pew Center on the States/ERIC Voter Registration Center. (with Christopher B.
Mann), 2012.

Conservation Voters of New Mexico (with Christopher B. Mann), 2012

City of Albuquerque, NM-City Clerk /Travis County, TX-Travis County Clerk,
(with Robert Stein, Christopher B. Mann, Greg Vonnahme, and Lonna R. Atkeson), 2011

National Environmental Group (name withheld). (with Christopher B. Mann). 2010.

Mobilizing the Immigrant Vote. 2010.

Bernalillo County, Curry County, Dona Ana County, Lincoln County, San Juan
County, and Santa Fe County Clerks. (with Lonna R. Atkeson, R.
Michael Alvarez, Thad Hall, and Alex N. Adams), 2010

NM Secretary of State, Bernalillo County, Dona Ana County, San Juan County,
Santa Fe County. (with Lonna R. Atkeson, R. Michael Alvarez and Thad B. Hall), 2008.

Selected Invited Talks

U.S House of Representatives, Moms in the House Caucus Event. "Blazing the Trail: A
Women's History Month Forum on the Political History and Power of Moms."
Washington, D.C., July 22, 2020.

The Ethics Center, Leon S. Peters Ethics Lecture. *The #MeToo Moment: Sexual Harassment
and Professional Life*. Panelist. February 13, 2018.

Fresno Bar Association, *Panelist, Fake News*. November, 2017.

Café Scientifique. *Voter Fraud in U.S. Elections*. November 7, 2016.

The African American Intellectual Thought Symposium. *African Americans and the 2016
Election*. Speaker. April 20, 2017.

Young Executives Club of Fresno County. *Registration and Turnout in the 2016
California Primary*. June 16, 2016

National Women's Political Caucus. *Democracy in Action or Democracy Inaction?
Voters, Media and Getting the Democracy We Deserve*. May 3, 2016.

CSUF Women's Resource Center/Women's Studies. *The History of Gender
Stereotyping in Political Campaign Advertisements*. March 17, 2015.

Advising for Dissertations, Theses, and Undergraduate Student Research

Graduate Theses-Dissertations

Laura Whitehouse, California State University, Fresno, MPA Thesis Chair, *current*
David Santos, California State University, Fresno, MPA Thesis Committee, 2021
Melissa Villegas, California State University, Fresno, MPA Thesis Committee, 2020
Shelby Brisky, California State University, Fresno, MPA Thesis Committee, 2018
Genevieve Mayhew, University of Maryland, PhD Dissertation Committee, 2017

Undergraduate Research – California State University, Fresno

Patricia Natalie Griswold, Smittcamp Senior Research Project, 2020-2021
Ann Kreuscher, College of Social Science Honors Thesis, 2020-2021
Beverly Perez Alvarez, College of Social Science Honors Thesis, 2019-2020
Nicholas Matoian, College of Social Science Honors Thesis, 2018-2019
Erin Mah, Skidmore College, Skidmore, NY, PS Honors Thesis, Spring 2019
Alexandra Gallo, College of Social Science Honors Thesis, 2016-2017
Ryan Ditchfield, Independent Study, Political Psychology, Spring 2016
Edward Berdan (received Undergraduate Research Award for 2015-2016)
Sarah Hayes (received Undergraduate Research Award for 2015-2016)

RETRIEVED FROM DEMOCRACYDOCKET.COM

Appendix B: Reliance Materials

Academic Articles and Books

- Anderson, Monica. 2019. "Mobile Technology and Home Broadband 2019." *Pew Research Center: Internet, Science & Tech*. <https://www.pewresearch.org/internet/2019/06/13/mobile-technology-and-home-broadband-2019>. (Accessed December 5, 2021).
- Ansolabehere, Stephen, Eitan Hersh, and Kenneth Shepsle. 2012. "Movers, Stayers, and Registration: Why Age Is Correlated with Registration in the U.S." *Quarterly Journal of Political Science* 7(4): 333–63.
- Barreto, Matt A., Stephen Nuño, Gabriel R. Sanchez, and Hannah L. Walker. 2018. "The Racial Implications of Voter Identification Laws in America." *American Politics Research* 47(2): 238–49.
- Bergan, Daniel E., Dustin Carnahan, Nazita Lajevardi, Mel Medeiros, Sarah Reckhow, and Kjerstin Thorson. "Promoting the youth vote: The role of informational cues and social pressure." *Political Behavior* (2021): 1-21.
- Blais, Andre. 2006. "What Affects Voter Turnout?" 2019. *Annual Reviews*.
- Brady, Henry E., Sidney Verba, and Kay Lehman Schlozman. 1995. "Beyond SES: A resource model of political participation." *American political science review* 89, no. 2: 271-294.
- Brians, Craig Leonard, and Bernard Grofman. 2001. "Election Day Registration's Effect on U.S. Voter Turnout." *Social Science Quarterly* 82(1): 170–83.
<https://onlinelibrary.wiley.com/doi/abs/10.1111/0038-4941.00015> (December 3, 2021).
- Budiman, Abby, Luis Noe-Bustamante, and Mark Hugo Lopez. 2020. "Naturalized Citizens Make up Record One-In-Ten U.S. Eligible Voters in 2020." *Pew Research Center's Hispanic Trends Project*.
- Burden, Barry C., David T. Canon, Kenneth R. Mayer, and Donald P. Moynihan. (2012). The Effect of Administrative Burden on Bureaucratic Perception of Policies: Evidence from Election Administration. *Public Administration Review*, 72(5), 741–751. <https://doi.org/10.1111/j.1540-6210.2012.02600.x>
- Burden, Barry C., and Jacob R. Neiheisel. 2013. "Election administration and the pure effect of voter registration on turnout." *Political Research Quarterly* 66, no. 1: 77-90.
- Cho, Wendy K. Tam. "Naturalization, socialization, participation: Immigrants and (non-) voting." *The Journal of Politics* 61, no. 4 (1999): 1140-1155.
- Denny, Elaine. 2016. "The Good Intention Gap: Poverty, Anxiety, and Implications for Political Action." pp. 1–47.

- DeSipio, Louis. 1996. "Making citizens or good citizens? Naturalization as a predictor of organizational and electoral behavior among Latino immigrants." *Hispanic Journal of Behavioral Sciences* 18, no. 2: 194-213.
- Grofman, B., & Garcia, J. R. (2014). Using Spanish Surname to Estimate Hispanic Voting Population in Voting Rights Litigation: A Model of Context Effects Using Bayes' Theorem. *Election Law Journal: Rules, Politics, and Policy*, 13(3), 375–393.
<https://doi.org/10.1089/elj.2013.0190>
- Green, Donald P., and Alan S. Gerber. *Get out the vote: How to increase voter turnout*. Brookings Institution Press, 2019.
- Haurin, Donald R., Christopher E. Herbert, and Stuart S. Rosenthal. "Homeownership gaps among low-income and minority households." *Cityscape* (2007): 5-51.
- Hershkoff, Helen. 2019. "The Right to Vote" in *Getting By: Economic Rights and Legal Protections for People with Low Income*, eds. Helen Hershkoff and Stephen Loffredo. Oxford University Press.
- Hill, Charlotte. 2020. "Young People Face Higher Voting Costs and Are Less Informed about State Voting Laws. Working paper available at:
https://youngamericans.berkeley.edu/wpcontent/uploads/2020/08/Hill_BIFYA_Working_Paper_08_08_2020.pdf.
- Jiang, Boqian. "Homeownership and voter turnout in us local elections." *Journal of Housing Economics* 41 (2018): 168-183.
- Keyssar, Alexander. 2009. *The Right to Vote: The Contested History of Democracy in the United States*. Basic Books.
- Kim, Seo-young Silvia. 2021. "Automatic Voter Registration as a Housewarming Gift: Quantifying Causal Effects on Turnout Using Movers."
<https://preprints.apsanet.org/engage/apsa/article-details/6090e715b152396ba9633972> (Accessed December 5, 2021)
- Li, Quan, Michael J. Pomante, and Scot Schraufnagel. 2018. "Cost of voting in the American states." *Election Law Journal: Rules, Politics, and Policy* 17, no. 3: 234-247.
- Lien, Pei-te. 1994. "Ethnicity and political participation: A comparison between Asian and Mexican Americans." *Political Behavior* 16: 237-264.
- Mann, Christopher B., and Lisa A. Bryant. 2020. "If You Ask, They Will Come (to Register and Vote): Field Experiments with State Election Agencies on Encouraging Voter Registration." *Electoral Studies* 63

- Merivaki, Thessalia. (2019). Access denied? Investigating voter registration rejections in Florida. *State Politics & Policy Quarterly*, 19(1), 53-82.
- Merivaki, Thessalia. 2021. *The Administration of Voter Registration, Expanding the Electorate Across and Within the States*. Palgrave.
- Merivaki, Thessalia and Daniel A. Smith. (2019). Challenges in Voter Registration. *The Future of Election Administration*, 59–82. https://doi.org/10.1007/978-3-030-14947-5_5.
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- Mitchell, Glenn E., and Christopher Wlezien. 1995. "The impact of legal constraints on voter registration, turnout, and the composition of the American electorate." *Political Behavior* 17, no. 2: 179-202.
- National Conference of State Legislatures. 2021. "Preregistration For Young Voters." 2021. *NCSL.Org*. <https://www.ncsl.org/Research/Elections-And-Campaigns/Preregistration-For-Young-Voters.aspx> (Accessed December 3, 2021).
- National Conference of State Legislatures. 2021. "Online Voter Registration". *NCSL.Org*. <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>
- Ojeda, Christopher. 2018. "The Two Income-Participation Gaps." *American Journal of Political Science* 62(4): 813-829.
- Perrin, Andrew. 2021. "Mobile Technology and Home Broadband 2021." *Pew Research Center: Internet, Science & Tech*. <https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/> (December 5, 2021).
- Perrin, Andrew and Sara Atske. 2021. "Americans with Disabilities Less Likely than Those without to Own Some Digital Devices." *Pew Research Center*. <https://www.pewresearch.org/fact-tank/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/> (Accessed December 4, 2021).
- Piven, Frances Fox and Richard A. Cloward. (1988) *Why Americans Don't Vote*. Pantheon.
- Plutzer, Eric. 2002. "Becoming a Habitual Voter: Inertia, Resources, and Growth in Young Adulthood." *American Political Science Review.*, 96(1), 41–56.
- Ritter, Michael and Caroline J. Tolbert. 2021. *Accessible Elections: How the States Can Help Americans Vote*. Oxford.

Rosenstone, Steven J. 1982. "Economic adversity and voter turnout." *American Journal of Political Science*: 25-46.

Scot Schraufnagel, Michael J. Pomantee II, and Quan Li. 2020. "Cost of Voting in the American States: 2020 | Election Law Journal: Rules, Politics, and Policy." *Election Law Journal: Rules, Politics, and Policy*. <https://www.liebertpub.com/doi/10.1089/elj.2020.0666>.

Shino, Enrijeta, and Daniel A. Smith. 2018. "Timing the Habit: Voter Registration and Turnout." *Electoral Studies* 51: 72–82.

Squire, Peverill, Raymond E. Wolfinger, and David P. Glass. 1987. "Residential Mobility and Voter Turnout." *American Political Science Review* 81(1): 45–65.

Tate, Katherine. 1991. "Black political participation in the 1984 and 1988 presidential elections." *American Political Science Review* 85, no. 4: 1159-1176.

Twenge, Jean M. 2021. *IGen: Why Today's Super-Connected Kids Are Growing up Less Rebellious, More Tolerant, Less Happy--and Completely Unprepared for Adulthood--and What That Means for the Rest of Us*. Simon & Schuster, New York, NY.

US Census Bureau. 2016. "Geographical Mobility: 2015 to 2016." <https://www.census.gov/data/tables/2016/demo/geographic-mobility/cps-2016.html>.

US Census Bureau. 2018. "CPS Historical Geographical Mobility/Migration Graphs." <https://www.census.gov/library/visualizations/time-series/demo/historic.html>

US Census Bureau. 2019. "Desire to Move and Residential Mobility: 2010-2011." *Census.gov*. <https://www.census.gov/library/publications/2015/demo/p70-140.html> (Accessed December 5, 2021).

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Vote.org. 2018. "Voter ID Laws." *Vote.org*. <https://www.vote.org/voter-id-laws/> (December 6, 2021).

Wolfinger, Raymond E. Benjamin Highton, and Megan Mullin. 2005. "How Post registration Laws Affect the Turnout of Citizens Registered to Vote." *State Politics & Policy Quarterly* 5:1-23.

Wolfinger, Raymond E., and Steven J. Rosenstone. 1980. *Who votes?* Yale University Press.; Powell, G. Bingham. 1986. "American voter turnout in comparative perspective." *American Political Science Review* 80, no. 1: 17-43.

Zoltan, Hajnal, Nazita Lajevardi, and Lindsay Nielson. 2017. "Voter Identification Laws and the Suppression of Minority Votes". *Journal of Politics*, 79(2):363-379.

Data Sources

Texas Voter Registration File. Extracted January 16, 202.

Cameron County list of voter applications rejected for signature – dated October 27, 2021.

Cameron County copies of voter registration applications submitted with electronic signatures.

Dallas County list of applications rejected for signatures – dated October 27, 2021.

“Census Reporter.” 2019. *Census Reporter*. <https://censusreporter.org/profiles/04000US48-texas/> (December 4, 2021).

Travis County copies of voter registration applications submitted with electronic signatures.

Texas Association of Counties: County Information Program. 2020. Median Household Income Map. https://txcip.org/tac/census/data_mappage.php?MORE=1013.

US Census Bureau. 2019. “Frequently Occurring Surnames from the 2010 Census.” *Census.gov* https://www.census.gov/topics/population/genealogy/data/2010_surnames.html (November 30, 2021).

US Census Bureau. 2021. “American Community Survey 5-Year Data (2009-2019).” *Census.gov*. <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

Legal Documents and State Statutes

BUSINESS and COMMERCE CODE CHAPTER 322. UNIFORM ELECTRONIC TRANSACTIONS ACT. 2019. *Texas.gov*. <https://statutes.capitol.texas.gov/Docs/BC/htm/BC.322.htm> (December 5, 2021).

ELECTION CODE CHAPTER 13. APPLICATION FOR REGISTRATION; INITIAL REGISTRATION. (2011). Retrieved November 30, 2021, from Texas.gov website: <https://statutes.capitol.texas.gov/Docs/EL/htm/EL.13.htm>

Texas Legislature Online - 87(R) History for HB 3107. 2021. *Texas.gov*. <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB3107> (December 4, 2021).

Texas Administrative Code. 2011. Retrieved November 30, 2021, from State.tx.us website: [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=203&rl=23](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=203&rl=23)

Market and Business Reports, News Stories, and Other Related Articles

CIRCLE. 2021. "Half of Youth Voted in 2020, an 11-Point Increase from 2016." Tufts, Edu. <https://circle.tufts.edu/latest-research/half-youth-voted-2020-11-point-increase-2016> (Accessed December 5, 2021).

Docutrend. "Is Personal Printing at the Office a Problem?" (2017, June 2). Retrieved December 2, 2021, from <https://www.docutrend.com/blog/is-personal-printing-at-the-office-a-problem/>

Keypoint Intelligence: Market Insights Hybrid Workplace December 2020 Service Area: Office Group Complete View. (n.d.). Retrieved December 1, 2021 from <https://www.xerox.ca/office/latest/SOLCA-01C.pdf>

Janisch, Kris. 2020. "State Voting Laws: Time off for Employees." *GovDocs*. <https://www.govdocs.com/state-voting-laws-time-off-for-employees/> (December 13, 2021).

MetaFacts. "Home Printer Trends in the US [TUPdate]." 2021. <https://metafacts.com/home-printer-trends-in-the-us-tupdate/> (Accessed December 5, 2021)

Okubo, N., & Stewart, D. (2020) Printers Charming: Working and studying at home means printing at home too! Deloitte. Retrieved November 29, 2021, from <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Technology-Media-Telecommunications/gx-covid-19-tmt-predictions-revised-printers-charming.pdf>

Osborne, Charlie. 2020. "Google Is Retiring the Cloud Print Service This Month: What to Do Next." *ZDNet*. <https://www.zdnet.com/article/google-is-killing-the-cloud-print-service-this-month-what-to-do-next/> (December 4, 2021).

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TDI Issues Guidance on Electronic Signatures. (March 27, 2020). Retrieved November 30, 2021, from TLTA.com website: https://www.tlta.com/TLTA/News_Articles/Breaking_News_TDI_Issues_Guidance_Electronic_Signatures.aspx

United States Postal Service. 2018. "Millennials and the Mail." *Office of the Inspector General*. <https://www.uspsoig.gov/sites/default/files/document-library-files/2018/RARC-WP-18-011.pdf>. (December 05, 2021).

Appendix C Examination of Cameron County

A total of 22 people had voter registration applications rejected for signature-related issues between September 19, 2018 and October 09, 2018 according to the information provided by Cameron County.⁶⁸ Of those 22 applicants, 77% (17) attempted to register using electronic signatures on their application forms. Of those 17 applicants, only two (12.5%) were able to correct their registrations with a wet signature before the October 9 deadline, according to county records. An additional six of the 17 applicants were able to correct their registrations between October 10 and October 12, and four were corrected the following week. Two individuals did not get registered until after Election Day and two people did not attempt to correct their registration at all.⁶⁹

According to the voter registration file, a total of 765 people in Cameron County registered to vote between September 09, 2018 and October 09, 2018. Of those 765 people, 538 or 70.3 percent voted in the November 2018 General Election. It is reasonable to assume that the turnout rate would be similar among those who attempted to register with electronic signatures. But of those seventeen applicants, nine (52.9%) successfully voted in the 2018 general election.

While most applicants using electronic signatures in Cameron County were able to vote in the 2018 election, that is due in large part to the fact that the county sent letters notifying them that they needed to correct their applications and were willing to accept the corrected applications after the October 9 deadline. Again, some voters were unable to correct their registration applications in time to vote in the November 2018 General Election and two individuals did not register at all when faced with the additional burden of the wet signature rule.

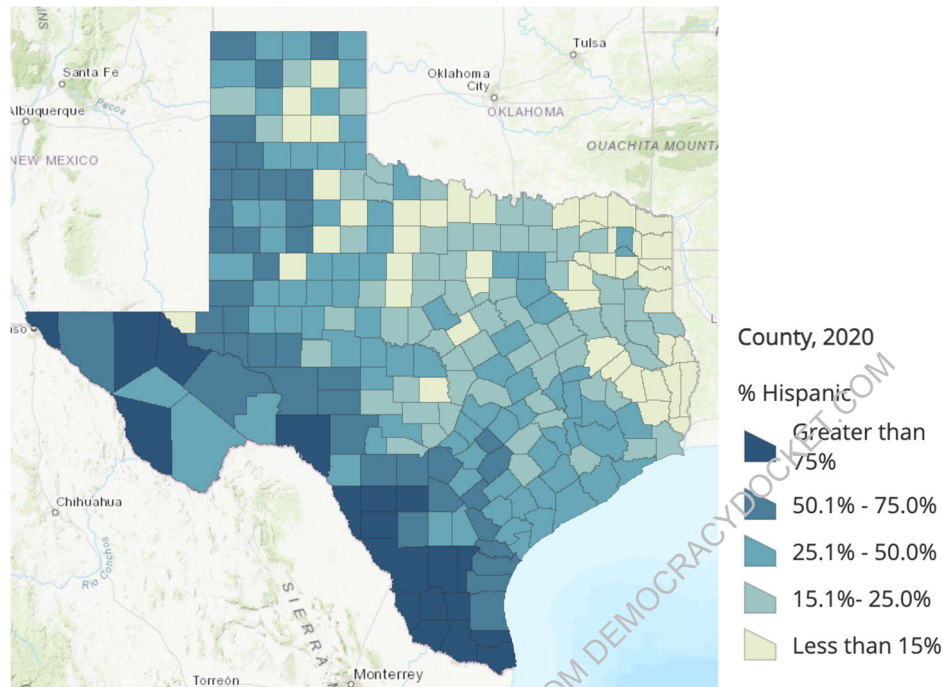
⁶⁸ Two applications were rejected on October 12, 2019, but the records indicate at least one of those two applied on October 9 using an electronic signature. To keep the analysis consistent, the second application rejected on October 12 was included in the analysis even though a copy of their application form was not provided.

⁶⁹ According to the county records provided and the statewide voter registration file, eight of the registrants show a registration or effective registration date after October 9 in both records, but were allowed to vote in the 2018 election; one registrant shows a registration date of October 5 in the county records, but an effective registration date of October 28, 2019 in the statewide voter file and another shows a registration date of October 8 in the county records, but an effective registration date of October 21, 2018 in the statewide voter file. These two voters were also allowed to vote in the 2018 election.

Appendix D

Hispanic Population by County, 2020

Figure C.1. Hispanic Population by County



Source: Texas Demographics Center, using U.S. Census Bureau, Decennial Census P.L.94-171 Redistricting Data.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

VOTE.ORG,)
)
Plaintiff,)
)
VS.)
)
JACUELYN CALLANEN, in her)
official capacity as the)
Bexar County Elections)
Administrator, BRUCE)
ELFANT, in his official)
capacity as the Travis)
County Tax)
Assessor-Collector, REMI) CIVIL ACTION
GARZA, in his official)
capacity as the Cameron) NO.: 5:21-CV-00649
County Elections)
Administrator, MICHAEL)
SCARPELLO, in his official)
capacity as the Dallas)
County Elections)
Administrator,)
)
Defendants,)
)
And)
)
KEN PAXTON, in his)
official capacity as the)
Attorney General of Texas,)
Intervenor-Defendant.)

ORAL AND VIDEOTAPED DEPOSITION OF

DR. LISA BRYANT

FEBRUARY 7, 2022

<p>102</p> <p>1 deadline, and maybe the steps to take to do 2 that. So, you would agree with me that that 3 would be the same under both analyses, right, 4 if you're looking at the cost of voting index 5 for either option? 6 A. I think, actually, in this case, that 7 that might not be the same, because the onus is 8 more on the person registering. When they're 9 doing it through an online website, they're 10 going out and seeking that information on how 11 to. When they're at the motor vehicles, that's 12 a convenience measure. And so, because they 13 are at the motor vehicles, or DPS, getting 14 their license, and it's offered to them as a 15 convenience at the time, that might be a lower 16 cost. 17 And that they -- they probably 18 aren't going to say, well, hold on, let me 19 check and see when the registration deadline 20 is. If they know they need to update their 21 information and the opportunity to do so is in 22 front of them, then I think that that is less 23 costly than having to do the fax machine 24 registration or to go online and seek the 25 information.</p>	<p>104</p> <p>1 go to register to vote today, start by going 2 online and finding that in information. So, 3 all things being equal, you know, access to 4 internet and things like that, I think that the 5 assumption that that burden is equal across 6 everybody is fair. 7 I think that when we start to look 8 at information, additional information, such 9 as, now what do I have to do with this 10 registration form, are there additional steps 11 required, that people who have more resources 12 might be able to absorb additional burdens 13 easier than people who don't. 14 Q. Okay. And you also mentioned 15 administrative hurdles, I think, as part of 16 this cost of voting index. What kind of 17 administrative hurdles are -- are factored into 18 that? 19 A. So, for example, in the case that 20 we're talking about here, administrative 21 burdens would be that you have to print off -- 22 so, you've already completed your voter 23 registration form, you've already affirmed with 24 your digital signature that you are -- you meet 25 the legal requirements in the state of Texas,</p>
<p>103</p> <p>1 Q. And do you know the proportion of 2 voters in Texas who register using that method 3 as opposed to the fax machine method? 4 A. I do not, because that is not in the 5 voter registration file -- 6 Q. Okay. 7 A. -- that is -- that is made publicly 8 available. 9 Q. I think -- and going a little bit more 10 into the report, there is -- we -- we've kind 11 of talked about this already, the information 12 collection burden, I think, is what you 13 mentioned. 14 Other than the information about 15 the deadlines, how else is that, I guess, 16 burdensome? 'Cause if -- I -- I would imagine 17 that, and correct me if I'm wrong, but someone 18 going onto a website to get the information 19 they need to register to vote, that would be 20 pretty similar no matter -- like that step of 21 the process would be, I would think it would be 22 the same burden no matter what method you're 23 using. 24 A. I think that that assumption is fair. 25 I think that, you know, most people, when they</p>	<p>105</p> <p>1 and now you have to print that off. So, that 2 is an administrative burden, requiring someone 3 to print something that they've already 4 provided the information to the state. 5 And you have to mail that or 6 deliver that to the election official. And 7 there is a very limited amount of time. That, 8 to a degree, is out of the registrant's 9 control. Right? Putting it in the postal 10 service and hoping that it gets there within 11 four days is something that's out of their 12 control. 13 And we call that an administrative 14 burden because it's a seemingly arbitrary 15 requirement. What is special about four days, 16 or why is a paper copy of something you've 17 already submitted and affixed your signature to 18 affirm that the information is true, what is 19 this additional administrative requirement for? 20 And so, that's what we would call 21 an administrative burden, additional steps that 22 you have to take to be able to complete a 23 process, or, you know, sort of bureaucratic 24 rules that you have to navigate in order to -- 25 to complete a process.</p>

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<p>1 online voter registration because we wouldn't have</p> <p>2 as many of those coming back.</p> <p>3 And that's sort of the life span of a</p> <p>4 voter registration card.</p> <p>5 Q. Okay. I want to just ask two questions,</p> <p>6 first going back to the scanning process.</p> <p>7 So you said that you scan both sides of</p> <p>8 the voter registration cards.</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. And you make sure that you capture in</p> <p>11 that scan the voter's signature.</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Okay. Why do you capture the voter's</p> <p>14 signature?</p> <p>15 A. Okay. That leads us to another</p> <p>16 function.</p> <p>17 Q. Yes.</p> <p>18 A. Okay. May I explain?</p> <p>19 Q. Yeah. Yes.</p> <p>20 A. It's going to --</p> <p>21 Q. Okay.</p> <p>22 A. It's going to be a little detailed thing</p>	<p>1 any application for ballot by mail. It goes</p> <p>2 through the same -- you know, time-stamp it, put a</p> <p>3 label on it, scan it, clip the signature, and then</p> <p>4 it's ready to be processed.</p> <p>5 So we have a program that's called the</p> <p>6 early ballot module where now our signature</p> <p>7 verification committee and our early ballot board</p> <p>8 have -- for this primary, there will be a Democrat</p> <p>9 and a Republican. Each one of them will be</p> <p>10 sitting in front of a computer.</p> <p>11 And to accept the application -- accept</p> <p>12 that mail ballot, when the mail ballot comes back</p> <p>13 in after they voted it, we're going to do the same</p> <p>14 thing. We're going to scan it. We're going to</p> <p>15 time-stamp it. We're going to put a sticker on</p> <p>16 it. We're going to scan both sides. It's going</p> <p>17 to clip the signature.</p> <p>18 So now we have the signature from Jackie</p> <p>19 Callanen on her voter registration card, I have it</p> <p>20 on the application, and I have it on the ballot.</p> <p>21 And so the early ballot board and the signature</p> <p>22 verification committee are sitting in front of a</p>
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<p>1 that's going to -- okay. We capture their voter</p> <p>2 registration signature. Okay. And, again, it</p> <p>3 goes in our database. So if I have to look up</p> <p>4 Jackie Callanen's signature, I go to my database.</p> <p>5 I can click on it. I can see the date. I can see</p> <p>6 when it came into our office. I can see the date</p> <p>7 they were registered to vote, the address they</p> <p>8 lived at, if they've changed -- I mean, we have</p> <p>9 some people that there's numerous changes that</p> <p>10 have been made. If they've moved from this</p> <p>11 apartment and they moved away and they came back.</p> <p>12 And so we have all of those captured.</p> <p>13 Now, why is that important and why do we</p> <p>14 do that? Because we have -- I think it's a more</p> <p>15 secure system that we have for checking on our</p> <p>16 mail ballot signatures, the applications on our</p> <p>17 mail ballot signatures.</p> <p>18 Again, because we have VOTEC and because</p> <p>19 we're one of the larger counties, you've seen, in</p> <p>20 3107, where -- you see references to a signature</p> <p>21 verification committee or the early ballot board.</p> <p>22 Well, we do the exact same function with</p>	<p>1 computer and it brings up Jackie Callanen and it</p> <p>2 shows you those signatures, right one on top of</p> <p>3 the other.</p> <p>4 So the early ballot board can say, okay,</p> <p>5 that's the same signature, click, and then it goes</p> <p>6 away. And they do this in groups of 25. You</p> <p>7 heard me say we put things in batches. And so</p> <p>8 they have 25.</p> <p>9 Now, again, the election law and the</p> <p>10 legislation has changed based on the growth of the</p> <p>11 ballot-by-mail process. And so what happened is</p> <p>12 the legislature now has given us permission to</p> <p>13 keep in that computer program the last six</p> <p>14 signatures that we have from that voter, whether</p> <p>15 it's on their voter registration card, whether</p> <p>16 it's on a ballot, an application.</p> <p>17 Because I'm here to tell you, as a</p> <p>18 senior citizen, my signature looks different if I</p> <p>19 sign it in the morning than if I sign it in the</p> <p>20 afternoon. And I'm sure some of you nice young</p> <p>21 people will say the same thing. It's not just for</p> <p>22 senior citizens.</p>

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<p style="text-align: right;">Page 113</p> <p>1 But, again, the legislature has looked</p> <p>2 at it. They've heard us, that we need to be able</p> <p>3 to look at different signatures to make sure, if</p> <p>4 someone is having a bad day, that that is, in</p> <p>5 fact, their signature.</p> <p>6 So again, that was a long, rambled way</p> <p>7 of why we're clipping signatures.</p> <p>8 Q. No, I appreciate the explanation.</p> <p>9 So when you clip those signatures, do</p> <p>10 you compare -- when you're processing voter --</p> <p>11 sorry. Let me back up. Let me pause.</p> <p>12 When you are processing voter</p> <p>13 registration applications, do you compare that</p> <p>14 signature -- like Jackie Callanen signed her voter</p> <p>15 registration application. Do you compare that</p> <p>16 signature to any other signatures or is that -- I</p> <p>17 see you nodding so --</p> <p>18 A. I'm sorry. I'm not allowed to do that.</p> <p>19 No, ma'am, we are not -- and this is a</p> <p>20 piece -- we, the elections administrators, are not</p> <p>21 an investigative body. Even if we see it, it's</p> <p>22 like we are not an investigative body. The</p>	<p style="text-align: right;">Page 115</p> <p>1 A. Correct.</p> <p>2 Q. -- is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. You use that signature sometimes for</p> <p>5 things that come later?</p> <p>6 A. After. After, yes.</p> <p>7 Q. And I'm sorry, when I say "you," it</p> <p>8 is -- the early ballot board will sometimes use</p> <p>9 that signature for things that come later; is that</p> <p>10 right?</p> <p>11 A. Correct.</p> <p>12 Q. And the signature verification committee</p> <p>13 will sometimes use that signature for things that</p> <p>14 come later; correct?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. But you don't use that signature in</p> <p>17 the --</p> <p>18 A. No.</p> <p>19 Q. -- in the registration process?</p> <p>20 A. No, ma'am.</p> <p>21 Q. Okay. And then I want to just revisit</p> <p>22 working PSVs.</p>
<p style="text-align: right;">Page 114</p> <p>1 election code is set up so it's the function of</p> <p>2 the early ballot board. It's the function of the</p> <p>3 signature verification committee.</p> <p>4 And that's why we have signature rosters</p> <p>5 and everyone signs in at the poll site. So that</p> <p>6 if anybody wants to question, look, Jackie</p> <p>7 Callanen signed in here, I know she wasn't there</p> <p>8 that day, we actually will bring up that piece of</p> <p>9 paper that Jackie Callanen signed at the poll site</p> <p>10 and match it against what's in our database.</p> <p>11 So it's there for a checks and balance,</p> <p>12 but we are not the investigative body. So to</p> <p>13 answer your question, Kassi, it's, no, another</p> <p>14 authorized group has to bring up that question.</p> <p>15 Q. I understand.</p> <p>16 But when you get a voter registration</p> <p>17 application -- just at the application level. We</p> <p>18 have not requested a ballot by mail. We have not</p> <p>19 voted. But when you get that application and you</p> <p>20 see that signature, you don't use that signature</p> <p>21 for anything as you're processing voter</p> <p>22 registration applications --</p>	<p style="text-align: right;">Page 116</p> <p>1 When you say you are working a PSV, what</p> <p>2 does that mean?</p> <p>3 A. Again, it comes back the next day from</p> <p>4 the Secretary of State's office basically saying</p> <p>5 the information you sent us does not match. It's</p> <p>6 either a birth date that -- could be the number is</p> <p>7 transposed. It could be the Texas' driver's</p> <p>8 license number is not assigned to that person. It</p> <p>9 could be that they don't have either number, that</p> <p>10 they put in their registration and they didn't</p> <p>11 give us either number. They now check the box and</p> <p>12 say, I don't have any of that information. So</p> <p>13 those are all handled differently.</p> <p>14 But, again, I keep saying I'm not the</p> <p>15 techie, so I have no idea how the program is</p> <p>16 written for the state, for the TEAM. So I don't</p> <p>17 know what pieces they're looking for as it</p> <p>18 automatically goes through their -- we call it a</p> <p>19 live check. They send it up through their live</p> <p>20 check.</p> <p>21 And, again, I'm not privy to the way</p> <p>22 that happens, but I just know the next day when we</p>

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<p style="text-align: right;">Page 129</p> <p>1 such-and-such a date, we have a -- I want to say</p> <p>2 like a special hotline that -- we have a path to</p> <p>3 them that we can send an Excel spreadsheet and</p> <p>4 say, you know, Jackie Callanen said she registered</p> <p>5 in the month of January, did she register to vote?</p> <p>6 And at that point, they will answer us</p> <p>7 within one or two days. And they will send us an</p> <p>8 image of the actual card that the voter signed.</p> <p>9 Because on their -- their request says, do you</p> <p>10 want to be a registered voter, yes or no? And so</p> <p>11 that's the information we need to qualify that</p> <p>12 provisional voter because then we can say, here's</p> <p>13 your card and you checked no. You're not a</p> <p>14 register voter. So that's another step.</p> <p>15 And those pieces don't come</p> <p>16 automatically to us. We must go and request</p> <p>17 those.</p> <p>18 Q. And that's -- okay. I understand.</p> <p>19 So when you're talking about that form</p> <p>20 where a voter checks at the DMV, yes, I would like</p> <p>21 to be a registered voter or, no, I don't want to</p> <p>22 be a registered voter, that form that's sent to</p>	<p style="text-align: right;">Page 131</p> <p>1 I go re- -- when I re-up my driver's license. I</p> <p>2 have not -- so I don't -- I can't speak to that</p> <p>3 process if someone says they want to register to</p> <p>4 vote. Because when they ask me when I go there,</p> <p>5 I'm like, no, I'm already registered, and then</p> <p>6 that's the end of that. I don't go through that</p> <p>7 process to see what it would be.</p> <p>8 Q. Okay. But you only -- when you get</p> <p>9 voter registration applications back from DPS,</p> <p>10 you -- your office has not had a hand in</p> <p>11 determining whether that voter is eligible to</p> <p>12 vote; is that correct?</p> <p>13 A. That's correct. It's gone through the</p> <p>14 screening for the Secretary of State.</p> <p>15 Q. The process -- to make sure I'm clear --</p> <p>16 goes DPS to the Secretary of State, and then those</p> <p>17 voters come to you already verified; is that</p> <p>18 correct?</p> <p>19 A. Correct, correct. They have their VUIDs</p> <p>20 assigned.</p> <p>21 Q. And you get a separate file -- when you</p> <p>22 get that download with the VUID or the VUIDs, you</p>
<p style="text-align: right;">Page 130</p> <p>1 you, it's an electronic form; right?</p> <p>2 A. Yes, yes.</p> <p>3 Q. And when you're at the DMV -- I guess</p> <p>4 just because we've used voter registration card to</p> <p>5 mean paper voter registration application, I just</p> <p>6 want to make sure I'm being precise here -- that</p> <p>7 form is filled out electronically at the DMV; is</p> <p>8 that correct?</p> <p>9 A. I think so. I can't --</p> <p>10 Q. And so --</p> <p>11 A. I think so. I can't testify either way.</p> <p>12 I'm not sure.</p> <p>13 Q. Okay. And that's fair.</p> <p>14 And I apologize. I grew up in</p> <p>15 California so I will often say "DMV." When I say</p> <p>16 "DMV" --</p> <p>17 A. That's fine.</p> <p>18 Q. -- I do mean DPS, just to be clear.</p> <p>19 Okay. And when a voter submits their</p> <p>20 signature at DPS, when they sign, they sign an</p> <p>21 electronic keypad; is that right?</p> <p>22 A. Again, I can only speak for myself when</p>	<p style="text-align: right;">Page 132</p> <p>1 get a separate file with those voters' signatures?</p> <p>2 A. Yes.</p> <p>3 Q. And those are digital signatures that</p> <p>4 you receive?</p> <p>5 A. Yes.</p> <p>6 Q. And so now I want to move on to some of</p> <p>7 the uses that you sort of alluded to already for</p> <p>8 signatures on voter registration applications.</p> <p>9 MS. YUKEVICH: So would you mind, Dan,</p> <p>10 just pulling up Exhibit D, what I've premarked as</p> <p>11 Exhibit D.</p> <p>12 (Callanen Deposition Exhibit D was</p> <p>13 marked for identification and attached to the</p> <p>14 transcript.)</p> <p>15 MS. YUKEVICH: And then can you go to</p> <p>16 page 5. And then can you zoom in on the response</p> <p>17 to Interrogatory Number 2.</p> <p>18 BY MS. YUKEVICH:</p> <p>19 Q. So I know that's a lot of text, and I</p> <p>20 apologize for not pre-highlighting.</p> <p>21 But, Ms. Callanen, do you know what this</p> <p>22 document is?</p>

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<p style="text-align: right;">Page 133</p> <p>1 A. Yes, this response was written by Robert</p> <p>2 Green.</p> <p>3 Q. Okay. And have you seen this response</p> <p>4 before?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And to this interrogatory -- so</p> <p>7 just to be -- I want to take a look here. I want</p> <p>8 to make sure that I start you at the right spot</p> <p>9 here.</p> <p>10 So you say here -- and it is the sixth</p> <p>11 line down. And I apologize for -- where it</p> <p>12 says -- it will start with "voter signatures</p> <p>13 obtained from voter registration applications."</p> <p>14 It's actually six, seven, eight -- it's the ninth</p> <p>15 line down.</p> <p>16 MS. YUKEVICH: Yeah, right where you're</p> <p>17 at.</p> <p>18 BY MS. YUKEVICH:</p> <p>19 Q. So you say here -- and I just want to</p> <p>20 read it out. This interrogatory asked you to</p> <p>21 "State and describe the purpose...of a signature</p> <p>22 on voter registration applications, including any</p>	<p style="text-align: right;">Page 135</p> <p>1 process to me earlier, but with paper -- and I</p> <p>2 just want to walk through it again, so that I'm</p> <p>3 clear.</p> <p>4 When you have a paper voter registration</p> <p>5 card, your office scans that paper voter</p> <p>6 registration card and pulls off the signature; is</p> <p>7 that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And then you save that image that</p> <p>10 you've pulled off the signature; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And then after a voter -- after a</p> <p>13 voter is registered to vote, after they have here</p> <p>14 submitted a ballot by mail, you will pull up an</p> <p>15 image of that signature; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. And you will compare it to the signature</p> <p>18 on their ballot by mail, their mail-in ballot; is</p> <p>19 that right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And so you mentioned that you do</p> <p>22 this on a computer; is that correct?</p>
<p style="text-align: right;">Page 134</p> <p>1 differences in the purpose [or] function of</p> <p>2 wet-ink signatures compared to electronic," what</p> <p>3 we have been using today -- "or imaged," what we</p> <p>4 have been referring to today as digital</p> <p>5 signatures.</p> <p>6 So you say here that "voter signatures</p> <p>7 obtained from voter registration applications are</p> <p>8 sometimes used by county elections personnel to</p> <p>9 verify voter identity."</p> <p>10 I want to make sure what you meant here</p> <p>11 is after a voter is registered to vote, that's</p> <p>12 when you will --</p> <p>13 A. Right.</p> <p>14 Q. -- use those signatures?</p> <p>15 A. Right, the mail ballots.</p> <p>16 Q. Okay. And then you go on to give</p> <p>17 examples here, "such as by comparing that</p> <p>18 signature to the voter's signature as it appears</p> <p>19 on the carrier envelope used to submit a ballot by</p> <p>20 mail." So I want to stop there at that phrase.</p> <p>21 Okay.</p> <p>22 And so you do this -- you described this</p>	<p style="text-align: right;">Page 136</p> <p>1 A. It's a computer program, yes.</p> <p>2 Q. Okay. And is it your office that does</p> <p>3 the comparing, or is it the early ballot board</p> <p>4 that does it?</p> <p>5 A. It's the early ballot board and the</p> <p>6 signature verification committee, yes.</p> <p>7 Q. Okay. And does your office -- your</p> <p>8 office helps to facilitate that process; is that</p> <p>9 right?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So -- and when they're going</p> <p>12 through and doing that, do they do that for every</p> <p>13 early ballot that they receive?</p> <p>14 A. Mail ballot.</p> <p>15 Q. Or excuse me, yes, I apologize.</p> <p>16 A. Yes.</p> <p>17 Q. Let me be clear.</p> <p>18 They do that for every mail-in ballot</p> <p>19 that they receive?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. And is that required by statute or is</p> <p>22 that a choice that the Bexar County early ballot</p>

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<p style="text-align: right;">Page 137</p> <p>1 board has made?</p> <p>2 A. I'm not sure how to answer that. It is</p> <p>3 a requirement that the early ballot board -- okay.</p> <p>4 In pre computer technology, the way the process</p> <p>5 worked is that the mail ballot application would</p> <p>6 come in. It was data-entered. They got their</p> <p>7 mail ballot. When it came back, the ballot was,</p> <p>8 you know, technically rubber-banded back-to-back</p> <p>9 with that application.</p> <p>10 Now, the signature verification</p> <p>11 committee would come in and sit in front of trays</p> <p>12 of ballots. And they literally would pick up one</p> <p>13 at a time. And whoever the person was, they would</p> <p>14 say, okay, I see that signature, that signature,</p> <p>15 yeah, I think they match. And then they would put</p> <p>16 it over on the other side to be opened. If they</p> <p>17 said no, it went on the other side.</p> <p>18 Well, again, with the advent of</p> <p>19 technology, we've stopped that. The early ballot</p> <p>20 board no longer touches the physical mail ballot</p> <p>21 because we've done -- I don't want to say the work</p> <p>22 for them, but we've clipped the signatures. And</p>	<p style="text-align: right;">Page 139</p> <p>1 I just want to make sure I'm understanding.</p> <p>2 So the early ballot board does not see</p> <p>3 the original signature, wet-ink signature of the</p> <p>4 voter, is that correct, from the voter</p> <p>5 registration application?</p> <p>6 A. They see the scanned copy.</p> <p>7 Q. Right.</p> <p>8 The early ballot board will only see the</p> <p>9 scan of the registered voter's signature; is that</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. And the early ballot board will also</p> <p>13 only see the scan of the ballot-by-mail signature;</p> <p>14 is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Thank you for clarifying.</p> <p>17 And they will also only see -- to the</p> <p>18 extent that your system has other signatures,</p> <p>19 we've sort of been talking about this as two</p> <p>20 signatures, the early ballot board will only ever</p> <p>21 see scans of signatures; is that correct?</p> <p>22 A. Correct.</p>
<p style="text-align: right;">Page 138</p> <p>1 so when they bring it up on their computer screen,</p> <p>2 both signatures are there on top of each other.</p> <p>3 So they can go back and they, you know,</p> <p>4 PR it. They say, yes, okay, I'm going to accept</p> <p>5 this one and they just check it and keep on going.</p> <p>6 So they're no longer using the physical part.</p> <p>7 But to answer your question, yes, it's</p> <p>8 required by statute that someone, somehow matches</p> <p>9 the signatures off the ABBM and the ballot. But</p> <p>10 what -- again, this SB1 -- what's changing now</p> <p>11 with SB1 is that they want to be able to match</p> <p>12 that signature to the voter registration card.</p> <p>13 So there's a difference there. Our</p> <p>14 program has -- again, as I said, we can keep the</p> <p>15 last six signatures. So we have that voter</p> <p>16 registration card embedded in that program so that</p> <p>17 the early ballot board can just click on it and</p> <p>18 see.</p> <p>19 Q. Okay. So that was a very helpful</p> <p>20 explanation. Thank you. I just want to clarify a</p> <p>21 couple things. And I understand that again</p> <p>22 sometimes my questions will seem pretty basic, but</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. So I want to move on to the second --</p> <p>2 oh, before we move on from here. I'm sorry.</p> <p>3 So you'll do the signature matching</p> <p>4 with -- the early ballot board will do the</p> <p>5 signature review process with voters who submitted</p> <p>6 their voter registration applications on paper; is</p> <p>7 that correct?</p> <p>8 A. Correct.</p> <p>9 Q. And do they also do it with voters who</p> <p>10 submitted their voter registration applications</p> <p>11 through DPS?</p> <p>12 A. Occasionally.</p> <p>13 Q. Okay.</p> <p>14 A. Occasionally. They can ask.</p> <p>15 Q. Okay. So to be clear, the early ballot</p> <p>16 board will compare signatures from voter</p> <p>17 registration applications with signatures on</p> <p>18 ballots by mail; is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And does the early ballot board</p> <p>21 make a distinction between voters who vote by mail</p> <p>22 who registered on paper and voters who vote by</p>

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<p>1 early ballot board to do that?</p> <p>2 A. No. I know it's in there. I have my</p> <p>3 copy of SB1. I can go through it, but I don't</p> <p>4 know off the top of my head.</p> <p>5 Q. No, no, that's not necessary right now.</p> <p>6 Is it your understanding -- that's okay.</p> <p>7 It's a big bill.</p> <p>8 Is it your understanding that the early</p> <p>9 ballot board then will be able to compare the</p> <p>10 signatures that voters provide to DPS with the</p> <p>11 early ballot -- or I'm sorry -- mail ballot</p> <p>12 application?</p> <p>13 A. That's a great question, Kassi. And I</p> <p>14 can honestly say we have not had our first meeting</p> <p>15 with the early ballot board yet. That's going to</p> <p>16 come up next week. So we don't have those</p> <p>17 procedures in place yet. So I'm sorry. I just</p> <p>18 can't answer that right now.</p> <p>19 Q. That's all right.</p> <p>20 A. I apologize.</p> <p>21 Q. No, that's all right. That's okay.</p> <p>22 I guess what I would say is if you -- if</p>	<p>1 that's -- that that's what the early ballot board</p> <p>2 would use to compare the vote-by-mail application</p> <p>3 signature to?</p> <p>4 MS. HUNKER: Objection; speculation.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: I'm sorry. I got lost</p> <p>7 when I heard -- can I answer? May I answer?</p> <p>8 BY MS. YUKEVICH:</p> <p>9 Q. Yes, you can answer.</p> <p>10 A. Oh.</p> <p>11 Q. It's okay. You can answer.</p> <p>12 A. Yes, at this point. But I just want to</p> <p>13 be clear that our way forward is as clear as mud.</p> <p>14 Because SB1 has a whole section in it that says if</p> <p>15 the ballot board does not agree on the signatures,</p> <p>16 that the voter themselves has the opportunity to</p> <p>17 come in and cure it. So, you know, we have to</p> <p>18 work our way through that part also.</p> <p>19 So, yes, we're going to have the scanned</p> <p>20 images, and, yes, the early ballot board may have</p> <p>21 a question. But as I said, we have not met with</p> <p>22 them yet to get this full procedure on what</p>
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<p>1 you had to speculate -- if you had a voter who</p> <p>2 registered January 1st, 2022, at DPS and then</p> <p>3 requested a mail-in ballot, sent you a request for</p> <p>4 a mail-in ballot, and those are the only two</p> <p>5 signatures you have on file --</p> <p>6 (Dog barking interruption.)</p> <p>7 MS. YUKEVICH: I'm sorry. Someone is</p> <p>8 knocking at my door. Give me a moment.</p> <p>9 THE WITNESS: Don't worry about it.</p> <p>10 (Pause from the record.)</p> <p>11 BY MS. YUKEVICH:</p> <p>12 Q. I knew it would happen eventually, a</p> <p>13 second time.</p> <p>14 A. That's okay, Kassi. But, Kassi, that's</p> <p>15 okay. It makes you human and it puts a smile on</p> <p>16 our face.</p> <p>17 Q. That's very sweet. He's very</p> <p>18 protective.</p> <p>19 So I'll just restate my question, to be</p> <p>20 clear for the deposition record.</p> <p>21 Is it your expectation that if the only</p> <p>22 signature on file was the DPS signature, that</p>	<p>1 happens if everyone says no, and it would be the</p> <p>2 ballot board saying we're going to reject this</p> <p>3 ballot. SB1 has come and put a number of layers</p> <p>4 in there so that the voter can come forward and --</p> <p>5 we use the term "cure it" so they can make it</p> <p>6 whole.</p> <p>7 Q. Understood.</p> <p>8 And just to make sure that I was --</p> <p>9 there was some barking in my house.</p> <p>10 To make sure it was clear earlier, the</p> <p>11 early ballot board has used DPS signatures for</p> <p>12 other functions in the past?</p> <p>13 A. Yes.</p> <p>14 Q. Including comparing signatures -- that's</p> <p>15 one of the signatures that they'd use to compare</p> <p>16 vote-by-mail signatures to?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. I want to move on.</p> <p>19 MS. YUKEVICH: We can unhighlight, Dan,</p> <p>20 if that's okay. And then I want to move on just</p> <p>21 to the next function here. It says here, "In some</p> <p>22 circumstances." Can we highlight this area. All</p>

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<p style="text-align: right;">Page 153</p> <p>1 of that -- the whole rest of the paragraph. Thank</p> <p>2 you.</p> <p>3 BY MS. YUKEVICH:</p> <p>4 Q. You say here, "In some circumstances --</p> <p>5 "In some" -- "In some circumstances where a voter</p> <p>6 mistakenly affixes their signature to a roster for</p> <p>7 in-person voting on the line for another voter's</p> <p>8 signature, a signature comparison can be used to</p> <p>9 identify that error so that the voter whose</p> <p>10 signature line was mistakenly filled may proceed</p> <p>11 to cast a ballot."</p> <p>12 Can I just ask you, do you -- how often</p> <p>13 does this happen, to your knowledge?</p> <p>14 A. A couple of times every election.</p> <p>15 Q. Okay. And does it happen on paper poll</p> <p>16 books or electronic poll books?</p> <p>17 A. It's happened on both. But now that</p> <p>18 we've been on electronic poll books for a while,</p> <p>19 the voter is still signing their wet signature to</p> <p>20 a paper copy. They do sign on a combination form.</p> <p>21 And as I said, this happens regularly. And I hate</p> <p>22 to have to admit to that.</p>	<p style="text-align: right;">Page 155</p> <p>1 obvious that this is the son. He's on the wrong</p> <p>2 record. Go ahead and let the dad go ahead and</p> <p>3 vote. And we follow through on some of those on</p> <p>4 provisional ballots also. That's when we do use</p> <p>5 that signature on Election Day. And they are</p> <p>6 errors. It's not malicious. It's not anything.</p> <p>7 It's just the junior, the second, the third, the</p> <p>8 fourth, that they've just brought up the wrong</p> <p>9 voter.</p> <p>10 Q. I understand.</p> <p>11 And you can use -- so just to be clear,</p> <p>12 when a voter comes in to vote in Bexar County</p> <p>13 before Election Day at a vote center, for example,</p> <p>14 are they signing in on an electronic poll book or</p> <p>15 are they signing in on a paper poll book?</p> <p>16 A. In Bexar County right now, they're</p> <p>17 signing in on a paper.</p> <p>18 Q. So they sign a paper poll book?</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. We did try -- when we first had the</p> <p>22 electronic poll books, we did try the signature</p>
<p style="text-align: right;">Page 154</p> <p>1 But as a voter comes in, John Smith</p> <p>2 comes in, well, John Smith hands in his driver's</p> <p>3 license and they type it in. But maybe John Smith</p> <p>4 doesn't have "junior" on his license, but he is in</p> <p>5 fact junior. So they prepare -- mark his record.</p> <p>6 He signs it now. He's now John Smith, Jr. He</p> <p>7 votes. Everything is just fine.</p> <p>8 Well, the following day, during early</p> <p>9 voting or later on that day, John Smith shows up</p> <p>10 to vote and he comes to a different location. He</p> <p>11 presents himself to vote. And the election</p> <p>12 official said, but you've already voted. Remember</p> <p>13 I said how all the machines talk to each other?</p> <p>14 Q. Yes.</p> <p>15 A. So they say, you've already voted.</p> <p>16 And he says, no, I have not voted. This</p> <p>17 is my first time, you know.</p> <p>18 And then they -- oh, that may be my son.</p> <p>19 Maybe you put my son on my record.</p> <p>20 And so then that's when we are comparing</p> <p>21 signatures at that point. We will bring up the</p> <p>22 signature. And it's like, yes, this is very</p>	<p style="text-align: right;">Page 156</p> <p>1 pads, but the voters complained so much. I think</p> <p>2 this was prior to COVID and prior to everybody</p> <p>3 signing in at Kmart, Walmart, HEB, on those little</p> <p>4 pads. And so our voters did not like the</p> <p>5 signature pads.</p> <p>6 Q. Okay.</p> <p>7 A. They said, that's not my signature. It</p> <p>8 doesn't look like my signature. So we removed the</p> <p>9 signature -- the electronic signature pads and we</p> <p>10 went back to the hard copy combination form.</p> <p>11 Q. Okay. And so you use a hard copy</p> <p>12 combination form. So when you're comparing on</p> <p>13 Election Day -- if something happens like this,</p> <p>14 you're looking at a paper signature that a voter</p> <p>15 has signed on a poll book; is that right?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And then you're looking at scans of a</p> <p>18 voter's signature to compare; is that correct?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Okay. So when you receive -- okay.</p> <p>21 What would you do if a voter submitted a</p> <p>22 voter registration application without a</p>

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<p style="text-align: right;">Page 157</p> <p>1 signature, on a paper voter registration</p> <p>2 application without a signature?</p> <p>3 MS. YUKEVICH: And we can take this</p> <p>4 exhibit down.</p> <p>5 THE WITNESS: Sure. If we get a card</p> <p>6 that's not signed and we have a name and an</p> <p>7 address, we will send them, again, another</p> <p>8 confirmation card. And it explains that we don't</p> <p>9 have sufficient information to register them, will</p> <p>10 they please complete this and fill this in and get</p> <p>11 it back to us.</p> <p>12 BY MS. YUKEVICH:</p> <p>13 Q. Okay. And what would you do if a voter</p> <p>14 submitted a voter registration application on</p> <p>15 paper with an imaged signature or a digital</p> <p>16 signature on that piece of paper?</p> <p>17 A. Again, we would reach out to them and</p> <p>18 tell them that we need that wet signature.</p> <p>19 Q. Okay. Does someone in your office</p> <p>20 review signatures on paper voter registration</p> <p>21 applications to make sure that they are wet-ink</p> <p>22 signatures?</p>	<p style="text-align: right;">Page 159</p> <p>1 A. No, ma'am.</p> <p>2 Q. Okay. And how much time do you think it</p> <p>3 takes for them to do that review?</p> <p>4 A. Probably ten seconds.</p> <p>5 Q. Okay. Just like a quick look then?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Sorry. Just give me one moment.</p> <p>8 Okay. We talked earlier about the use</p> <p>9 of DPS signatures by the early ballot board. Are</p> <p>10 you aware of any problems that the early ballot</p> <p>11 board has ever had comparing early -- vote-by-mail</p> <p>12 application -- or excuse me -- vote-by-mail ballot</p> <p>13 signatures with DPS signatures?</p> <p>14 A. Again, we're not in that room. We</p> <p>15 hand -- we print out whatever we have, the</p> <p>16 signature we have, and then we hand it over to the</p> <p>17 presiding judges. And so I would have to say we</p> <p>18 don't have any knowledge whether they use it to</p> <p>19 accept it or not.</p> <p>20 Q. Okay.</p> <p>21 A. Again, that's a completely different</p> <p>22 group of people.</p>
<p style="text-align: right;">Page 158</p> <p>1 A. I would like to think that all my data</p> <p>2 processors, when they have a card in their hand --</p> <p>3 absolutely one of the things they check. Do we</p> <p>4 have the name, the birth date, the address and is</p> <p>5 it signed?</p> <p>6 Q. Okay.</p> <p>7 A. So --</p> <p>8 Q. And so you said that the people who do</p> <p>9 this are your data processors?</p> <p>10 A. Yes.</p> <p>11 Q. How many of those do you have in your</p> <p>12 office?</p> <p>13 A. Five. There are five on the voter</p> <p>14 registration side.</p> <p>15 Q. Okay. And do they -- do you know how</p> <p>16 they check to see if a signature is a wet-ink</p> <p>17 signature versus a digital signature on a</p> <p>18 registration application?</p> <p>19 A. I would say it's just by experience. I</p> <p>20 mean, they handle the cards, yes, ma'am.</p> <p>21 Q. Okay. And so they haven't received any</p> <p>22 formal training for that?</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Okay. But you're not aware of any --</p> <p>2 the early ballot board or the presiding judge has</p> <p>3 never expressed a concern to you about using DPS</p> <p>4 signatures in their review process?</p> <p>5 A. No, ma'am. No, ma'am.</p> <p>6 Q. Okay. So apart from your DPS</p> <p>7 applications, have you ever received voter</p> <p>8 registration applications with digital signatures</p> <p>9 on them?</p> <p>10 A. I mean, we did it one time in that 2018.</p> <p>11 And they had digital signatures on them, and we</p> <p>12 did not accept those. Those were rejected.</p> <p>13 Q. Okay.</p> <p>14 A. But that's the only time I can pinpoint.</p> <p>15 Q. Okay. And we can get to that in a</p> <p>16 second.</p> <p>17 So how could you tell that the</p> <p>18 signatures were -- in 2018, how could you tell</p> <p>19 that those signatures were imaged signatures?</p> <p>20 A. Well, again, that was, you know, a</p> <p>21 different time and a different era, and they came</p> <p>22 in all at once on a fax machine. And it was just</p>

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<p style="text-align: right;">Page 245</p> <p>1 Q. And we can see where it says "fax"</p> <p>2 there, it has the number of five. I assume you</p> <p>3 believe that that is incorrect?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. I'm going to ask the same question I</p> <p>6 asked before, which is, do you have a rough</p> <p>7 approximation of how many you think you would have</p> <p>8 received through fax machine?</p> <p>9 A. No. For 2018 --</p> <p>10 Q. That's fine.</p> <p>11 A. -- I would say it would be anywhere</p> <p>12 between the 30 and 40 and the hundred, sort of</p> <p>13 halfway in between that.</p> <p>14 Q. Okay. Now, is it fair to say that the</p> <p>15 number of registration applications Bexar County</p> <p>16 has received has gone up over the last decade?</p> <p>17 A. Oh, yes, ma'am.</p> <p>18 Q. And has it gone up since 2018 as a</p> <p>19 general trend?</p> <p>20 A. Oh, yes, ma'am. Yes, ma'am.</p> <p>21 Q. So you would not have seen a decrease</p> <p>22 post -- actually, I'm going to strike that</p>	<p style="text-align: right;">Page 247</p> <p>1 BY MS. HUNKER:</p> <p>2 Q. And thank you very much for providing</p> <p>3 it. I do appreciate the effort you took prior to</p> <p>4 the deposition to secure the numbers.</p> <p>5 MS. HUNKER: Daniel, can you please put</p> <p>6 up Exhibit Number 7.</p> <p>7 (Callanen Deposition Exhibit 7 was</p> <p>8 marked for identification and attached to the</p> <p>9 transcript.)</p> <p>10 BY MS. HUNKER:</p> <p>11 Q. Do you recognize this document?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. This is the responses you had to the</p> <p>14 plaintiff's interrogatories; is that correct?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And we discussed -- you discussed this a</p> <p>17 bit with opposing counsel earlier during the</p> <p>18 deposition; is that correct?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. All right.</p> <p>21 MS. HUNKER: Can we go to response -- to</p> <p>22 Interrogatory Number 1.</p>
<p style="text-align: right;">Page 246</p> <p>1 question.</p> <p>2 Based on these numbers and the increase</p> <p>3 you described, there's no indication that voters</p> <p>4 are having a hard time to register since 2018; is</p> <p>5 that correct?</p> <p>6 A. Correct.</p> <p>7 And if I may, one of the things that I</p> <p>8 had forgotten when you were asking about our</p> <p>9 outreach is that we work with the realty company</p> <p>10 and with the Apartment Finders and we provide</p> <p>11 voter registration cards to them. And so they</p> <p>12 give that to our new voters and their new</p> <p>13 homeowners and their new apartment people so we</p> <p>14 could facilitate it that way also. I forgot that.</p> <p>15 Q. Thank you.</p> <p>16 I'm just quickly going through my notes</p> <p>17 for this section. Just hold on one second. I'm</p> <p>18 sorry.</p> <p>19 A. Uh-huh.</p> <p>20 MS. HUNKER: Okay. You can pull down</p> <p>21 this particular exhibit.</p> <p>22</p>	<p style="text-align: right;">Page 248</p> <p>1 THE WITNESS: Excuse me.</p> <p>2 BY MS. HUNKER:</p> <p>3 Q. Now, here at the start of the</p> <p>4 highlighted text, you say, "applications that lack</p> <p>5 a [wet signature] are not immediately rejected,</p> <p>6 but are treated as incomplete"; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. And can you please explain that a little</p> <p>9 bit more.</p> <p>10 A. Well, again, when we treat them as</p> <p>11 incomplete, that triggers that other mailing to</p> <p>12 them that tells them what we need and that</p> <p>13 basically, we're sorry, we need you to fill out a</p> <p>14 completed voter registration card for us.</p> <p>15 Q. And so if it lacks a wet signature, it's</p> <p>16 not immediately rejected, there's an opportunity</p> <p>17 to cure; is that correct?</p> <p>18 A. Correct, yes, ma'am.</p> <p>19 Q. How do you contact voters about the</p> <p>20 defects?</p> <p>21 A. Again, through the mail, through the</p> <p>22 post office. I mean, we've received their</p>

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<p>1 applications. Occasionally, and I want to say</p> <p>2 rarely, do we see personal information where a</p> <p>3 voter will leave us their phone number on their</p> <p>4 application. Those are all marked optional. And</p> <p>5 with the whole fear of identity theft, our voters</p> <p>6 have gotten very, very cautious. And so we're not</p> <p>7 seeing an awful lot of the phone numbers anymore.</p> <p>8 Q. So you would say the number of voters</p> <p>9 who have been putting the additional information</p> <p>10 has gone down in recent years?</p> <p>11 A. Correct.</p> <p>12 Q. But you do call when that information is</p> <p>13 provided?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know if that is a common practice</p> <p>16 among counties?</p> <p>17 A. I can't speak to that, I'm sure.</p> <p>18 Q. Do you know if it's a recommended</p> <p>19 practice from the Secretary of State?</p> <p>20 A. I think it is recommended.</p> <p>21 Q. So a voter, if they receive a contact</p> <p>22 from your office telling them that their voter</p>	<p>1 Texas Election Code Section 13.002(b)."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. So I'm trying to get a sense of what</p> <p>5 that 730 entails.</p> <p>6 Does that include anybody who did not</p> <p>7 include proper signatures, so including</p> <p>8 individuals who did not include a signature at</p> <p>9 all?</p> <p>10 A. Yes, yes, ma'am.</p> <p>11 Q. So that number extends beyond those who</p> <p>12 fail to provide a wet signature or not limited to</p> <p>13 individuals who are --</p> <p>14 A. Yeah. Not limited to, yes, ma'am.</p> <p>15 Q. And these were the only registration</p> <p>16 applications between September 1st, 2018, and when</p> <p>17 you responded to the interrogatory that were</p> <p>18 designated as incomplete because of a failure to</p> <p>19 provide the signature; is that correct?</p> <p>20 A. To the best of our knowledge, yes.</p> <p>21 Q. So that 730 number, that would include</p> <p>22 applications that were submitted by mail?</p>
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<p>1 registration application is incomplete, they then</p> <p>2 correct the information, does the registration</p> <p>3 application still date back to their original</p> <p>4 submission date?</p> <p>5 A. Yes, ma'am, if it's within the 30 days.</p> <p>6 Q. So if they respond within 30 days,</p> <p>7 there's no effect on the voter?</p> <p>8 A. Correct.</p> <p>9 Q. Would you agree that most voters are</p> <p>10 able to cure the defect in their voter</p> <p>11 registration application?</p> <p>12 A. I don't know. I'm sorry. I can't go</p> <p>13 one way or the other on that one.</p> <p>14 Q. That's --</p> <p>15 A. I have no way of knowing how many do or</p> <p>16 don't.</p> <p>17 Q. That's perfectly fine.</p> <p>18 Let's go a little bit further down into</p> <p>19 this response. And you'll see where you say, "730</p> <p>20 applicants whose registration applications were</p> <p>21 designated as incomplete during [the] period based</p> <p>22 on failure to provide the signature required by</p>	<p>1 A. All types. But I will say that, again,</p> <p>2 anecdotally, the majority of those are from the</p> <p>3 voter deputy -- the deputy voter registrars.</p> <p>4 They -- they check -- like the other things on the</p> <p>5 cards, and we get their applications back in with</p> <p>6 the no signatures. And we find that pretty</p> <p>7 frustrating since someone is actually right there</p> <p>8 and could have captured it, but...</p> <p>9 Q. So you would say most of them are from</p> <p>10 in-person voter registration applications?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. And as stated before, these applicants</p> <p>13 would have had the option to cure once you</p> <p>14 notified them of the incomplete information?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And since you looked at these numbers,</p> <p>17 do you know if many of them did, in fact, cure the</p> <p>18 defect?</p> <p>19 A. Again, we didn't -- I didn't go back and</p> <p>20 do a match for match.</p> <p>21 Q. Okay.</p> <p>22 A. So I don't know. I can't answer that</p>

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,)
Plaintiff,)
-vs-)
JACQUELYN CALLANEN, in)
her official capacity as)
the Bexar County)
Elections Administrator,) Case No.
et al.,) 5:21-cv-649-JKP-HJB
Defendants,)
and)
KEN PAXTON, in his)
official capacity as)
Attorney General of)
Texas, et al.,)
Intervenor-)
Defendants.)
_____)

VIDEOTAPED RULE 30(b)(6) DEPOSITION OF
DEFENDANT BRUCE ELFANT
BY AND THROUGH HIS DESIGNEES
GRETCHEN NAGY AND BRUCE ELFANT
AND

VIDEOTAPED ORAL DEPOSITION OF
GRETCHEN NAGY AND BRUCE ELFANT
IN THEIR PERSONAL CAPACITIES
FEBRUARY 9, 2022
9:05 A.M. CT

REPORTED BY:
DEBRA SAPIO LYONS, RDR, CRR, CRC, CCR, CLR, CPE

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<p>1 A. I -- I believe I -- I believe so, 2 yes. 3 MS. YUKEVICH: Okay. Can we zoom 4 in on the "Request for Admission," 5 Number 5. 6 BY MS. YUKEVICH: 7 Q. Okay. So this is -- these are 8 Defendant Elfant's responses to request for 9 admission issued by Plaintiff Vote.org" in this 10 case. 11 Is that what you understand this 12 document to be as well? 13 A. Yes. 14 Q. Okay. So I'm going to read Request 15 for Admission Number 5. So this says, "Admit 16 that the use of a wet-ink signature, as opposed 17 to an imaged or electronic signature," let me 18 just move really quickly, "as opposed to an 19 imaged or electronic signature on an application 20 is not a material or relevant factor in 21 determining whether an individual is eligible to 22 vote in Texas."</p>	<p>1 Did I read that correctly? 2 A. Yes. 3 Q. Okay. And do you still understand 4 this response to be correct? 5 A. Yes. 6 Q. Okay. So -- and my questions, you 7 know, of course, might not have been clear. So 8 it's good that we, you know, walk through and 9 clarify. 10 But to be clear, if a voter 11 submitted their voter registration application 12 by telephonic facsimile and mailed a copy of 13 their application that did not contain a wet-ink 14 signature, would your office consider that 15 application complete? 16 A. No, we would not consider it 17 complete at this time. So, therefore, we would 18 just consider it incomplete and then we'd 19 provide that voter the opportunity to -- to 20 complete it. 21 Q. But prior to House Bill 3107 22 Section 14, which enacted Section 13.143(d-2) of</p>
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<p>1 Did I read that correctly? 2 A. Yes. 3 Q. Okay. 4 MS. YUKEVICH: And can we go to 5 response. We can take this down and go -- 6 zoom in on the response -- the second 7 response. 8 BY MS. YUKEVICH: 9 Q. Okay. So here -- so I see 10 Defendant Elfant's response here was denied as 11 to the period of time after September 1st, 2021, 12 because the "Texas legislature has enacted 13 Section 13.143(d-2) of the Texas Election Code, 14 which requires that Defendant Elfant also obtain 15 a wet-ink signature in addition to an imaged or 16 electronic signature if the registration 17 application is submitted to Defendant Elfant by 18 telephonic facsimile machine before the 19 registration application may be considered 20 complete for purposes of processing and 21 submission to the Texas Secretary of State's 22 office."</p>	<p>1 the Texas Election Code, would your office -- 2 A. Sure. 3 Q. -- have accepted a -- a voter -- a 4 mailed in copy with a photocopied signature, 5 photocopy of a wet-ink signature, after an 6 application had been received by telephonic 7 facsimile? 8 A. Yes, we would have. 9 Q. Thank you. 10 MS. YUKEVICH: We can take this 11 document down now. And just make sure 12 that it is marked as Exhibit C for the 13 purposes of the deposition. 14 MS. YUKEVICH: Can we zoom in on 15 that, Joe. 16 THE VIDEOGRAPHER: You said C; is 17 that correct? 18 MS. YUKEVICH: I apologize. You're 19 right. Let's not mark that. 20 THE VIDEOGRAPHER: Okay. 21 MS. YUKEVICH: Let's stick in -- 22 THE VIDEOGRAPHER: D?</p>

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<p>1 MS. YUKEVICH: Was it Exhibit J?</p> <p>2 No.</p> <p>3 THE VIDEOGRAPHER: D.</p> <p>4 MS. YUKEVICH: D. D.</p> <p>5 THE VIDEOGRAPHER: Sorry.</p> <p>6 MS. YUKEVICH: No.</p> <p>7 THE VIDEOGRAPHER: Got it.</p> <p>8 MS. YUKEVICH: It's Exhibit D for</p> <p>9 the purposes of this deposition.</p> <p>10 THE VIDEOGRAPHER: Okay.</p> <p>11 MS. YUKEVICH: Thank you so much,</p> <p>12 Joe, for keeping me on track.</p> <p>13 THE VIDEOGRAPHER: No worries.</p> <p>14 MS. YUKEVICH: Much, much</p> <p>15 appreciated.</p> <p>16 BY MS. YUKEVICH:</p> <p>17 Q. Okay. So can you tell me, and I</p> <p>18 just want to make sure that we're on the same</p> <p>19 page in terms of definitions and timing -- or</p> <p>20 excuse me, definitions and meaning, what a</p> <p>21 wet-ink signature is?</p> <p>22 A. It would be one of an original</p>	<p>1 a -- an apparatus that would allow someone to</p> <p>2 do -- to write a signature, in most cases, using</p> <p>3 a stylus or in some cases, utilizing a finger,</p> <p>4 to -- to provide an electronic signature.</p> <p>5 Q. Okay. So as we move -- and what</p> <p>6 about, like, if you just, like, check a box,</p> <p>7 like, with DocuSign, would you -- would you call</p> <p>8 that a digital signature as well?</p> <p>9 A. I -- I would call that -- for</p> <p>10 certain purposes, yes, I would say that is --</p> <p>11 that is an option as well.</p> <p>12 Q. Okay. So as we move forward in --</p> <p>13 in our sort of conversation today, I just want</p> <p>14 to be clear about terminology.</p> <p>15 So when we're referring to "wet-ink</p> <p>16 signature," I'm referring to, you know -- or</p> <p>17 "wet-ink signature" or an "original signature,"</p> <p>18 signature made on a piece of paper with a pen.</p> <p>19 And then when we're referring to</p> <p>20 "imaged signatures," I'm referring to an imaged</p> <p>21 capture of a wet-ink signature on a piece of</p> <p>22 paper; so whether it be a scan, a photo, a --</p>
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<p>1 signature. It would be one that a person that's</p> <p>2 utilizing a -- a pen to -- to do their</p> <p>3 signature -- to provide their signature.</p> <p>4 Q. And what is an imaged signature?</p> <p>5 When I use that term, what do you</p> <p>6 understand that to mean?</p> <p>7 A. An image could be taken and</p> <p>8 provided in different forms, whether it would be</p> <p>9 scanned, whether it would be a picture taken of</p> <p>10 it. So there are different forms of an image.</p> <p>11 Q. But you understand an imaged</p> <p>12 signature to be either a scan or a photo or a</p> <p>13 copy of a wet-ink signature; is that correct?</p> <p>14 A. I believe I would define it that</p> <p>15 way.</p> <p>16 Q. Okay. And then if we're talking</p> <p>17 about a digital signature or an electronic</p> <p>18 signature, how do you understand that to be</p> <p>19 different than an imaged signature?</p> <p>20 A. A digital, I would believe, I would</p> <p>21 define as someone utilizing maybe a stylus pen</p> <p>22 on an electronic machine, whether a tablet or</p>	<p>1 you know, a photo uploaded or a photocopy.</p> <p>2 That's what we're referring to sort of as an</p> <p>3 "imaged signature."</p> <p>4 Does that make sense?</p> <p>5 A. Yes, it does.</p> <p>6 Q. And then when we talk "digital</p> <p>7 signatures," talking about all the other sort of</p> <p>8 ways that -- all the other buckets that we can</p> <p>9 capture signatures, right, whether it be</p> <p>10 checking a box on DocuSign, possibly using a</p> <p>11 stylus.</p> <p>12 And if I'm ever asking you about</p> <p>13 that type of signature, I will be, you know --</p> <p>14 you know, clear about sort of when we're -- when</p> <p>15 we're talking about those types of signatures.</p> <p>16 Does that make sense?</p> <p>17 A. Yes, it does.</p> <p>18 Q. Okay. All right. So can you -- I</p> <p>19 know that you have provided responses -- your</p> <p>20 office has provided responses to Interrogatories</p> <p>21 or written questions that we have provided your</p> <p>22 office.</p>

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<p>1 us. However, this was a presidential year so in</p> <p>2 presidential years, yes, we do see a larger</p> <p>3 number of application.</p> <p>4 Q. Okay. And it's fair to say almost</p> <p>5 every year your office processes somewhere</p> <p>6 between the hundred thousand and sometimes</p> <p>7 upwards of 200,000 paper applications; is that</p> <p>8 correct?</p> <p>9 A. Yes, that is correct.</p> <p>10 Q. And the -- you receive somewhere</p> <p>11 between, it looks like in recent years,</p> <p>12 around -- around 100,000 files from DPS each</p> <p>13 year?</p> <p>14 A. Yes, it has increased over the</p> <p>15 years dramatically.</p> <p>16 Q. Okay.</p> <p>17 MS. YUKEVICH: We can put this away</p> <p>18 for right now.</p> <p>19 And make sure that's marked as</p> <p>20 Exhibit O as in opal.</p> <p>21 BY MS. YUKEVICH:</p> <p>22 Q. Okay. Do you see -- we just looked</p>	<p>1 this year is the midterm.</p> <p>2 Q. What involvement does your office</p> <p>3 have in processing voter registration</p> <p>4 applications that come through DPS?</p> <p>5 A. Our business analysts and one of</p> <p>6 our administrative assistants actually do work</p> <p>7 those files. They do view those and download</p> <p>8 those and get them into our system.</p> <p>9 Q. Okay. Can you walk me through how</p> <p>10 you receive those DPS voter registration files?</p> <p>11 A. We receive -- we download them</p> <p>12 through TEAM which is the state system. These</p> <p>13 are downloaded from the -- from the system and</p> <p>14 then they are uploaded into our system.</p> <p>15 Q. Is it your understanding that DPS</p> <p>16 sends the information to the Secretary of State,</p> <p>17 the Secretary of State's office processes it,</p> <p>18 and then it comes to your office?</p> <p>19 A. Yes, they do send it to -- to us.</p> <p>20 And we receive an image, electronic --</p> <p>21 electronic form that -- that we have and that we</p> <p>22 will hold.</p>
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<p>1 at the yearly breakdowns.</p> <p>2 In your experience, does your</p> <p>3 office receive more voter registration</p> <p>4 applications in some months than other months?</p> <p>5 A. We receive more applications during</p> <p>6 an election cycle, the month before the voter</p> <p>7 registration deadline. So in January of this</p> <p>8 year, we have seen -- we saw a much larger</p> <p>9 number of applications than we would have</p> <p>10 received in November or December.</p> <p>11 Q. Okay. Does your office hire</p> <p>12 temporary workers during that time?</p> <p>13 A. Yes, we do hire temporary workers</p> <p>14 as well.</p> <p>15 Q. How many temporary workers do you</p> <p>16 hire during an election cycle?</p> <p>17 A. It does vary by election cycle. We</p> <p>18 hire two to three on smaller cycles and we have</p> <p>19 hired up to 15 in a heavier, larger cycle.</p> <p>20 Q. And is a larger cycle, presidential</p> <p>21 cycle?</p> <p>22 A. Presidential and midterm, which</p>	<p>1 Q. And that form includes an imaged</p> <p>2 signature?</p> <p>3 A. It do -- they do include</p> <p>4 signatures, yes.</p> <p>5 Q. Okay. Do you know if the</p> <p>6 signatures that your DPS applications -- are</p> <p>7 they digital signatures signed on a -- with a</p> <p>8 stylus on a pad?</p> <p>9 A. Yes, I am aware of that, yes.</p> <p>10 Q. Okay. But you get copies of those</p> <p>11 signatures with the DPS voter registration</p> <p>12 applications or voter registration files that</p> <p>13 come to your office; is that right?</p> <p>14 A. Yes, we receive that.</p> <p>15 Q. I want to go back very briefly to</p> <p>16 the way that your office processes paper voter</p> <p>17 registration applications.</p> <p>18 A. Okay.</p> <p>19 Q. Does your office use signatures on</p> <p>20 voter registration applications to verify</p> <p>21 someone's identity in the registration process?</p> <p>22 A. No, we do not.</p>

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<p style="text-align: right;">Page 105</p> <p>1 Q. And what about with DPS, do you use</p> <p>2 signatures to verify identity with those DPS</p> <p>3 voter registration applications?</p> <p>4 A. We do not. We do not.</p> <p>5 Q. So we've just went through the</p> <p>6 number of voter registration applications that</p> <p>7 your office receives.</p> <p>8 And is it fair to say that your</p> <p>9 office gets more voter registration applications</p> <p>10 on paper than from DPS generally?</p> <p>11 A. Yes, yes.</p> <p>12 Q. I want to ask you about some other</p> <p>13 voter registration agencies in the State of</p> <p>14 Texas if you don't mind.</p> <p>15 A. Okay.</p> <p>16 Q. Do you guys get -- that sort of</p> <p>17 broke down your paper applications and the</p> <p>18 applications that you receive from DPS.</p> <p>19 Do you have a sense of how many</p> <p>20 voter registration applications your office</p> <p>21 receives from the Department of Health and Human</p> <p>22 Services, for example?</p>	<p style="text-align: right;">Page 107</p> <p>1 surprise you if that count was higher than even</p> <p>2 5,000 applications?</p> <p>3 A. Yes, I would say it would surprise</p> <p>4 me.</p> <p>5 Q. How does your -- does your office</p> <p>6 determine whether someone is eligible to vote in</p> <p>7 Travis County?</p> <p>8 A. No, we simply do the data entering</p> <p>9 and we send it to the State and they're the ones</p> <p>10 that certify and provide the VUID, which is the</p> <p>11 Voter Unique ID, for a voter. They provide that</p> <p>12 information to us.</p> <p>13 Q. And what's your understanding of</p> <p>14 how the Secretary of State determines if someone</p> <p>15 is eligible to vote in Travis County?</p> <p>16 MS. VEIDT: Objection, speculation.</p> <p>17 THE WITNESS: The Secretary of</p> <p>18 State's office matches -- first, they do a</p> <p>19 match to see if anybody is registered at</p> <p>20 that -- if a person, a voter profile, is</p> <p>21 registered in another county. If that is</p> <p>22 the case, they would cancel that person in</p>
<p style="text-align: right;">Page 106</p> <p>1 A. No, we do not track that -- that</p> <p>2 number separately.</p> <p>3 Q. All right. Do you have a sense?</p> <p>4 You know, is it more than a thousand</p> <p>5 applications from those agencies?</p> <p>6 A. I can't say that it's more than</p> <p>7 a thousand.</p> <p>8 Q. Okay. Do you think it's -- so you</p> <p>9 think it's less than a thousand?</p> <p>10 A. It -- it -- it could be just at</p> <p>11 a thousand, but, again, we really do not</p> <p>12 track -- we don't track those separately in any</p> <p>13 manner --</p> <p>14 Q. Okay. But it's not --</p> <p>15 A. -- yes.</p> <p>16 Q. -- nearly as many as you get from</p> <p>17 DPS, for example; is that fair to say?</p> <p>18 A. Definitely. DPS is -- is by far</p> <p>19 the -- the largest.</p> <p>20 Q. Okay. And would it surprise you if</p> <p>21 that count from HHS, Department of Aging and</p> <p>22 Disability Services, marriage bureaus, would it</p>	<p style="text-align: right;">Page 108</p> <p>1 the other county and then transfer their</p> <p>2 information to -- to our county.</p> <p>3 They also do match for Social</p> <p>4 Security Number to see if the name, birth</p> <p>5 date and number match.</p> <p>6 Also they do that with DPS, with a</p> <p>7 driver's license or Texas ID number. I do</p> <p>8 not know their processes other than we</p> <p>9 receive information certifying a voter and</p> <p>10 we receive information stating that</p> <p>11 something does not match. Therefore, we</p> <p>12 then go into our process of mailing the</p> <p>13 voter to -- to get more information and to</p> <p>14 clarify. And we review the files to see</p> <p>15 if there was a data entry issue for any</p> <p>16 reason since everything is entered</p> <p>17 manually.</p> <p>18 BY MS. YUKEVICH:</p> <p>19 Q. Understood. And is it your</p> <p>20 understanding that the Texas Secretary of</p> <p>21 State's office is able to do that with the</p> <p>22 information that your office provides to them</p>

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<p style="text-align: right;">Page 109</p> <p>1 through TEAM? Is that right?</p> <p>2 A. As -- as far as the --</p> <p>3 MS. VEIDT: Objection, speculation.</p> <p>4 MS. HUNKER: Objection, form.</p> <p>5 MS. YUKEVICH: Again, Ms. Hunker,</p> <p>6 I'll just re-raise what I raised off the</p> <p>7 record earlier, that I think at this point</p> <p>8 it's inappropriate for you to be objecting</p> <p>9 during a deposition, which you are not --</p> <p>10 MS. HUNKER: And I will reiterate</p> <p>11 my position that I think the rules allow</p> <p>12 the parties, not just the person who's</p> <p>13 representing that specific party, to raise</p> <p>14 objections, particularly, the deposition</p> <p>15 is going to be used in other parts of the</p> <p>16 trial.</p> <p>17 MS. YUKEVICH: Understood.</p> <p>18 BY MS. YUKEVICH:</p> <p>19 Q. I apologize, Ms. Nagy. I'll just</p> <p>20 ask my question again if that's helpful for you.</p> <p>21 A. Certainly. Thank you.</p> <p>22 Q. Of course. My -- my question is:</p>	<p style="text-align: right;">Page 111</p> <p>1 not understanding why they didn't get</p> <p>2 registered. Also, talk about online voter</p> <p>3 registration. But generally, that's not -- that</p> <p>4 would be it, every once in a while.</p> <p>5 Q. Okay. And in the context of those</p> <p>6 complaints, you mentioned online voter</p> <p>7 registration. What do folks have to say to your</p> <p>8 office about online voter registration?</p> <p>9 A. Why don't we have voter</p> <p>10 registration is usually the question.</p> <p>11 Q. Fair enough. And have you ever</p> <p>12 received complaints that folks thought that they</p> <p>13 had registered to vote, didn't realize that they</p> <p>14 had to mail in an application?</p> <p>15 A. That is true. There are some</p> <p>16 individuals that believe that they have</p> <p>17 registered online because they filled out a</p> <p>18 form, not realizing that they needed to either</p> <p>19 print it out, or if they received it at home,</p> <p>20 that they needed to then sign it and mail it</p> <p>21 back in. So there is confusion about that.</p> <p>22 Q. All right. But you don't have --</p>
<p style="text-align: right;">Page 110</p> <p>1 Is it your understanding that the Secretary of</p> <p>2 State's office is able to verify voter</p> <p>3 registration -- whether a voter is eligible to</p> <p>4 vote with the information your office provides</p> <p>5 to them?</p> <p>6 MS. HUNKER: Same objection.</p> <p>7 THE WITNESS: That is my -- that is</p> <p>8 my understanding.</p> <p>9 BY MS. YUKEVICH:</p> <p>10 Q. So we talked earlier about the fact</p> <p>11 that voters will sometimes call your office; is</p> <p>12 that correct?</p> <p>13 A. That is correct.</p> <p>14 Q. And we talked earlier that you</p> <p>15 don't have a universal capture system for -- to</p> <p>16 record those calls; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Has your office ever received any</p> <p>19 complaints from the residents of Travis County</p> <p>20 about the voter registration process?</p> <p>21 A. From time to time, there have been</p> <p>22 complaints that they're confused, maybe they --</p>	<p style="text-align: right;">Page 112</p> <p>1 just to be as sort of as clear as possible, you</p> <p>2 don't have, like, documents with those -- that</p> <p>3 volume or the number of those complaints; right?</p> <p>4 A. No. No. Those complaints may come</p> <p>5 around voter registration deadline. Generally</p> <p>6 we do receive complaints from individuals who</p> <p>7 believe they registered on time. However, we</p> <p>8 have to follow certain processes by the State</p> <p>9 utilizing a post mark and -- and so those -- we</p> <p>10 have to follow that, those guidelines.</p> <p>11 Q. So you've received complaints</p> <p>12 about, like, mailing in a voter registration</p> <p>13 application thinking that they had submitted it</p> <p>14 on time but they hadn't; is that also fair to</p> <p>15 say?</p> <p>16 A. Yes, that is correct.</p> <p>17 Q. So we talked earlier about --</p> <p>18 sorry. I got some feedback there for a second.</p> <p>19 I apologize.</p> <p>20 So we talked earlier about voters</p> <p>21 needing to sign their voter registration</p> <p>22 applications for them to be considered complete;</p>

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<p>1 is that correct?</p> <p>2 A. Yes, that is correct.</p> <p>3 Q. Okay. And what is your</p> <p>4 understanding of what signatures on voter</p> <p>5 registration applications are used for in the</p> <p>6 election administration context?</p> <p>7 MS. VEIDT: Objection, speculation.</p> <p>8 MS. HUNKER: Same objection.</p> <p>9 THE WITNESS: The -- the signature</p> <p>10 is utilized by the Elections Division</p> <p>11 of -- in the ballot-by-mail process as I</p> <p>12 understand.</p> <p>13 BY MS. YUKEVICH:</p> <p>14 Q. Okay. Does your office have any</p> <p>15 involvement in that process?</p> <p>16 A. No, our office does not at this</p> <p>17 time with our new system, no, we don't in this</p> <p>18 system.</p> <p>19 Q. Did you used to be involved in that</p> <p>20 process?</p> <p>21 Did your office used to be involved</p> <p>22 in that process?</p>	<p>1 you would, or your office would, pull up -- if</p> <p>2 the Early Ballot Board needed a signature, you</p> <p>3 would pull up that voter's signature in your</p> <p>4 electronic system; is that correct?</p> <p>5 A. We would pull up -- we would pull</p> <p>6 up the system in a software package that it was</p> <p>7 stored in. And so, yes, we would pull up the</p> <p>8 application in our software package.</p> <p>9 Q. And that application in your</p> <p>10 software package included the scan of this</p> <p>11 signature from the paper voter registration</p> <p>12 application; is that correct?</p> <p>13 A. It included the entire image of the</p> <p>14 application. It did not -- it did not secure</p> <p>15 the signature by itself. It was just --</p> <p>16 Q. Okay.</p> <p>17 A -- the entire appli --</p> <p>18 Q. You can continue. I didn't mean to</p> <p>19 cut you off.</p> <p>20 A. Oh, no. And -- and so we would</p> <p>21 have the entire application to view.</p> <p>22 However, we would provide a screen</p>
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<p>1 A. Prior to going to our new system</p> <p>2 that actually captures the signature and can be</p> <p>3 viewed by the Elections Division, we did have</p> <p>4 members of the Ballot Board that would walk over</p> <p>5 to our office, they are located across the hall</p> <p>6 from us, and would request signatures from</p> <p>7 voters that they needed to have a signature,</p> <p>8 they needed something, and we would screen shot</p> <p>9 and print out a signature to provide to them.</p> <p>10 But with our new system that is not necessary</p> <p>11 anymore.</p> <p>12 Q. Okay. When did you get your new</p> <p>13 system?</p> <p>14 A. January of 2021.</p> <p>15 Q. Okay. And that -- to be clear,</p> <p>16 when we're talking about that system and screen</p> <p>17 shotting, I just want to break that down.</p> <p>18 So you would go on -- into the --</p> <p>19 your system -- prior to getting your new</p> <p>20 system -- let me just be as clear as I can.</p> <p>21 A. Yes.</p> <p>22 Q. Prior to getting your new system,</p>	<p>1 shot of the signature and print it out and</p> <p>2 provide it to the Ballot Board for their --</p> <p>3 their needs and what they were needing to --</p> <p>4 to -- what they needed the signature for.</p> <p>5 Q. Understood. So you had a scan of</p> <p>6 the signature and -- because you had a scan of</p> <p>7 the whole ballot app -- or excuse me, the whole</p> <p>8 registration application?</p> <p>9 A. Correct.</p> <p>10 Q. And you would just click the</p> <p>11 signature for the Early Ballot Board; is that</p> <p>12 correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Would they ever view it on your</p> <p>15 computer screen?</p> <p>16 A. No, no. I -- and I didn't do that.</p> <p>17 Our office manager was the one who would</p> <p>18 generally provide that signature; and I don't --</p> <p>19 I am not aware that they looked at it on the --</p> <p>20 on the screen.</p> <p>21 Q. But they would -- so they would</p> <p>22 print the image of the signature and take it to</p>

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<p style="text-align: right;">Page 117</p> <p>1 the Early Ballot Board?</p> <p>2 A. And the ballot person -- Ballot</p> <p>3 Board person would wait there for it. We would</p> <p>4 screen shot it, print it out, and give them a</p> <p>5 copy.</p> <p>6 Q. Then you said now, with your new</p> <p>7 system, you don't need to do that anymore; is</p> <p>8 that correct?</p> <p>9 A. That is correct. The signatures</p> <p>10 are clipped when they're scanned and the</p> <p>11 Elections Division has access to view those</p> <p>12 images of signatures. So we are -- we're not</p> <p>13 involved in that process.</p> <p>14 Q. And did that happen with every</p> <p>15 mail-in ballot or just some mail-in ballots?</p> <p>16 A. Oh, it was -- I -- it was rare. I</p> <p>17 mean, during -- during early voting or during</p> <p>18 the election cycle of receiving ballot-by-mail</p> <p>19 applications and reviewing those, we could have</p> <p>20 daily visits, sometimes for one signature,</p> <p>21 sometimes for ten. It just really depended</p> <p>22 on -- on their needs.</p>	<p style="text-align: right;">Page 119</p> <p>1 less than a thousand per election cycle?</p> <p>2 A. Yes. Yes. I would say definitely</p> <p>3 yes.</p> <p>4 Q. Any other uses for signatures</p> <p>5 during the election administration process that</p> <p>6 you're aware of?</p> <p>7 A. I am not -- let's see. Um.</p> <p>8 There has been a time or two when</p> <p>9 they did need to do a check on whether someone</p> <p>10 signed in to vote at a particular time. There</p> <p>11 may be an occurrence where two individuals,</p> <p>12 ended up happened, a father and son with the</p> <p>13 same name but a junior and one was actually</p> <p>14 checked in.</p> <p>15 So there are situations where they</p> <p>16 may have to check a signature to see if -- who</p> <p>17 actually signed in, and to -- to confirm that</p> <p>18 and make a correction on that. But that's on</p> <p>19 the election side.</p> <p>20 Q. Just give me one moment. I</p> <p>21 apologize.</p> <p>22 A. Uh-huh.</p>
<p style="text-align: right;">Page 118</p> <p>1 But during a busy election cycle</p> <p>2 yes, we could have almost daily visits from the</p> <p>3 Ballot Board. It depended on when they met, and</p> <p>4 I -- we just -- we didn't have their schedule.</p> <p>5 Q. But you never -- your office never</p> <p>6 provided a thousand signatures to them; is that</p> <p>7 correct?</p> <p>8 A. No, I would -- I would say not.</p> <p>9 No, nowhere close to that.</p> <p>10 Q. So during an election cycle, is it</p> <p>11 fair to say that you would -- your office, when</p> <p>12 you needed to provide those signatures, would</p> <p>13 provide less than 100 signatures during an</p> <p>14 election cycle?</p> <p>15 A. Potentially. I -- I don't have</p> <p>16 that number. We -- we didn't track that so I</p> <p>17 don't have that number. But from what I</p> <p>18 observed, I know that it could be up to a dozen</p> <p>19 at one time, but I -- it wasn't something that I</p> <p>20 tracked and I didn't ask my staff to track how</p> <p>21 many times they came to ask.</p> <p>22 Q. Understood. But you agree it's</p>	<p style="text-align: right;">Page 120</p> <p>1 MS. YUKEVICH: Can we pull up</p> <p>2 Exhibit C just one more time, Joe.</p> <p>3 And can we go to Page -- sorry.</p> <p>4 That's my job. Can we go to Page 7?</p> <p>5 Can we zoom in on Interrogatory</p> <p>6 Number 2, please. Okay.</p> <p>7 BY MS. YUKEVICH:</p> <p>8 Q. So here we are, [as read]: "State</p> <p>9 and describe the purpose and function of a</p> <p>10 signature on voter registration applications,</p> <p>11 including any differences in the purpose and</p> <p>12 function of the wet-ink signatures compared to</p> <p>13 electronic or imaged signatures."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 MS. YUKEVICH: Can we zoom in on --</p> <p>18 and this is -- again, this is -- has been</p> <p>19 previously entered as Exhibit C. This is</p> <p>20 Defendant Elfant's Responses to</p> <p>21 Plaintiff's First Set of Interrogatories.</p> <p>22 Can we zoom in on the answer, the</p>

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<p style="text-align: right;">Page 125</p> <p>1 in purpose or function between a wet-ink</p> <p>2 signature and an electronic or imaged</p> <p>3 signature."</p> <p>4 Is that still your office's</p> <p>5 understanding today?</p> <p>6 A. For voter registration purposes,</p> <p>7 yes.</p> <p>8 Q. Okay.</p> <p>9 MS. YUKEVICH: We can take this</p> <p>10 down, Joe. Thanks.</p> <p>11 BY MS. YUKEVICH:</p> <p>12 Q. And so are you aware of any --</p> <p>13 the two sort of things that we've discussed</p> <p>14 today as uses for after -- for election</p> <p>15 administration purposes, the use for a voter --</p> <p>16 a signature on a voter registration application</p> <p>17 for election administration purposes are</p> <p>18 exemplar signature that can be used for</p> <p>19 comparison purposes by an Early Ballot Board and</p> <p>20 the one instance that you're aware of where</p> <p>21 signatures on voter registration application</p> <p>22 forms can be used for comparison purposes</p>	<p style="text-align: right;">Page 127</p> <p>1 from DPS?</p> <p>2 A. I am not aware of examples since I</p> <p>3 don't perform that function, but it would be a</p> <p>4 signature that we would have on file, and it</p> <p>5 could be from DPS or a mail-in. So it would be</p> <p>6 from either application that we had available.</p> <p>7 Q. When the Early Ballot Board used to</p> <p>8 come to your office and they would ask for</p> <p>9 signatures, did they -- did your office ever</p> <p>10 make a distinction between voters who registered</p> <p>11 at DPS and voters who registered on paper</p> <p>12 application?</p> <p>13 A. Again, I did not perform that</p> <p>14 function and I'm not aware that my staff made</p> <p>15 that distinction.</p> <p>16 Q. And the software you have now, that</p> <p>17 includes signatures that your office has scanned</p> <p>18 from voter registration applications that come</p> <p>19 in on paper or via facsimile; is that correct?</p> <p>20 A. Correct.</p> <p>21 Q. And it also includes DPS</p> <p>22 signatures; is that correct?</p>
<p style="text-align: right;">Page 126</p> <p>1 against in-person voter sign-in sheets in</p> <p>2 connection with an election context; is that</p> <p>3 correct?</p> <p>4 A. Yes, everything would be a function</p> <p>5 of the Elections Division.</p> <p>6 Q. Any other purpose or use for</p> <p>7 signatures on voter registration applications</p> <p>8 that you're aware of?</p> <p>9 MS. VEIDT: Objection, speculation.</p> <p>10 THE WITNESS: That I am aware of,</p> <p>11 no.</p> <p>12 BY MS. YUKEVICH:</p> <p>13 Q. And when the early -- I want to go</p> <p>14 back to before you got your new software and</p> <p>15 back to when the Early Ballot Board used to have</p> <p>16 to come to your office to -- when they -- for</p> <p>17 when they needed a signature.</p> <p>18 Are you with me so far?</p> <p>19 A. Yes. Yes.</p> <p>20 Q. Okay. When they would do that, did</p> <p>21 they ever ask or did you ever provide signatures</p> <p>22 from voter registration applications that came</p>	<p style="text-align: right;">Page 128</p> <p>1 A. That is correct.</p> <p>2 Q. And the Early Ballot Board has</p> <p>3 access to that system now; is that right?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. Sorry. Just give me one</p> <p>6 moment. I apologize.</p> <p>7 All right. So we talked a little</p> <p>8 bit about this earlier and I just want to go</p> <p>9 back over it again. For that I am sorry.</p> <p>10 What does your office do if a voter</p> <p>11 submits a voter registration application without</p> <p>12 a signature at all?</p> <p>13 A. Well, we consider that an</p> <p>14 incomplete application and we do send</p> <p>15 correspondence to the voter letting them know</p> <p>16 that it's incomplete and offer them the</p> <p>17 opportunity to complete the application and send</p> <p>18 us a completed application including the</p> <p>19 signature.</p> <p>20 Q. And what would your office do today</p> <p>21 if a voter submitted a voter registration</p> <p>22 application with an imaged signature?</p>

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<p style="text-align: right;">Page 129</p> <p>1 A. Can you clarify in what -- in what</p> <p>2 way would we receive it?</p> <p>3 Q. Oh, yes. Good point. What if you</p> <p>4 received an imaged signature on a paper voter</p> <p>5 registration application form?</p> <p>6 A. If we determined that it was an</p> <p>7 image, if we were able to make that</p> <p>8 determination in some manner, we would consider</p> <p>9 it an incomplete application.</p> <p>10 Q. Okay. And you mentioned if you</p> <p>11 "were able to make that determination."</p> <p>12 Is there someone in your office</p> <p>13 that reviews every signature to determine</p> <p>14 whether it's a wet-ink signature or an imaged</p> <p>15 signature?</p> <p>16 A. No, all of our administrative</p> <p>17 staff, including myself sometimes in a busy</p> <p>18 election cycle, will review applications for</p> <p>19 completeness and -- and everything. So we</p> <p>20 will -- we will look at the applications to</p> <p>21 ensure that there is a signature.</p> <p>22 Q. Okay. Is it your understanding</p>	<p style="text-align: right;">Page 131</p> <p>1 State of Texas?</p> <p>2 A. I am not aware of --</p> <p>3 MS. HUNKER: Object to form.</p> <p>4 Objection, speculation.</p> <p>5 THE WITNESS: I -- I am not aware</p> <p>6 of how -- of them distinguishing the</p> <p>7 difference.</p> <p>8 BY MS. YUKEVICH:</p> <p>9 Q. Okay. So you've processed</p> <p>10 applications that came in from a voter with a</p> <p>11 disability who's unable to sign their name, and</p> <p>12 those people have subsequently successfully</p> <p>13 registered to vote; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So we talked earlier about</p> <p>16 the Early Ballot Board and the -- or Early</p> <p>17 Balloting Board and -- and the interactions that</p> <p>18 your office used to have with the Early</p> <p>19 Balloting Board. I do want to ask just one more</p> <p>20 question.</p> <p>21 Did you ever go to get a voter -- a</p> <p>22 paper copy of a voter registration application</p>
<p style="text-align: right;">Page 130</p> <p>1 that the signature on the voter registration</p> <p>2 application is an affirmation that the rest of</p> <p>3 the information is correct?</p> <p>4 A. Yes, I would make that determine --</p> <p>5 yes.</p> <p>6 Q. And are you aware of disabled</p> <p>7 voters or voters that struggle with motor skills</p> <p>8 that are unable to sign a full name signature?</p> <p>9 A. Yes. Yes. We do receive -- we do</p> <p>10 have some applications that do -- do come in in</p> <p>11 those -- in that manner, yes.</p> <p>12 Q. Okay. What does your office do</p> <p>13 with those applications?</p> <p>14 A. Well, if there is some form of</p> <p>15 marking, I mean, we do process it as well.</p> <p>16 Q. And you process it in the same way</p> <p>17 that you process any other voter registration</p> <p>18 application?</p> <p>19 A. That -- that is correct, yes.</p> <p>20 Q. And is your understanding that</p> <p>21 Secretary of State's office is able to determine</p> <p>22 whether those folks are eligible to vote in the</p>	<p style="text-align: right;">Page 132</p> <p>1 for the Early Ballot Board?</p> <p>2 A. Again, not performing that task, I</p> <p>3 am not aware that any of my staff did have to</p> <p>4 get a paper application to retrieve a signature.</p> <p>5 Q. Okay. And you -- we testified</p> <p>6 earlier that you -- you're unaware of ever</p> <p>7 needing to bring voter -- paper voter</p> <p>8 registration applications back from storage; is</p> <p>9 that right?</p> <p>10 A. That is correct.</p> <p>11 Q. What are Signature Verification</p> <p>12 Committees?</p> <p>13 A. I cannot address those. That is</p> <p>14 not a function that we're involved in.</p> <p>15 Q. Okay. So you -- your office, to be</p> <p>16 clear, has never had any interaction with</p> <p>17 Signature Verification Committees specifically?</p> <p>18 A. No, I -- we have not.</p> <p>19 Q. So your office just had</p> <p>20 interactions with the Early Balloting Board; is</p> <p>21 that correct?</p> <p>22 A. Yes.</p>

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<p>1 2018, that under Texas Election Code that you --</p> <p>2 your office could accept those voter</p> <p>3 registration applications if you received them</p> <p>4 within four days and via facsimile?</p> <p>5 A. That is correct. We -- yes, that</p> <p>6 is correct.</p> <p>7 Q. And is it your understanding that</p> <p>8 the law required you to accept those</p> <p>9 applications?</p> <p>10 A. Yes.</p> <p>11 Q. And did that understanding change</p> <p>12 when House Bill 3107 passed?</p> <p>13 A. Yes, that -- that did change --</p> <p>14 Q. How did it change?</p> <p>15 A. -- is our understanding.</p> <p>16 That we would require a wet-ink</p> <p>17 signature or that's -- that is what has been</p> <p>18 state -- that has been stated in -- in</p> <p>19 guidelines from the Secretary of State's office.</p> <p>20 Q. And you, just to be clear, you</p> <p>21 would require -- now, after September 1st, 2021,</p> <p>22 you -- your office --</p>	<p>1 Q. Okay. And how could you -- could</p> <p>2 you tell the difference between Vote.org</p> <p>3 applications that came in from Vote.org with</p> <p>4 Vote.org's web -- let me withdraw.</p> <p>5 Could you tell the difference -- I</p> <p>6 apologize.</p> <p>7 Could your -- could you and your</p> <p>8 office tell the difference between applications</p> <p>9 that came in from voters who used Vote.org's web</p> <p>10 application versus app -- paper applications</p> <p>11 that came in from voters who did not use that</p> <p>12 application?</p> <p>13 A. I would say that at the -- the</p> <p>14 first set of applications we received, there was</p> <p>15 a difference. There was a technical issue that</p> <p>16 Vote.org had and the signatures were not coming</p> <p>17 in clearly and we communicated with them that</p> <p>18 there was an issue. They improved, worked on</p> <p>19 it, and -- and -- and repaired the problem that</p> <p>20 they were having, and then the signatures came</p> <p>21 in. We, of course, receive our faxes via</p> <p>22 e-mail, so we -- we don't use a fax machine.</p>
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<p>1 A. Uh-huh.</p> <p>2 Q. -- would only accept that copy with</p> <p>3 a wet-ink signature; is that correct?</p> <p>4 A. That is correct at this time, yes.</p> <p>5 Q. But before House Bill 3107, in the</p> <p>6 fall of 2018, your office would accept a copy</p> <p>7 with an imaged signature; is that correct?</p> <p>8 A. That is correct, if we received a</p> <p>9 facsimile application, yes.</p> <p>10 Q. Of course. First you would receive</p> <p>11 the facsimile application. And if within four</p> <p>12 days you received a copy, it was your</p> <p>13 understanding that you had -- that that was a</p> <p>14 complete voter registration application?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. Did your office -- so I want</p> <p>17 to move on, so past that meeting.</p> <p>18 Did your office receive voter</p> <p>19 registration applications from voters who used</p> <p>20 Vote.org's web application tool to send in their</p> <p>21 voter registration application?</p> <p>22 A. Yes, we did receive them.</p>	<p>1 And so we received those. Then we would have to</p> <p>2 print those out to be able to then scan them</p> <p>3 into our system.</p> <p>4 Q. I understand. So when you would</p> <p>5 get the faxed application, the facsimile</p> <p>6 application, you would print it and then have to</p> <p>7 scan it into a different system; is that</p> <p>8 correct?</p> <p>9 A. We would scan it. We would have to</p> <p>10 wait until the copy was received.</p> <p>11 Q. Okay.</p> <p>12 A. And once the copies were received,</p> <p>13 then that is what we would -- we would scan.</p> <p>14 But we would still make -- we would still print</p> <p>15 the faxes. We would have those waiting for</p> <p>16 copies to come in 'cause that is what we needed</p> <p>17 to wait for.</p> <p>18 Q. Understood. And we said -- so you</p> <p>19 could tell the difference. Is the way that you</p> <p>20 could tell the difference between voters who</p> <p>21 were submitting their applications using</p> <p>22 Vote.org's web application versus voters who</p>

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<p style="text-align: right;">Page 149</p> <p>1 were, like, coming on paper, is that because you</p> <p>2 were receiving them via facsimile?</p> <p>3 A. What -- let me just clarify.</p> <p>4 The -- the technical issue was that they had --</p> <p>5 they were changing the -- the white background</p> <p>6 was coming in dark and the signature was coming</p> <p>7 in white. So they had a technical issue. We</p> <p>8 told them we couldn't accept the applications</p> <p>9 and they had to work on their technical issues.</p> <p>10 Then when they resent them, then</p> <p>11 the images were clearer and we were able to</p> <p>12 distinguish signatures, you know, that -- that</p> <p>13 weren't blackened out, so that we could -- we</p> <p>14 could see them. And they basically did look</p> <p>15 like other -- any other image that we would</p> <p>16 have.</p> <p>17 Q. I understand. So there were some</p> <p>18 technical issues at the beginning; is that fair</p> <p>19 to say?</p> <p>20 A. Yes.</p> <p>21 Q. And this was the --</p> <p>22 A. Yes.</p>	<p style="text-align: right;">Page 151</p> <p>1 be as clear as we can for the record here, I</p> <p>2 used the word "legible" earlier.</p> <p>3 Not -- that -- when I say the word</p> <p>4 "legible," you mean that to understand, you</p> <p>5 know, someone signs a name, you can read exactly</p> <p>6 what it is that they're saying; is that -- is</p> <p>7 that right?</p> <p>8 A. Correct. Yes.</p> <p>9 Q. Like, if I signed Kathryn Yukevich,</p> <p>10 you would know that I signed Kathryn Yukevich.</p> <p>11 Is that what you mean by "legible"?</p> <p>12 A. Yes, it's -- you know, we're --</p> <p>13 we're saying that the -- that the image is -- is</p> <p>14 clear. It's -- it's not -- it's not damaged, so</p> <p>15 that we -- we can actually pull the image and</p> <p>16 everything. And so that's really -- that's all</p> <p>17 that we're trying to do is just ensure that --</p> <p>18 that it's -- that it's -- that it's clear --</p> <p>19 Q. Okay.</p> <p>20 A. -- so that our system accounts</p> <p>21 track.</p> <p>22 Q. Okay. And so when you mean --</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. -- first time, to your knowledge,</p> <p>2 that you received voter registration</p> <p>3 applications in this way; is that right?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. Okay. And then after, you know,</p> <p>6 you notified Vote.org of that technical issue;</p> <p>7 is that right?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And then --</p> <p>10 A. Yes.</p> <p>11 Q. -- the applications that you</p> <p>12 received subsequently, there were no -- I won't</p> <p>13 say no -- there were -- those issues didn't</p> <p>14 exist anymore; is that right?</p> <p>15 A. That is correct. That is correct.</p> <p>16 Q. And the signatures were legible</p> <p>17 after those initial technical issues?</p> <p>18 A. They were -- they were clearer.</p> <p>19 Let's just say they were clear, a legible</p> <p>20 signature. But, yes, they were -- they were</p> <p>21 clear and so we -- we could accept them.</p> <p>22 Q. All right. And so -- and just to</p>	<p style="text-align: right;">Page 152</p> <p>1 when -- you know, I understood your</p> <p>2 implication -- your -- that some were coming in</p> <p>3 legible and some were coming in not. That just</p> <p>4 means that you couldn't always read someone's</p> <p>5 handwriting; is that correct?</p> <p>6 A. Right. And I don't mean that it</p> <p>7 was legible. It was -- it -- there was a</p> <p>8 problem with the image. That was corrected and</p> <p>9 then we could -- we could accept it. So we</p> <p>10 could view it. We could easily view it and see</p> <p>11 that there was a clear signature.</p> <p>12 Q. Understood. And I just want to</p> <p>13 take a step back.</p> <p>14 Have you received paper voter</p> <p>15 applications where a signature is not your</p> <p>16 definition of legible?</p> <p>17 A. Oh, yes.</p> <p>18 Q. Okay. But -- and then -- so you</p> <p>19 received -- but you received clear signatures</p> <p>20 from voters who submitted their voter</p> <p>21 registration applications using Vote.org's --</p> <p>22 A. Yeah.</p>

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<p>1 Q. -- web application?</p> <p>2 A. Yes. Yes. Yes. Yes.</p> <p>3 Q. Not always legible?</p> <p>4 A. That is correct.</p> <p>5 Q. But all -- but clear?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. Okay. And I appreciate you being</p> <p>8 precise and -- and helping me to understand the</p> <p>9 difference there. Thank you.</p> <p>10 And then my next question: Were</p> <p>11 you able to enter -- for those voter</p> <p>12 registration applications that you received via</p> <p>13 facsimile and received a subsequent copy of the</p> <p>14 voter registration application, were you able to</p> <p>15 enter that voter's information into the system</p> <p>16 that you share with the Secretary of State?</p> <p>17 A. Yes.</p> <p>18 Q. And -- and did your office do that?</p> <p>19 A. Yes, we did.</p> <p>20 Q. And were some of those voter</p> <p>21 registration applications accepted by the</p> <p>22 Secretary of State's office?</p>	<p>1 e-mail?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Okay. And did you send this</p> <p>4 e-mail?</p> <p>5 A. Yes, I did.</p> <p>6 Q. And who did you send it to?</p> <p>7 A. I sent it to -- I believe it would</p> <p>8 have been Sarah. So I unless there was anybody</p> <p>9 else on the e-mail, I would have sent it to her.</p> <p>10 Q. Okay. And I think Sarah is on the</p> <p>11 e-mail.</p> <p>12 What I want to ask you about here</p> <p>13 is just what you said. So you said --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- and I just want to make sure I</p> <p>16 read it correctly -- "I needed to let you know</p> <p>17 that some signatures are not coming through and</p> <p>18 others are very faint. We've received maybe six</p> <p>19 thus far."</p> <p>20 So it's Friday, September 21st,</p> <p>21 2018. Did I read that correctly?</p> <p>22 A. Uh-huh. Yes.</p>
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<p>1 A. We did not track -- but, yes, they</p> <p>2 were. We did not track if any of them had</p> <p>3 any -- any follow-up issues, in that names,</p> <p>4 numbers didn't match, a birth date. But other</p> <p>5 than that, yes, we submitted everything.</p> <p>6 Q. Okay. Did you, in 2018, reject any</p> <p>7 voter registration applications because they did</p> <p>8 not have a wet-ink signature on the copy that</p> <p>9 you received after you received a facsimile?</p> <p>10 A. No, we did not.</p> <p>11 Q. And so I want to bring up, if it's</p> <p>12 okay with you, one of the e-mails that your</p> <p>13 office disclosed to us during discovery.</p> <p>14 Is that all right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So just give me one second</p> <p>17 to identify it. Okay.</p> <p>18 MS. YUKEVICH: Can we bring up</p> <p>19 Exhibit I, as in ice, please. And can we</p> <p>20 just zoom in on that highlighted part.</p> <p>21 BY MS. YUKEVICH:</p> <p>22 Q. Gretchen, do you recognize this</p>	<p>1 Q. And you -- you expressed two</p> <p>2 concerns here. The first is that some</p> <p>3 signatures are not coming through; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And the second is that other</p> <p>7 signatures were faint; is that also correct?</p> <p>8 A. Yes.</p> <p>9 Q. And when you say, "We've received</p> <p>10 maybe 6 thus far," are you talking about six</p> <p>11 voter registration applications from voters who</p> <p>12 used Vote.org's web application?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I just wanted to make sure</p> <p>15 we were on the same page, but --</p> <p>16 A. It would be -- it would be six</p> <p>17 faxes. It would be six faxes that we received.</p> <p>18 Q. Right. So you were -- this is --</p> <p>19 and you were -- you were aware that these</p> <p>20 applications were coming through Vote.org</p> <p>21 because you had been told that -- that it would</p> <p>22 come through facsimile; is that correct?</p>

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<p>1 the conferences in the summer and then you also</p> <p>2 participate or at least listen to the webinars?</p> <p>3 A. Yes, yes.</p> <p>4 Q. Okay. Thank you. Who else</p> <p>5 attended these conferences?</p> <p>6 A. Eleanor Staff, our business</p> <p>7 analyst, attend the -- attend the conferences.</p> <p>8 Also our administrative staff attend. And in</p> <p>9 the past, our outreach and training coordinator</p> <p>10 has also attended. So we do vary and -- who</p> <p>11 attends and for what length of time they attend.</p> <p>12 Q. Did you attend any trainings hosted</p> <p>13 by the Secretary of State when you joined the</p> <p>14 office --</p> <p>15 A. Yes.</p> <p>16 Q. -- when you joined the Tax Office?</p> <p>17 A. When I joined the Voter</p> <p>18 Registration Division in the Tax Office, I would</p> <p>19 have attended that summer of 2016.</p> <p>20 Q. But it was not specific to you as a</p> <p>21 new employee; is that correct?</p> <p>22 A. I'm sorry. I don't understand your</p>	<p>1 I -- no, I don't.</p> <p>2 Q. So, Ms. Nagy, we've been going for</p> <p>3 about an hour. I am about to change topics so</p> <p>4 this might be a good place for a break if you'd</p> <p>5 like one.</p> <p>6 A. Okay. Certainly. We can do that.</p> <p>7 MS. HUNKER: Does 10 minutes work?</p> <p>8 We can come back at 2:30.</p> <p>9 MS. VEIDT: That works.</p> <p>10 THE VIDEOGRAPHER: Okay. We are</p> <p>11 now going off the video record. The time</p> <p>12 is 2:20 p.m.</p> <p>13 (A recess is held from 2:20 p.m. to</p> <p>14 2:31 p.m.)</p> <p>15 THE VIDEOGRAPHER: We are now going</p> <p>16 back on the video record. The time is</p> <p>17 2:32 p.m.</p> <p>18 BY MS. HUNKER:</p> <p>19 Q. Hi, Ms. Nagy. Did you enjoy your</p> <p>20 break?</p> <p>21 A. Yes, yes, I did. Thank you. Thank</p> <p>22 you.</p>
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<p>1 question.</p> <p>2 Q. The conference was the usual</p> <p>3 conference held in the summer, it was not</p> <p>4 designed for new employees?</p> <p>5 A. No, it was -- it was the summer</p> <p>6 conference, yes.</p> <p>7 Q. In any of the election seminar that</p> <p>8 was held in this past summer was HB 3107</p> <p>9 mentioned?</p> <p>10 A. I don't re -- I would have to go</p> <p>11 back and -- and view -- review everything to</p> <p>12 see. I can't address that exactly.</p> <p>13 Q. That's no problem. I just wanted</p> <p>14 to see if you happened to have a recall.</p> <p>15 A. Yes, no, I don't.</p> <p>16 Q. I'm going to ask the same question</p> <p>17 in regards to -- or similar question in regards</p> <p>18 to 2018.</p> <p>19 Did the Secretary of State address</p> <p>20 wet signatures or registration by fax in the</p> <p>21 2018 seminar?</p> <p>22 A. I do not recall that they did.</p>	<p>1 Q. So early in our deposition we spoke</p> <p>2 a little bit about your role and the Tax</p> <p>3 Office's role in elections in Travis County;</p> <p>4 correct?</p> <p>5 A. Yes, yes.</p> <p>6 Q. So I realized I had one or two</p> <p>7 questions I wanted to ask you but skipped over,</p> <p>8 so I'm going to go back to that briefly before</p> <p>9 we hit the next topic. Is that okay?</p> <p>10 A. Okay.</p> <p>11 Q. Okay. So you said that you do not</p> <p>12 oversee the Early Voting Ballot Board; correct?</p> <p>13 A. That is correct.</p> <p>14 Q. And the only times you really</p> <p>15 interact with them is when they come to the Tax</p> <p>16 Office and request an application specifically</p> <p>17 for the signature; is that right?</p> <p>18 A. And that was before we went to our</p> <p>19 new system.</p> <p>20 Q. That's correct.</p> <p>21 A. Yes. Yes.</p> <p>22 Q. You don't know how many times the</p>

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<p>1 Early Voting Ballot Board came to your office to</p> <p>2 request applications; is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And was it -- is it fair to say you</p> <p>5 know -- that you have less knowledge now that</p> <p>6 you moved on to a different system on how many</p> <p>7 times the Early Ballot Board needs to look at an</p> <p>8 application or signature?</p> <p>9 A. That is correct, yes.</p> <p>10 Q. But you can confirm that when you</p> <p>11 had the old system, the Early Voting Ballot</p> <p>12 Board did request the application in order to</p> <p>13 compare the signature?</p> <p>14 A. They actually requested a</p> <p>15 signature, a copy of the signature, not the</p> <p>16 actual application.</p> <p>17 Q. Okay. So let me rephrase the</p> <p>18 question.</p> <p>19 But you can confirm that the Early</p> <p>20 Voting Ballot Board requested the signature on</p> <p>21 the application for a comparison during the</p> <p>22 elections?</p>	<p>1 A. I spoke to who?</p> <p>2 Q. You mentioned, I think, that when a</p> <p>3 voter appears in person they sign an e-poll</p> <p>4 book?</p> <p>5 A. Yes. Yes. That's from my personal</p> <p>6 experience.</p> <p>7 Q. That's from your personal</p> <p>8 experience as a Travis County voter?</p> <p>9 A. Yes. Yes.</p> <p>10 Q. So that, I assume, was implemented</p> <p>11 by the County Clerk's Office?</p> <p>12 A. Yes, that is correct.</p> <p>13 Q. So you wouldn't know if voters</p> <p>14 liked the change to an e-poll book from the</p> <p>15 paper sign-in?</p> <p>16 A. Oh, I -- I have no knowledge of --</p> <p>17 of how voters feel about that conversion when we</p> <p>18 did that conversion.</p> <p>19 Q. And you wouldn't know if it's made</p> <p>20 it more difficult or less difficult for either</p> <p>21 voters or the county; correct?</p> <p>22 A. I wouldn't have any knowledge of</p>
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<p>1 A. That is correct.</p> <p>2 Q. Can you confirm that this occurred</p> <p>3 each election at least once?</p> <p>4 A. I -- I don't know that I can</p> <p>5 confirm that. I would have to -- I would have</p> <p>6 to inquire of the staff that actually were</p> <p>7 responsible for providing the signatures.</p> <p>8 Q. Understood. Would you characterize</p> <p>9 their need to refer to the signature on the</p> <p>10 application as consistent throughout the</p> <p>11 election year?</p> <p>12 A. Can you repeat that again?</p> <p>13 Q. Yes. Would you characterize the</p> <p>14 frequency in which they had to refer to an</p> <p>15 application -- or refer to the signature as</p> <p>16 being consistent throughout the year, the</p> <p>17 election year, for election?</p> <p>18 A. Oh, during an election cycle. Yes,</p> <p>19 I would say so, before our new system, yes.</p> <p>20 Q. Thank you. You also spoke to</p> <p>21 counsel about the e-poll books that Travis</p> <p>22 County uses; is that correct?</p>	<p>1 that, uh-uh.</p> <p>2 Q. Thank you.</p> <p>3 A. Uh-huh.</p> <p>4 Q. You also spoke some with counsel</p> <p>5 about there had been at least one occasion where</p> <p>6 they had to refer to the signature on the</p> <p>7 application because somebody had signed it</p> <p>8 incorrectly; is that correct?</p> <p>9 A. I do recollect something. I don't</p> <p>10 have all of the particulars or all the details.</p> <p>11 This was probably four years ago, five years</p> <p>12 ago. But, yes, there was something that</p> <p>13 occurred and it was tied to similar name and a</p> <p>14 junior, a child, same name, and it was the --</p> <p>15 and then something that they did have to look at</p> <p>16 the signature.</p> <p>17 Q. Do you know if that instance --</p> <p>18 incident occurred before the switch to e-polling</p> <p>19 books?</p> <p>20 A. I do not -- I cannot answer that.</p> <p>21 I don't have an answer for that.</p> <p>22 Q. That's perfectly fair.</p>

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<p>1 registration applications via facsimile?</p> <p>2 A. Yes, generally so.</p> <p>3 Q. Okay. How was that?</p> <p>4 Can you just explain what you</p> <p>5 understand to have happened?</p> <p>6 A. Do you want to ask me a more</p> <p>7 specific question or do you want to risk me</p> <p>8 going really, really broad?</p> <p>9 Q. That's fair. I will withdraw my</p> <p>10 question. That a fair point.</p> <p>11 Did you ever speak to anyone at</p> <p>12 Vote.org about voter registration applications</p> <p>13 being transmitted to your office via facsimile?</p> <p>14 A. I don't believe that I spoke to</p> <p>15 anybody directly.</p> <p>16 Q. Okay. Are you aware that other</p> <p>17 members of your office spoke to folks at</p> <p>18 Vote.org?</p> <p>19 A. Yes, I know Ms. Nagy spoke with</p> <p>20 them.</p> <p>21 Q. And do you recall former Secretary</p> <p>22 of State Rolando Pablos making an announcement</p>	<p>1 precise date --</p> <p>2 Q. Okay.</p> <p>3 A. -- but I certainly did see.</p> <p>4 Q. Okay. And can you just -- what was</p> <p>5 your understanding of what this announcement</p> <p>6 meant for the voter registration applications</p> <p>7 that you had received via facsimile in the fall</p> <p>8 of 2018?</p> <p>9 A. Well, the Secretary of State's</p> <p>10 position was that the statute didn't allow for</p> <p>11 what the Vote.org folks were wanting to do with</p> <p>12 sending in the fax and then sending in a copy.</p> <p>13 That was their position.</p> <p>14 Q. And was it your office's position</p> <p>15 that it did?</p> <p>16 A. Well, okay. This is where I want</p> <p>17 to start a little bit at the beginning.</p> <p>18 Our -- as Gretchen said, our</p> <p>19 office's position for years was that we have to</p> <p>20 have a real signature, we have to have a</p> <p>21 original signature. And she came in to see me</p> <p>22 one afternoon, told me what the Vote.org folks</p>
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<p>1 before the 2018 midterm election about</p> <p>2 signatures on voter registration applications?</p> <p>3 A. I do.</p> <p>4 Q. Okay. Do you --</p> <p>5 MS. YUKEVICH: Let's pull up what I</p> <p>6 premarked as Exhibit L. And if we can</p> <p>7 also, Joe, enter this as Exhibit L for the</p> <p>8 purpose of the deposition.</p> <p>9 (Exhibit L, document titled 2/2/22</p> <p>10 10:14 AM Secretary Pablos Reminds Texans</p> <p>11 To Exercise Caution When Registering To</p> <p>12 Vote, is marked for identification.)</p> <p>13 MS. YUKEVICH: And zoom in just to</p> <p>14 that -- those first two paragraphs.</p> <p>15 BY MS. YUKEVICH:</p> <p>16 Q. Okay. Have you seen this document</p> <p>17 before, Mr. Elfant?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Okay. When -- when did you first</p> <p>20 see it?</p> <p>21 A. I can't give you a precise date. I</p> <p>22 saw it when it came out. But I can't give you a</p>	<p>1 wanted to do and my first reaction is, "I don't</p> <p>2 think we can do that. I think we have to have</p> <p>3 an original."</p> <p>4 And she said, "Look at the</p> <p>5 statute."</p> <p>6 And she showed me the statute and</p> <p>7 the Election Code and it said "copy." It didn't</p> <p>8 say "original." And so that kind of opened up,</p> <p>9 you know, some questions for us.</p> <p>10 And the next thing I did was</p> <p>11 contact our counsel with the County Attorney's</p> <p>12 Office to have them look at it.</p> <p>13 And I should mention that our</p> <p>14 counsel was Elizabeth -- Elizabeth Winn who was</p> <p>15 not only an election expert, but she was</p> <p>16 actually the chief lawyer at the Secretary of</p> <p>17 State's office. And so any time we needed</p> <p>18 guidance from our counsel, we felt pretty</p> <p>19 confident in the -- in the guidance that we were</p> <p>20 getting.</p> <p>21 I can't tell you exactly what she</p> <p>22 told me, but I was comfortable at that point</p>

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<p>1 that copy meant copy and it didn't mean</p> <p>2 original.</p> <p>3 Shortly after that, I received a</p> <p>4 call from Christina Adkins who's Elizabeth's</p> <p>5 replacement at the Secretary of State's office</p> <p>6 and she said, "We don't want you accepting these</p> <p>7 applications."</p> <p>8 And I said, "But the statute says</p> <p>9 copy."</p> <p>10 And she said, "Well, that's really</p> <p>11 not what we meant. We meant that it should be</p> <p>12 original."</p> <p>13 And I said, "The statute says copy.</p> <p>14 I don't know what to tell you, Christina. You</p> <p>15 know what you ought to do is contact our</p> <p>16 lawyer."</p> <p>17 And she said, "Who's your lawyer?"</p> <p>18 And I said, "Elizabeth Winn."</p> <p>19 And she said, "Oh, she hired me."</p> <p>20 And I said, "All right. You-all</p> <p>21 know each other. So you-all should talk and</p> <p>22 work this out. And, you know, if you can get us</p>	<p>1 conversations with county officials, she's</p> <p>2 representing the Secretary of State himself, so,</p> <p>3 yes.</p> <p>4 Q. Okay. And did you ever discuss</p> <p>5 this announcement or the intent of that</p> <p>6 announcement with anyone else at the Secretary</p> <p>7 of State's office?</p> <p>8 A. I don't believe I did. I believe</p> <p>9 my contact with Christina and then Elizabeth</p> <p>10 Winn's subsequent follow-up with her were the</p> <p>11 extent of our contacts --</p> <p>12 Q. Okay. Did you review with them --</p> <p>13 A. -- since --</p> <p>14 THE REPORTER: I didn't hear the</p> <p>15 end.</p> <p>16 THE WITNESS: I apologize. To the</p> <p>17 extent of my knowledge.</p> <p>18 I'm going to do better. I promise.</p> <p>19 BY MS. YUKEVICH:</p> <p>20 Q. It's okay. It's me too.</p> <p>21 Did you receive -- let me -- I'll</p> <p>22 take that back.</p>
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<p>1 restrained, we won't do it. But our reading</p> <p>2 here at the county of the statute is that it</p> <p>3 says copy, it doesn't say original."</p> <p>4 And so that's what -- what I told</p> <p>5 Christina.</p> <p>6 And I wasn't in on the call between</p> <p>7 her and Elizabeth Winn, but that's -- you know,</p> <p>8 that was our conversation.</p> <p>9 Q. And just to be clear, when you</p> <p>10 raised that the statute said copy and not</p> <p>11 original, her response was "that wasn't really</p> <p>12 what we meant"; is that right?</p> <p>13 A. That wasn't -- I'm saying to the --</p> <p>14 to the extent that it wasn't our intent.</p> <p>15 Q. Okay. And when she said "we" do</p> <p>16 you know who she was referring to?</p> <p>17 A. When she -- I'm sorry. When she</p> <p>18 said what?</p> <p>19 Q. When she said "we," was -- did you</p> <p>20 take that to mean she was referring to the</p> <p>21 Secretary of State's office?</p> <p>22 A. When, you know, when she has</p>	<p>1 What was your understanding --</p> <p>2 what -- I'll take that back as well.</p> <p>3 What was the outcome of Ms. Winn's</p> <p>4 conversation with Christina Adkins?</p> <p>5 A. I -- I don't know. And I don't</p> <p>6 believe that Elizabeth ever shared with me their</p> <p>7 conversation. But our -- our -- our advice</p> <p>8 remained the same, didn't -- didn't change.</p> <p>9 Q. Your office's policy from the time</p> <p>10 that -- from the fall of 2018 until House</p> <p>11 Bill 3107 that advice did not change; is that</p> <p>12 correct?</p> <p>13 A. Ask -- I'm sorry. Ask that again.</p> <p>14 I want to make sure I get the dates right.</p> <p>15 Q. Sure. So between the fall of 2018</p> <p>16 and until the effective date of House Bill 3107,</p> <p>17 that policy didn't change; is that correct?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. But now that House Bill 3107 has</p> <p>20 been enacted, it has changed; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever discuss -- and I'm</p>

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IN THE WESTERN UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

-----x
 VOTE.ORG, :
 :
 Plaintiff, :
 :
 vs. :
 :
 JACQUELYN CALLANEN, in her :
 official capacity as the : Case No.
 Bexar County Elections :
 Administrator, et al., :
 : 5:21-cv-649-
 Defendants, : JKP-HJB
 :
 and KEN PAXTON, in his :
 official capacity as Attorney :
 General of Texas, et al., :
 :
 Intervenor-Defendants. :
 -----x

VIRTUAL VIDEOTAPED 30(b)(6) DEPOSITION OF
 REMI GARZA

Friday, March 4, 2022

10:01 a.m. Central Standard Time

REPORTER: Dawn A. Jaques, CSR, CLR

DIGITAL EVIDENCE GROUP
 1730 M Street, NW, Suite 812
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 (202) 232-0646

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<p>1 A Yes.</p> <p>2 Q And you received 4,592 applications?</p> <p>3 A Yes.</p> <p>4 Q And then in person, line 8, just 1?</p> <p>5 A Yes, so far this year.</p> <p>6 Q And then go down to line 12. So this</p> <p>7 one does not have an NVRA code. Can you explain</p> <p>8 why that's not -- it doesn't have an NVRA code?</p> <p>9 A That was an event in the VOTEC system</p> <p>10 where a correction was done to a voter's</p> <p>11 registration file that didn't change their status</p> <p>12 from either active or suspends, or require that a</p> <p>13 notice be sent out to the voter.</p> <p>14 Q Okay. All right. So I'm going to</p> <p>15 stop sharing.</p> <p>16 I will mark this as Garza Exhibit 1</p> <p>17 for the record, Zach and Dawn, for purposes of our</p> <p>18 deposition today so that our record is clear of</p> <p>19 what documents have been reviewed and examined</p> <p>20 during today's deposition.</p> <p>21 (Garza Exhibit 1 was marked</p> <p>22 for identification.)</p>	<p>1 would use to call and request a paper</p> <p>2 application -- to request that a paper application</p> <p>3 is mailed to their place of residence?</p> <p>4 A Yes.</p> <p>5 Q Is that required by law?</p> <p>6 A I don't know if it is, but it should</p> <p>7 be.</p> <p>8 Q Sure, okay.</p> <p>9 Is that phone -- is your phone in the</p> <p>10 office staffed by one individual person, or does</p> <p>11 everyone kind of answer those calls as they come</p> <p>12 into your office?</p> <p>13 A The reception desk has four phones for</p> <p>14 each one of the stations, although it's primarily</p> <p>15 two individuals that are working there, and it</p> <p>16 rings on all the desks at the same time.</p> <p>17 Q And to be sure, the people at the</p> <p>18 reception desk, the two individuals that you</p> <p>19 referenced, do they speak Spanish?</p> <p>20 A Yes.</p> <p>21 Q Okay. Do they speak any other</p> <p>22 languages?</p>
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<p>1 BY MR. HARRIS:</p> <p>2 Q I'm going to stop sharing that. So no</p> <p>3 one can see my secret sauce, right, anymore?</p> <p>4 So now what I want to talk about is</p> <p>5 that we discussed that voters can actually request</p> <p>6 an application by coming into your office, or also</p> <p>7 by calling your office, and you would mail a paper</p> <p>8 application out to the voter in Cameron County; is</p> <p>9 that correct?</p> <p>10 A Yes.</p> <p>11 Q And is that number published on your</p> <p>12 website?</p> <p>13 A I'm sorry, the number --</p> <p>14 Q The number to your office to call, is</p> <p>15 that published?</p> <p>16 A Yes.</p> <p>17 Q I'm sorry, is the number published --</p> <p>18 is your office number published on the website?</p> <p>19 That's my first question. Is your office number</p> <p>20 published on your website?</p> <p>21 A Yes.</p> <p>22 Q And is that the same number a voter</p>	<p>1 A Not that I've heard them.</p> <p>2 Q Do they speak English?</p> <p>3 A Oh, yes. I'm sorry.</p> <p>4 Q Okay, fair enough.</p> <p>5 Do you keep records of the number of</p> <p>6 calls you get with voters requesting that voter</p> <p>7 registration applications be mailed to their place</p> <p>8 of residence?</p> <p>9 A No.</p> <p>10 Q Do you keep a record of who calls your</p> <p>11 office to request voter registration applications?</p> <p>12 A Not that I'm aware of.</p> <p>13 Q Who in your office is responsible for</p> <p>14 mailing out applications once you get a call -- or</p> <p>15 I'll ask it -- strike that.</p> <p>16 Who in your office is responsible for</p> <p>17 mailing out a voter registration application once</p> <p>18 requested by a voter?</p> <p>19 A Primarily it would be Ms. Diaz,</p> <p>20 Maribel Diaz.</p> <p>21 Q And earlier you said, and correct me</p> <p>22 if I'm wrong, that you generally -- your office</p>

21 (Pages 81 to 84)

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1 generally tries to be prompt with getting that
 2 application out once that request is received by
 3 your office, usually same day; is that right?
 4 A Yes.
 5 Q Do you know on average how long it
 6 takes for your office to receive the completed
 7 application back from a voter? On average, how
 8 long does that typically take, if you know?
 9 A I don't have any information. It's
 10 not something that we track.
 11 Q Okay. All right.
 12 What I want to do now is, Zach, could
 13 we look at Exhibit D?
 14 (Garza Exhibit D was marked
 15 for identification.)
 16 BY MR. HARRIS:
 17 Q Mr. Garza, please take a moment to
 18 review this first part of Exhibit D, and I can
 19 represent to you -- Zach, if you'd scroll down to
 20 the very bottom.
 21 Mr. Garza, do you see in the bottom
 22 right corner the number 0018?

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1 Q And so what on this document lets you
 2 know that you have to wait for the original to
 3 arrive?
 4 A At the top of the page, just
 5 underneath the -- I guess the header, it has
 6 application previously submitted by fax on the
 7 25th of September 2018, 11:26 Central Daylight
 8 Time.
 9 Q Did your office apply this, or did
 10 someone else, some other entity apply this
 11 timestamp?
 12 A It appears that somebody else
 13 submitted -- applied that timestamp.
 14 Q Okay. Do you know if that was applied
 15 by Vote.org?
 16 A It appears to be one of the
 17 applications that we received through their
 18 process.
 19 Q Okay. And so it would be fair to say
 20 that you know that -- and I believe the voter's
 21 name is Mr. Perez.
 22 Would it be fair to say that Mr. Perez

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1 A Yes.
 2 Q So whenever you see this number,
 3 they're going to be Bates numbers, this is a
 4 document that you produced to us in this case.
 5 And so I'm going to review this
 6 document, I think this document has 4 pages in
 7 total, but for clarity of the record, and so that
 8 we have an easy conversation on this exhibit, I'll
 9 reference the Bates number so that you know where
 10 my line of questioning will come from.
 11 Is that fair?
 12 A Yes.
 13 Q Okay. So take a moment to review the
 14 document that has been premarked, and now marked
 15 as Exhibit D, and let me know when you're ready
 16 for my next set of questions.
 17 A I'm prepared.
 18 Q Mr. Garza, what is this document?
 19 A It appears to be a voter registration
 20 application that was submitted to our office
 21 originally by fax, and then we waited for the
 22 original application to arrive.

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1 used Vote.org's web application tool to submit his
 2 application to your office?
 3 A It appears so.
 4 Q Is Mr. Perez's signature on this
 5 application?
 6 A There is an image of his signature,
 7 yes.
 8 Q And that signature is legible?
 9 A Yes.
 10 Q And you can read it?
 11 A Yes.
 12 Q But you initially -- let me strike
 13 that.
 14 When you received this application,
 15 what did you do with it?
 16 A It was reviewed and determined to be
 17 incomplete because it did not contain an original
 18 signature.
 19 Q Okay. So, Zach, can we scroll down to
 20 0019? It's the second page in this document.
 21 Perfect.
 22 Mr. Garza, take a moment to review

22 (Pages 85 to 88)

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<p style="text-align: right;">Page 89</p> <p>1 this letter -- or this document, sorry, and let me</p> <p>2 know when you're ready for me to continue our</p> <p>3 conversation.</p> <p>4 A I'm ready.</p> <p>5 Q All right. So you told me that</p> <p>6 Mr. Perez's application was not fully processed</p> <p>7 because you did not have a signature; is that</p> <p>8 correct?</p> <p>9 A The signature wasn't considered to be</p> <p>10 a complete signature.</p> <p>11 Q Even though there was a signature on</p> <p>12 the application?</p> <p>13 A There was an image of his signature,</p> <p>14 yes.</p> <p>15 Q Okay. And is this -- what is this</p> <p>16 letter? Is this something that -- I mean, I see</p> <p>17 that you wrote it, but tell me what this is. Talk</p> <p>18 to me about it.</p> <p>19 A It's one of notices that's generated</p> <p>20 through the VOTEC system based on the particular</p> <p>21 problem with an application, and it's generated</p> <p>22 and ultimately mailed to the person whose</p>	<p style="text-align: right;">Page 91</p> <p>1 Q All right. So let's look at the last</p> <p>2 page in this. Zach, is there a way for you to --</p> <p>3 you're amazing.</p> <p>4 All right, so if we look at the bottom</p> <p>5 where it says "Comments," do you see that,</p> <p>6 Mr. Garza?</p> <p>7 A Yes.</p> <p>8 Q It says, "APPLIED TEAM SSN VOTER</p> <p>9 REPLIED TO LETTER WITH CORRECTIONS."</p> <p>10 And correct me if I'm wrong, that</p> <p>11 correction was the second signature we just looked</p> <p>12 at in the previous page; is that correct?</p> <p>13 A Yes, I believe so.</p> <p>14 Q Okay. And once that correction was</p> <p>15 made, Mr. Perez's voter registration application</p> <p>16 was deemed complete, correct?</p> <p>17 A Yes.</p> <p>18 Q All right, we can take that down.</p> <p>19 Thank you.</p> <p>20 So now you told me one of the goals of</p> <p>21 your office is to make sure that voting is more</p> <p>22 accessible. Would that be -- do you recall</p>
<p style="text-align: right;">Page 90</p> <p>1 application has been deemed incomplete.</p> <p>2 Q Okay. And this is something you said</p> <p>3 that's generated from the VOTEC system, and then</p> <p>4 your office mails this letter out to the voter.</p> <p>5 Does the voter get anything else in</p> <p>6 addition to this letter from you?</p> <p>7 A Depending on what their response is to</p> <p>8 the original letter.</p> <p>9 Q Okay. So let's go down to the third</p> <p>10 page in this document, which is 0020, and now</p> <p>11 there's something -- if you look now at the</p> <p>12 signature box, there are two signatures there now,</p> <p>13 right?</p> <p>14 A Yes.</p> <p>15 Q So we have the original imaged</p> <p>16 signature from the application, and then there's a</p> <p>17 new signature. Do you see that?</p> <p>18 A Yes.</p> <p>19 Q So once this new signature appeared on</p> <p>20 the application, what did you do with the</p> <p>21 application?</p> <p>22 A I would image it was processed.</p>	<p style="text-align: right;">Page 92</p> <p>1 stating that earlier today?</p> <p>2 A Yes.</p> <p>3 Q And you also told me that another one</p> <p>4 of your goals is to ensure that your office</p> <p>5 registers as many people as possible.</p> <p>6 Do you remember that?</p> <p>7 A Well, those that are eligible to be</p> <p>8 registered, yes.</p> <p>9 Q Fair enough, yes. Those who are</p> <p>10 eligible to register to vote, you want to increase</p> <p>11 that number.</p> <p>12 Has your office ever received any</p> <p>13 complaints about the registration process in</p> <p>14 Cameron County?</p> <p>15 A Specifically aimed at our process?</p> <p>16 I'm not sure. You know, I don't know if you're</p> <p>17 considering phone calls or just people talking</p> <p>18 about how difficult it is to register in Texas as</p> <p>19 being a complaint about the registration process</p> <p>20 in Cameron County.</p> <p>21 Q Oh, let's dig into that.</p> <p>22 During your tenure as Cameron County</p>

23 (Pages 89 to 92)

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<p style="text-align: right;">Page 93</p> <p>1 Election Administrator, your office has received</p> <p>2 phone calls from voters about how difficult it is</p> <p>3 to vote in Texas as a general matter?</p> <p>4 A We received phone calls where voters</p> <p>5 have expressed concerns during the election</p> <p>6 process about how they felt they were registered</p> <p>7 or had submitted their registration on time, but</p> <p>8 weren't eligible to vote.</p> <p>9 You know, we have had individuals who,</p> <p>10 despite multiple attempts to correct an</p> <p>11 application, have expressed concerns and deemed it</p> <p>12 difficult to register to vote in Texas.</p> <p>13 Q Does your office -- sorry, strike</p> <p>14 that.</p> <p>15 Outside of those two general</p> <p>16 categories of complaints, can you recall any other</p> <p>17 categories of complaints from Texas voters?</p> <p>18 A Not immediately.</p> <p>19 Q Okay. And once your office receives</p> <p>20 that feedback or that complaint from a voter, do</p> <p>21 you record it or log it anywhere?</p> <p>22 A Not that I'm aware of.</p>	<p style="text-align: right;">Page 95</p> <p>1 their driver's license.</p> <p>2 Q Okay. Any other solutions?</p> <p>3 A Not that immediately come to mind</p> <p>4 because that was one of the biggest difficulties</p> <p>5 that we were having with respect to our community.</p> <p>6 Q Okay. So the biggest issue you were</p> <p>7 having with the registration process related to</p> <p>8 voter ID. It did not relate to faxing in voter</p> <p>9 registration applications?</p> <p>10 A Not that I'm aware of.</p> <p>11 Q And after you provided that feedback,</p> <p>12 what percentage would you say -- strike that.</p> <p>13 After you provided the recommended,</p> <p>14 you know, remedies or solutions for these</p> <p>15 complaints, what percentage of applications do you</p> <p>16 think are rectified within, you know, the required</p> <p>17 time period?</p> <p>18 A I wouldn't have a way of quantifying</p> <p>19 that at the moment.</p> <p>20 Q Okay. All right, so let's look at</p> <p>21 Exhibit E now, what has been premarked as</p> <p>22 Exhibit E.</p>
<p style="text-align: right;">Page 94</p> <p>1 Q Okay. So you receive it and do what</p> <p>2 with it?</p> <p>3 A Well, we consider the issues that may</p> <p>4 have presented themselves during -- with the</p> <p>5 complaint to see if there's anything we can do to</p> <p>6 either better explain the process, or things that</p> <p>7 we can do to help people avoid those types of</p> <p>8 situations.</p> <p>9 Q And give me some examples of the</p> <p>10 solutions that you provide to the voter in those</p> <p>11 instances.</p> <p>12 A We recommend that if they have their</p> <p>13 driver's license available, that they write their</p> <p>14 names in the order that's on the driver's license,</p> <p>15 so that when it goes through the state check, we</p> <p>16 train our volunteer deputy registrars and include</p> <p>17 that and suggest that they recommend that to</p> <p>18 registrants so that people with multiple last</p> <p>19 names, or what appear to be multiple last names,</p> <p>20 would not find rejections based on putting one</p> <p>21 name in front of the other on their card,</p> <p>22 registration card, versus how they have it on</p>	<p style="text-align: right;">Page 96</p> <p>1 (Garza Exhibit E was marked</p> <p>2 for identification.)</p> <p>3 BY MR. HARRIS:</p> <p>4 Q Mr. Garza, what I want to do, and I</p> <p>5 believe, you can correct me if I'm wrong, this is</p> <p>6 one of the documents you stated at the top of our</p> <p>7 conversation that you do have in front of you?</p> <p>8 A Yes, I do, but it doesn't have</p> <p>9 Bates stamps.</p> <p>10 Q Okay. And I don't think mine does</p> <p>11 either. Okay, great. So let's do this.</p> <p>12 Take a moment to review this document.</p> <p>13 Obviously, I'm not going to go over this entire</p> <p>14 thing, what has now been marked as Exhibit E, but</p> <p>15 please take a moment to review this document, and</p> <p>16 let me know once you're ready to proceed.</p> <p>17 A I'm prepared to proceed.</p> <p>18 Q All right. Mr. Garza, what is this,</p> <p>19 what has now been marked as Exhibit E?</p> <p>20 A It appears to be my responses and</p> <p>21 objections to Plaintiff's First Set of</p> <p>22 Interrogatories.</p>

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<p style="text-align: right;">Page 101</p> <p>1 different or better way, like I said, you've been</p> <p>2 doing good so far with me, so I appreciate you in</p> <p>3 that regard. Just let me know, and I'm happy to</p> <p>4 work a little harder to make my questions clearer.</p> <p>5 That's not an issue at all.</p> <p>6 So let's look at the third sentence.</p> <p>7 It says, "An electronic signature, or imaged</p> <p>8 signature would not create a unique document that</p> <p>9 could be distinguishable from an original</p> <p>10 application submitted by an applicant."</p> <p>11 And based upon your testimony so far,</p> <p>12 that is because there's no pen stroke unique to</p> <p>13 that document, right?</p> <p>14 A I think that's a fair assessment of</p> <p>15 what I was trying to say.</p> <p>16 Q Well, it made sense to me. So you</p> <p>17 just walked me through it, so great.</p> <p>18 So let me ask you this -- and we can</p> <p>19 take this exhibit down. Thank you.</p> <p>20 Let me ask you this, and then we'll</p> <p>21 break for lunch.</p> <p>22 You told me earlier that I come into</p>	<p style="text-align: right;">Page 103</p> <p>1 A Yes.</p> <p>2 Q And then after the applications have</p> <p>3 been scanned into the VOTEC system, you told me</p> <p>4 that the physical applications are then destroyed</p> <p>5 by your office; is that correct?</p> <p>6 A Yes.</p> <p>7 Q At no point during that process are</p> <p>8 you using the signature on the application to</p> <p>9 determine the voter's eligibility to vote,</p> <p>10 correct?</p> <p>11 A The signature is used to determine</p> <p>12 whether the application has been successfully</p> <p>13 submitted to the office, which would ultimately</p> <p>14 lead to its acceptance and their ability to vote.</p> <p>15 Q Right. So we're using the signature</p> <p>16 to make sure the application is complete; is that</p> <p>17 right?</p> <p>18 A Yes, that it complies with code.</p> <p>19 Q Okay. But you're not using that</p> <p>20 signature on that application to verify a voter's</p> <p>21 identity, correct?</p> <p>22 A No, we're not.</p>
<p style="text-align: right;">Page 102</p> <p>1 your office, I submit the application, correct?</p> <p>2 A Yes.</p> <p>3 Q And then your office would stamp it</p> <p>4 with a time code so you know when it was received?</p> <p>5 A Yes.</p> <p>6 Q And then after that, you take the</p> <p>7 physical voter registration application to your</p> <p>8 chief deputy to confirm that the applications are</p> <p>9 complete, correct?</p> <p>10 A Yes, she reviews them when they're</p> <p>11 submitted.</p> <p>12 Q Right. And then after she has</p> <p>13 verified they are complete, those physical</p> <p>14 applications are then sent to the clerk, and the</p> <p>15 clerk enters that information into the</p> <p>16 TEAM System -- the VOTEC system, I'm sorry.</p> <p>17 Is that correct?</p> <p>18 A Yes.</p> <p>19 Q And then once that information is</p> <p>20 inputted into the VOTEC system, the clerk also</p> <p>21 scans the physical application, so then it's</p> <p>22 actually uploaded to the VOTEC system as well?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q Let me see. I think we should break</p> <p>2 for lunch. I got to a logical stopping point.</p> <p>3 THE VIDEOGRAPHER: Off record. The</p> <p>4 time is 11:57.</p> <p>5 (Lunch break taken.)</p> <p>6 THE VIDEOGRAPHER: Back on record.</p> <p>7 Time is 1:00 p.m.</p> <p>8 THE WITNESS: Mr. Harris, I'm sorry, I</p> <p>9 have to correct something that I said earlier.</p> <p>10 You had asked what we did with the</p> <p>11 voter registration applications after we scanned</p> <p>12 them.</p> <p>13 BY MR. HARRIS:</p> <p>14 Q Mm-hmm.</p> <p>15 A And it's been a subject of debate in</p> <p>16 my office, and each time we said it, it didn't</p> <p>17 sound right because I'm always the one that's, no,</p> <p>18 we keep the record.</p> <p>19 So apparently what we have been doing</p> <p>20 once the clerks scan them into the system, they</p> <p>21 are filed, they're just not filed with the voter</p> <p>22 registration records of the individuals that had</p>

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<p>1 registered before 2012.</p> <p>2 So they still exist. They're not</p> <p>3 shredded, as I had indicated. They're actually</p> <p>4 just maintained in the warehouse under each month</p> <p>5 that the individual registered or that the record</p> <p>6 was presented.</p> <p>7 I apologize. It's been a subject when</p> <p>8 we are undergoing another scanning project and</p> <p>9 what to do with the records, because we're running</p> <p>10 out of storage space, and it is still apparently</p> <p>11 being debated in the office.</p> <p>12 Q All right, and thank you for that</p> <p>13 clarification on that. Let me ask you this then.</p> <p>14 Have you on occasion, strictly during</p> <p>15 the voter registration process, had to actually go</p> <p>16 back to the warehouse to pull the physical hard</p> <p>17 copy of a voter registration application?</p> <p>18 A Yes, we have, either because something</p> <p>19 got misfiled, or it was just something we wanted</p> <p>20 to see if we still had.</p> <p>21 Q But not for any other reason regarding</p> <p>22 eligibility, for example?</p>	<p>1 want to stay on that just for a little bit.</p> <p>2 How long does it take your deputy</p> <p>3 chief to determine whether or not an application</p> <p>4 is complete?</p> <p>5 A I believe generally she takes a day</p> <p>6 when she gets them all put in her office, and then</p> <p>7 she goes through whatever was left from the day</p> <p>8 before, and then brings it to the clerk. So it's</p> <p>9 about a day or two.</p> <p>10 Q Okay, so that's for like all of the</p> <p>11 applications that may have come in one day, and</p> <p>12 then whatever is left over from the day before,</p> <p>13 right?</p> <p>14 A Yeah. She reviews everything as it</p> <p>15 comes in, and then she sets it so that the clerks</p> <p>16 can take them and start entering the data.</p> <p>17 Q Okay. And then what I also want to</p> <p>18 know, for an individual application, like if I</p> <p>19 submit an application, how long does it take your</p> <p>20 office to determine that a single application is</p> <p>21 complete?</p> <p>22 A No more than a few seconds as they're</p>
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<p>1 A No, not regarding eligibility.</p> <p>2 Q And it wasn't -- you didn't go back to</p> <p>3 get -- to review the hard copy file for voter</p> <p>4 identity?</p> <p>5 A No, not that I'm aware of.</p> <p>6 Q Okay. So the only reason why you</p> <p>7 would go back there is just to see -- to correct a</p> <p>8 clerical or administrator filing error? Would</p> <p>9 that be fair?</p> <p>10 A Or if the scan was illegible.</p> <p>11 Q Oh, so you would get a better scan.</p> <p>12 So you would go get the file and just rescan it,</p> <p>13 and then just file it, but you don't use those --</p> <p>14 you don't use those applications for any other</p> <p>15 reason other than, you know, to fix clerical</p> <p>16 errors, to refile, but there's no other purpose by</p> <p>17 which you have, on occasion, gone back to review</p> <p>18 the actual physical voter application; is that</p> <p>19 correct?</p> <p>20 A That's correct.</p> <p>21 Q Okay, fair enough. No worries on</p> <p>22 that. Again, thank you for clarifying that. I</p>	<p>1 being reviewed.</p> <p>2 Q Okay. And I'm sorry, I want to ask</p> <p>3 this as well. During the break, did you speak to</p> <p>4 anyone about your testimony?</p> <p>5 A I spoke to Ms. Carrillo just to</p> <p>6 confirm my doubts with respect to what was</p> <p>7 happening with those applications once they were</p> <p>8 stamped.</p> <p>9 Q Okay. Anyone else?</p> <p>10 A I talked to the attorneys to determine</p> <p>11 how I could --</p> <p>12 Q No, no, I don't want to know. I don't</p> <p>13 want to know what you talked about. It's enough</p> <p>14 for me to know that you spoke with your attorneys,</p> <p>15 because I don't want you -- I want to protect the</p> <p>16 confidentiality of your conversation with your</p> <p>17 lawyers, so it's enough for me to know that you</p> <p>18 did.</p> <p>19 So outside of your lawyers -- and let</p> <p>20 me apologize, I didn't mean to cut you off like</p> <p>21 that, but I didn't want you to divulge privileged</p> <p>22 information.</p>

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<p>1 Q Okay. Mr. Garza, what is what has</p> <p>2 been premarked as Exhibit F?</p> <p>3 A It appears to be my answers to</p> <p>4 Plaintiff's First Set of Requests for Admissions.</p> <p>5 Q And how do you know that?</p> <p>6 A I'm reading the heading underneath the</p> <p>7 caption.</p> <p>8 Q Okay. And in particular, I want to</p> <p>9 point your attention to RSA No. 2. I know in the</p> <p>10 document it says Request for Production No. 2, but</p> <p>11 I understand this is RFA No. 2.</p> <p>12 Do you see that on page 3?</p> <p>13 A Yes.</p> <p>14 Q So Request for Admission No. 2 reads,</p> <p>15 "Admit that you would reject a voter registration</p> <p>16 application that was signed using an electronic or</p> <p>17 imaged signature, rather than a wet-ink signature,</p> <p>18 unless that voter registration application was</p> <p>19 sent by the Texas Department of Public Safety."</p> <p>20 Did I read the request accurately?</p> <p>21 A Yes.</p> <p>22 Q And your response reads, "I admit that</p>	<p>1 A That's correct.</p> <p>2 Q That is a separate entity from your</p> <p>3 office?</p> <p>4 A Yes, but we do provide support for the</p> <p>5 Early Voting Ballot Board.</p> <p>6 Q And that support that you provide, is</p> <p>7 that during the voter registration process, or at</p> <p>8 some other time in the life span of voter</p> <p>9 participation in the electoral process?</p> <p>10 A It would be when they convene with</p> <p>11 respect to viewing early voting/ballot by mail</p> <p>12 returned envelopes.</p> <p>13 Q So it has nothing to do -- your</p> <p>14 involvement with the Early Ballot Board has</p> <p>15 nothing to do with voter registration, correct?</p> <p>16 A Other than providing voter</p> <p>17 registration applications or documents in our</p> <p>18 possession for their review of the signatures, no,</p> <p>19 it doesn't have anything to do with that.</p> <p>20 Q And the signatures that you provide to</p> <p>21 the Early Ballot Board are not original wet -- I'm</p> <p>22 sorry, excuse me.</p>
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<p>1 I would reject a voter registration application</p> <p>2 that was signed using an electronic or imaged</p> <p>3 signature, rather than an original (wet)</p> <p>4 signature, unless that voter registration</p> <p>5 application was sent through the Texas Department</p> <p>6 of Public Safety or through the Federal Post Card</p> <p>7 Application process, unless it was submitted by</p> <p>8 fax." Did I read that correctly?</p> <p>9 A Yes.</p> <p>10 Q And is that the same process that we</p> <p>11 just discussed regarding applications submitted</p> <p>12 through -- by DPS to your office?</p> <p>13 A Yes.</p> <p>14 Q Okay, we can take that down.</p> <p>15 Thank you.</p> <p>16 When I use the term "voter fraud,"</p> <p>17 what does that mean to you?</p> <p>18 A It would mean that an individual who</p> <p>19 was attempting to vote wasn't qualified to vote.</p> <p>20 Q And I understand that you are not --</p> <p>21 your office is not the Early Ballot Board; is that</p> <p>22 correct?</p>	<p>1 The signatures that you on occasion</p> <p>2 have provided to the Early Ballot Board are not</p> <p>3 original signatures, correct?</p> <p>4 A They're original signatures based on</p> <p>5 the applications for a ballot by mail, but</p> <p>6 generally we provide them copies; or, on occasion,</p> <p>7 we have sent them the original voter registration</p> <p>8 record from our files.</p> <p>9 Q Right. And the ones that you send</p> <p>10 from the file, would that be an electronic</p> <p>11 transfer to the Early Ballot Board?</p> <p>12 A No, we physically carry them over.</p> <p>13 Q Oh, wow, okay. But as far as the</p> <p>14 registration process, the Early Ballot Board is</p> <p>15 not involved in the process by which your office</p> <p>16 facilitates voter registration, correct?</p> <p>17 A Correct.</p> <p>18 Q So my next few questions may focus on</p> <p>19 your interaction with the Early Ballot Board to</p> <p>20 the extent we haven't already discussed it.</p> <p>21 Are you aware -- and I'm solely</p> <p>22 focusing on individuals registering to vote.</p>

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<p>1 Are you aware of any instances of</p> <p>2 voter fraud connected with imaged signatures?</p> <p>3 A No, I'm not aware of any voter fraud.</p> <p>4 Q Are you aware of any instances of</p> <p>5 voter fraud connected to voter registration</p> <p>6 applications submitted from DPS?</p> <p>7 A No, I'm not aware of any.</p> <p>8 Q Are you aware of any instances of</p> <p>9 voter fraud connected to the signatures on voter</p> <p>10 registration applications generally?</p> <p>11 And when I say voter registration</p> <p>12 applications, I'm talking about the actual paper,</p> <p>13 physical application.</p> <p>14 A No, I'm not aware of any.</p> <p>15 Q Okay. And let's talk about the Early</p> <p>16 Ballot Board.</p> <p>17 Are you familiar -- if I use the term</p> <p>18 "Signature Verification Committee," do you know</p> <p>19 what I'm talking about?</p> <p>20 A Yes.</p> <p>21 Q What is the Signature Verification</p> <p>22 Committee?</p>	<p>1 regarding their project.</p> <p>2 Q Does the name Ofelia Alonso sound</p> <p>3 familiar to you from Texas Rising?</p> <p>4 A Yes, that would be the individual.</p> <p>5 Q So you were introduced to Vote.org</p> <p>6 from a representative from another organization</p> <p>7 active in voter registration in Texas, correct?</p> <p>8 A Yes.</p> <p>9 Q And did you speak -- do you recall</p> <p>10 with whom you spoke to from Vote.org?</p> <p>11 A I'm sorry, the name doesn't come.</p> <p>12 Q Does the name Raven Brooks sound</p> <p>13 familiar?</p> <p>14 A Yes, that's the individual.</p> <p>15 Q What about Sarah Jackel?</p> <p>16 A Honestly, I don't recall that name,</p> <p>17 but it possibly could have been.</p> <p>18 Q But you do remember Raven?</p> <p>19 A Yes.</p> <p>20 Q Did you speak to an individual named</p> <p>21 Debra Cleaver?</p> <p>22 A I may have. I just didn't --</p>
Page 118	Page 120
<p>1 A Signature Verification Committee is a</p> <p>2 group of individuals that can be convened in order</p> <p>3 to review the return ballots by mail.</p> <p>4 Essentially they will review the</p> <p>5 application and the return carrier envelope to see</p> <p>6 if the signatures appear that they were not done</p> <p>7 by somebody else.</p> <p>8 Q Okay. And your involvement with the</p> <p>9 Early Ballot Board or the Signature Verification</p> <p>10 Board happens after you have registered a voter to</p> <p>11 vote; is that correct? That happens after the</p> <p>12 registration process?</p> <p>13 A Yes.</p> <p>14 Q So I understand, and we talked</p> <p>15 earlier, that you are familiar with my client,</p> <p>16 Vote.org, correct?</p> <p>17 A Yes.</p> <p>18 Q How did you come to know about</p> <p>19 Vote.org?</p> <p>20 A I had received an email from -- I</p> <p>21 can't remember exactly who -- asking me if I was</p> <p>22 willing to talk to a representative from Vote.org</p>	<p>1 I'm sorry, I'm normally very bad with names.</p> <p>2 Q Fair enough. But as you sit here</p> <p>3 today, you do not -- you can't testify that you</p> <p>4 did in fact speak with Debra Cleaver, right?</p> <p>5 A No, not without having some way of</p> <p>6 recollecting or prompting my memory.</p> <p>7 Q Okay. And I know you told me that you</p> <p>8 got an email from Ofelia Alonso who worked the</p> <p>9 introduction to Vote.org for you.</p> <p>10 The communications you had with</p> <p>11 Vote.org, were they all email? Were they phone?</p> <p>12 In person? How did those conversations occur?</p> <p>13 A I believe they were both email and on</p> <p>14 the phone.</p> <p>15 Q Do you recall whether a majority</p> <p>16 happened on the phone versus email?</p> <p>17 A I vaguely remember maybe two or three</p> <p>18 phone calls, and maybe two or three email</p> <p>19 exchanges.</p> <p>20 Q So not very -- not a lot of email</p> <p>21 traffic, to your recollection?</p> <p>22 A No, not that I remember.</p>

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

VOTE.ORG,
Plaintiff

VS.

JACQUELYN CALLANEN, in
her official capacity
as the Bexar County
Elections Administrator,
BRUCE ELFANT,
in his official capacity
as the Travis County Tax
Assessor-Collector,
REMI GARZA, in his
official capacity as the
Cameron County Elections
Administrator,
MICHAEL SCARPELLO, in his
official capacity as the
Dallas County Elections
Administrator,
Defendants,

AND

KEN PAXTON, in his
official capacity as the
Attorney General of
Texas,
Intervenor-Defendant.

CIVIL ACTION NO.
5:21-CV-00649-JKP-HJB

ORAL AND VIDEOTAPED DEPOSITION OF
VOTE.ORG, BY AND THROUGH ANDREA HAILEY
PURSUANT TO RULE 30(B)(6)
FEBRUARY 10, 2022

<p style="text-align: right;">46</p> <p>1 get back to the complaint. Give me just a 2 second. It looks like I did not include the 3 complaint as an exhibit. So, I'm going to go 4 ahead and do that now, and that'll be Exhibit 5 24, I believe. 6 (Exhibit 24 marked.) 7 A. Okay. 8 MR. SCANLON: Can we go ahead and go 9 off the record for just a second? 10 THE WITNESS: Yeah, are you talking 11 to me, or is that the lawyers? 12 MR. SCANLON: Yeah, that's -- 13 THE REPORTER: Is everyone in 14 agreement? 15 (No audible response.) 16 THE REPORTER: Yes, okay. 17 We're going off the record. The 18 time is 9:52 a.m. 19 (Recess taken.) 20 THE REPORTER: We're back on the 21 record. The time is 9:53 a.m. 22 BY MR. SCANLON: 23 Q. So, Ms. Hailey, I've got Exhibit 24 24 pulled up, which is the complaint, and I'm 25 looking at Paragraph 27 where it starts to get</p>	<p style="text-align: right;">48</p> <p>1 they lived in, Texas, and then been able to 2 use our e-sign tool, and what the e-sign tool 3 allowed people to do was the voter could go 4 and say that they would like to initiate their 5 voter registration process. 6 They would then, you know, fill out 7 a form that included, you know, their name and 8 address and all of the relevant information, 9 and then they could take a photo of their 10 signature and upload that photo to their form, 11 and then they were able to send their form in. 12 And it was a pretty streamlined way of voters 13 being able to participate and to register in 14 election. Those, they would then, you know, 15 get turned in. 16 Q. Okay, can I pause there? So, we 17 talked about, I guess, the form that someone 18 fills out and if I ask whether that's an HTML 19 form, do you know what that means? 20 A. Yes, but yeah. 21 Q. What's your understanding of that 22 just for the record? 23 A. I mean -- I guess our HTML would 24 just be the ability to, you know, have a form 25 that's up, you know -- PDF. We're</p>
<p style="text-align: right;">47</p> <p>1 into 2018. You deployed a web application to 2 assist voters with completing their 3 registrations forms. Did I read that 4 correctly? 5 A. I apologize, where are you? You're 6 right at -- 7 Q. Paragraph 27. 8 A. 27, okay. 9 (Witness reading to herself.) 10 Yeah, that's what it says. 11 Q. So, I guess, can you tell me a 12 little bit more, just like what are the steps 13 that, when someone logs into Vote.org, that 14 they go through to utilize this application? 15 A. The application in, like the steps 16 that they would go through in 2018? 17 Q. Yes. 18 A. Okay. So, what we have at Vote.org 19 are workflows on the backend, and our 20 technical team builds them, that work for 21 every state because as you know, every state 22 has different laws so our workflows have to be 23 built differently. What a voter would have 24 experienced in 2018 is that they would have 25 come to the site, clicked on the state that</p>	<p style="text-align: right;">49</p> <p>1 essentially, like, a form that -- a PDF that 2 can be uploaded. 3 Q. Right. 4 (Simultaneous speakers.) 5 Q. Yeah, I'm sorry. I'm not doing a 6 good job of asking these questions but what I 7 mean is it's not like when you go to the 8 website you download like a PD -- a separate 9 PDF, right, that you fill out? That's not 10 what Vote.org's tool is? 11 A. Well, you can. The e-sign tool that 12 we're talking about though that existed in 13 2018 was basically the same form that exists 14 now. Voters had the option of like they could 15 download the PDF, you know, fill it out, 16 download it and print it out at home and then 17 they could like send it in themselves, or they 18 had the option to use the e-sign tool and then 19 what the e-sign tool would allow for was the 20 voter could, you know, fill out their form, 21 upload the photograph of their signature to 22 the form, and then they could say that they 23 wanted, you know, they could initiate the 24 process to send their form out. 25 And what that would do on the</p>

<p>50</p> <p>1 backend was it would automatically send the 2 form to HelloSign, which is a faxing service 3 that would fax their form, and then on the 4 other end, it would deliver their form to a 5 vendor who could then mail their form in for 6 them. So, basically, they were, you know, it 7 cut out several steps along the process. They 8 didn't have to like go find a printer or go to 9 Kinko's or, you know, drive somewhere or go 10 find a stamp, an envelope, and all of those 11 things but now and then, voters could if they 12 wanted to go the longer way around and 13 download it themselves.</p> <p>14 Q. Sure, I'll go ahead and take this 15 down.</p> <p>16 When I ask the question about HTML, 17 I guess, what I was getting at, because it may 18 not necessarily be HTML, but the form that a 19 person fills out for the e-sign tool, is 20 actually embedded fields within the website, 21 within the webpage itself, right?</p> <p>22 A. Sorry, can you say that again? I 23 want to make sure -- I'm not, you know, the -- 24 I'm not the technical expert. So, could you 25 say it again?</p>	<p>52</p> <p>1 information, download the form, print it out, 2 sign it yourself, find a fax machine, fax it 3 in, find a like, post office and letter and 4 stamp, and send it in. You could do all those 5 things yourself but since we saw a major 6 blocker, especially for younger people in the 7 sense that they didn't have, you know, they 8 don't have as much access to printer ownership 9 in general.</p> <p>10 So, the e-sign tool was a really 11 streamlined way to be able to do all of those 12 things, take all those actions that you can 13 take independently but we able to initiate it 14 yourself without having to like drive to 15 Kinko's or drive to the post office or gather 16 a stamp or any of those things or have a 17 printer at home. And so can do -- you had 18 both options but the e-sign tool was like a 19 piloted tool that we were really excited about 20 because here, we finally had something that 21 like people could just get through the process 22 and they could do it from their smartphones or 23 they could do it from their house and they 24 didn't have to, you know, take all of these -- 25 all the extra, go through all those extra</p>
<p>51</p> <p>1 Q. Sure, and you know, I guess, what 2 I'm getting at is you go to a website, right? 3 Vote.org.</p> <p>4 A. Yeah.</p> <p>5 Q. Under the website.</p> <p>6 A. Yeah.</p> <p>7 Q. And when you click into the e-tool, 8 I know that you said there's an option to 9 download the PDF, fill that out, print it out, 10 and everything, but that's not what the e-tool 11 does, right? Instead, you have fields where 12 people populate the information that would go 13 in the form. Is that accurate?</p> <p>14 A. Right. So, you could -- you can do 15 either. What we were solving for is that we 16 found that say half of millennials, and 17 remembering that millennials are now like 40 18 years old, the first millennial, right, don't 19 have printers anymore in this country and 20 we're seeing, you know, year after year large 21 drop-offs in the number of people in 22 households that had printers accessible.</p> <p>23 So, what we were trying to solve for 24 is the fact that like, you know, yeah, we have 25 the option that you could go in, type your</p>	<p>53</p> <p>1 hurdles.</p> <p>2 MR. SCANLON: Objection, 3 nonresponsive.</p> <p>4 BY MR. SCANLON:</p> <p>5 Q. And I can appreciate that you, you 6 know, have a lot of excitement about your work 7 and this tool but all I was asking was about 8 the actual fields, have the information that 9 you fill out on the web form. That's what it 10 does though, right?</p> <p>11 A. Yeah, the voter fills out their 12 information on the form.</p> <p>13 Q. Okay. And now, when that happens, 14 they're also, I guess, given the option -- and 15 I'm assuming you have instructions underneath 16 those fields that basically say take a picture 17 of your signature and upload the file to the 18 webpage. Is that how it works?</p> <p>19 A. It's -- It would say to take a photo 20 of your signature and then they could upload 21 their photo, the photo of the signature, and 22 it would go on their form.</p> <p>23 Q. Okay, and the e-tool takes the 24 information and the file with the signature, 25 combines that, and then generates an</p>

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<p>79</p> <p>1 A. I believe we met with officials in</p> <p>2 every county that used the tool.</p> <p>3 Q. And which counties were those? Were</p> <p>4 those only the counties involved in this</p> <p>5 lawsuit?</p> <p>6 A. That's right.</p> <p>7 Q. Did you meet with anyone in Harris</p> <p>8 County?</p> <p>9 A. You know, at this time I was on the</p> <p>10 board of Vote.org and not internal with</p> <p>11 Vote.org, so I would need to go back and look</p> <p>12 to see if they met with somebody in Harris</p> <p>13 County.</p> <p>14 Q. Okay. We'll need to get an answer</p> <p>15 to that, also.</p> <p>16 A. I can tell you that they met with,</p> <p>17 you know, several election officials and the,</p> <p>18 you know, counties. Remember, it's a pilot</p> <p>19 project that we were launching. We wanted to</p> <p>20 see if this was something that was going to be</p> <p>21 really helpful and be of service to the voters</p> <p>22 of Texas. So, you know, again, it's to</p> <p>23 everybody's advantage to make sure that</p> <p>24 there's, you know, conversations in advance of</p> <p>25 sending a lot of faxes into an office or</p>	<p>81</p> <p>1 they get a notification that the web app won't</p> <p>2 work?</p> <p>3 A. Well, we can turn on the feature,</p> <p>4 only -- we can turn it on in counties. We can</p> <p>5 turn it on in specific, you know, much like</p> <p>6 our states national work. We can turn it on</p> <p>7 in the state and not another state. So for</p> <p>8 the pilot what we did is we turned it on for</p> <p>9 residents that were coming through the site</p> <p>10 that were, you know, in those counties.</p> <p>11 Q. So does that work through the IP</p> <p>12 address? In other words, like if someone is</p> <p>13 in a non-pilot county and they log into the</p> <p>14 webpage, it's just not even -- it doesn't</p> <p>15 populate on their computer?</p> <p>16 A. I think it's address-based, so we're</p> <p>17 able to --</p> <p>18 Q. Okay.</p> <p>19 A. -- kind of be address-based. You</p> <p>20 know, if you're, you know, a resident of that</p> <p>21 -- if your address is within a specific</p> <p>22 county, then your workflow would look</p> <p>23 different.</p> <p>24 Q. And I mentioned IP address, but</p> <p>25 you're talking about physical address?</p>

<p>82</p> <p>1 A. Yeah, 'cause I'm not really sure on 2 the, you know, -- your -- your IP -- 3 IP address -- I mean, I am not a, you know, -- 4 your -- your physical address that you enter 5 in a form is what's going to determine your 6 workflow at Vote.org. 7 Q. Sure and I -- 8 A. And actually your IP should, you 9 know, would be there, but I don't know the 10 answer to your IP question, but I can tell you 11 that when somebody enters in their, like, 12 actual address -- 13 Q. Okay. 14 A. -- but it would only take them 15 through a workflow that works and not in that 16 -- at that address. 17 Q. That makes sense. I only ask 18 because I remember one time I went to 19 Australia and I couldn't pull up Netflix on my 20 computer because it was disabled based on the 21 IP address, so that's my only familiarity with 22 how IP addresses can block you. 23 But anyway, looking at this email, 24 it also says that there's some wise words from 25 Sarah about opinion letters from the AG/SOS,</p>	<p>84</p> <p>1 would be thrown out and Vote.org immediately 2 shut off the tool. 3 Q. Okay. Let me back up actually. So 4 this part says the rough costs for OVR work -- 5 and I'm assuming "OVR" means online voter 6 registration? 7 A. Yeah. I think that's fair to 8 assume. 9 Q. And then it says \$2 million. Does 10 that \$2 million apply nationwide, or is that 11 referring to Texas specifically? 12 A. I don't know. I would assume that 13 would mean nationwide, but I don't know the 14 answer. 15 Q. Based on the amount, though, you 16 think it's likely that this was a nationwide 17 budget? 18 A. I honestly don't -- I don't know, 19 but that seems like a large number to me. 20 Q. Okay. We -- if you need to also 21 find this information out on a break, we would 22 like to ensure we do that. 23 Did Vote.org look into getting an AG 24 opinion from the State of Texas? 25 A. I mean, again, I'm not -- I wasn't</p>
<p>83</p> <p>1 and is Sarah referring to Sarah Jackal, who's 2 in the Cc line here? 3 A. Yes. 4 Q. And is she the general counsel of 5 Vote.org? 6 A. She was at that time. 7 Q. What does she -- is her role with 8 Vote.org now? 9 A. She doesn't have one. 10 Q. Okay. Why is that? 11 A. She left Vote.org to work at another 12 civic organization. 13 Q. Okay. What did Vote.org do in terms 14 of looking at opinion letters from the AG/SOS 15 -- and when I say, "AG/SOS," we can agree that 16 means Attorney General/Secretary of State? 17 A. And your question is what did 18 Vote.org do? 19 Q. Yes. 20 A. Well, I think when the Secretary of 21 State, you know, in 2018 made a statement that 22 --that the word "copy" actually meant original 23 and would require the wet signature and not a 24 copy of the signature, and that any, you know, 25 registrations process through the e-sign pool</p>	<p>85</p> <p>1 privy to all of Sarah's conversations, but I 2 know that Vote.org specifically spoke to 3 several county election officials and that, in 4 general, we are all -- we always try to work 5 with, like, both state and county officials to 6 make sure that we're, you know, that we're 7 operating in the best way possible since I 8 think everybody has the same goal of serving 9 the voters. 10 Q. What was Vote.org's -- what were 11 Vote.org's efforts to work with the State of 12 Texas in rolling out this project, other than 13 your meetings/communications with county 14 officials? 15 A. I, you know, I'd have to look. 16 Again, I'm not sure everything that was done, 17 but in general, you know, we work with 18 officials across the state in every state we 19 go into to make sure that what we're doing is 20 serving the interest of the voters because 21 that's the goal is to get everybody through a 22 process that's from start to finish, and where 23 people can participate in elections. 24 So I do know that, you know, two 25 members of our team went to the State of</p>

<p style="text-align: right;">46</p> <p>1 get back to the complaint. Give me just a 2 second. It looks like I did not include the 3 complaint as an exhibit. So, I'm going to go 4 ahead and do that now, and that'll be Exhibit 5 24, I believe. 6 (Exhibit 24 marked.) 7 A. Okay. 8 MR. SCANLON: Can we go ahead and go 9 off the record for just a second? 10 THE WITNESS: Yeah, are you talking 11 to me, or is that the lawyers? 12 MR. SCANLON: Yeah, that's -- 13 THE REPORTER: Is everyone in 14 agreement? 15 (No audible response.) 16 THE REPORTER: Yes, okay. 17 We're going off the record. The 18 time is 9:52 a.m. 19 (Recess taken.) 20 THE REPORTER: We're back on the 21 record. The time is 9:53 a.m. 22 BY MR. SCANLON: 23 Q. So, Ms. Hailey, I've got Exhibit 24 24 pulled up, which is the complaint, and I'm 25 looking at Paragraph 27 where it starts to get</p>	<p style="text-align: right;">48</p> <p>1 they lived in, Texas, and then been able to 2 use our e-sign tool, and what the e-sign tool 3 allowed people to do was the voter could go 4 and say that they would like to initiate their 5 voter registration process. 6 They would then, you know, fill out 7 a form that included, you know, their name and 8 address and all of the relevant information, 9 and then they could take a photo of their 10 signature and upload that photo to their form, 11 and then they were able to send their form in. 12 And it was a pretty streamlined way of voters 13 being able to participate and to register in 14 election. Those, they would then, you know, 15 get turned in. 16 Q. Okay, can I pause there? So, we 17 talked about, I guess, the form that someone 18 fills out and if I ask whether that's an HTML 19 form, do you know what that means? 20 A. Yes, but yeah. 21 Q. What's your understanding of that 22 just for the record? 23 A. I mean -- I guess our HTML would 24 just be the ability to, you know, have a form 25 that's up, you know -- PDF. We're</p>
<p style="text-align: right;">47</p> <p>1 into 2018. You deployed a web application to 2 assist voters with completing their 3 registrations forms. Did I read that 4 correctly? 5 A. I apologize, where are you? You're 6 right at -- 7 Q. Paragraph 27. 8 A. 27, okay. 9 (Witness reading to herself.) 10 Yeah, that's what it says. 11 Q. So, I guess, can you tell me a 12 little bit more, just like what are the steps 13 that, when someone logs into Vote.org, that 14 they go through to utilize this application? 15 A. The application in, like the steps 16 that they would go through in 2018? 17 Q. Yes. 18 A. Okay. So, what we have at Vote.org 19 are workflows on the backend, and our 20 technical team builds them, that work for 21 every state because as you know, every state 22 has different laws so our workflows have to be 23 built differently. What a voter would have 24 experienced in 2018 is that they would have 25 come to the site, clicked on the state that</p>	<p style="text-align: right;">49</p> <p>1 essentially, like, a form that -- a PDF that 2 can be uploaded. 3 Q. Right. 4 (Simultaneous speakers.) 5 Q. Yeah, I'm sorry. I'm not doing a 6 good job of asking these questions but what I 7 mean is it's not like when you go to the 8 website you download like a PD -- a separate 9 PDF, right, that you fill out? That's not 10 what Vote.org's tool is? 11 A. Well, you can. The e-sign tool that 12 we're talking about though that existed in 13 2018 was basically the same form that exists 14 now. Voters had the option of like they could 15 download the PDF, you know, fill it out, 16 download it and print it out at home and then 17 they could like send it in themselves, or they 18 had the option to use the e-sign tool and then 19 what the e-sign tool would allow for was the 20 voter could, you know, fill out their form, 21 upload the photograph of their signature to 22 the form, and then they could say that they 23 wanted, you know, they could initiate the 24 process to send their form out. 25 And what that would do on the</p>

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<p>51</p> <p>1 Q. Sure, and you know, I guess, what 2 I'm getting at is you go to a website, right? 3 Vote.org.</p> <p>4 A. Yeah.</p> <p>5 Q. Under the website.</p> <p>6 A. Yeah.</p> <p>7 Q. And when you click into the e-tool, 8 I know that you said there's an option to 9 download the PDF, fill that out, print it out, 10 and everything, but that's not what the e-tool 11 does, right? Instead, you have fields where 12 people populate the information that would go 13 in the form. Is that accurate?</p> <p>14 A. Right. So, you could -- you can do 15 either. What we were solving for is that we 16 found that say half of millennials, and 17 remembering that millennials are now like 40 18 years old, the first millennial, right, don't 19 have printers anymore in this country and 20 we're seeing, you know, year after year large 21 drop-offs in the number of people in 22 households that had printers accessible.</p> <p>23 So, what we were trying to solve for 24 is the fact that like, you know, yeah, we have 25 the option that you could go in, type your</p>	<p>53</p> <p>1 hurdles.</p> <p>2 MR. SCANLON: Objection, 3 nonresponsive.</p> <p>4 BY MR. SCANLON:</p> <p>5 Q. And I can appreciate that you, you 6 know, have a lot of excitement about your work 7 and this tool but all I was asking was about 8 the actual fields, have the information that 9 you fill out on the web form. That's what it 10 does though, right?</p> <p>11 A. Yeah, the voter fills out their 12 information on the form.</p> <p>13 Q. Okay. And now, when that happens, 14 they're also, I guess, given the option -- and 15 I'm assuming you have instructions underneath 16 those fields that basically say take a picture 17 of your signature and upload the file to the 18 webpage. Is that how it works?</p> <p>19 A. It's -- It would say to take a photo 20 of your signature and then they could upload 21 their photo, the photo of the signature, and 22 it would go on their form.</p> <p>23 Q. Okay, and the e-tool takes the 24 information and the file with the signature, 25 combines that, and then generates an</p>

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<p>79</p> <p>1 A. I believe we met with officials in</p> <p>2 every county that used the tool.</p> <p>3 Q. And which counties were those? Were</p> <p>4 those only the counties involved in this</p> <p>5 lawsuit?</p> <p>6 A. That's right.</p> <p>7 Q. Did you meet with anyone in Harris</p> <p>8 County?</p> <p>9 A. You know, at this time I was on the</p> <p>10 board of Vote.org and not internal with</p> <p>11 Vote.org, so I would need to go back and look</p> <p>12 to see if they met with somebody in Harris</p> <p>13 County.</p> <p>14 Q. Okay. We'll need to get an answer</p> <p>15 to that, also.</p> <p>16 A. I can tell you that they met with,</p> <p>17 you know, several election officials and the,</p> <p>18 you know, counties. Remember, it's a pilot</p> <p>19 project that we were launching. We wanted to</p> <p>20 see if this was something that was going to be</p> <p>21 really helpful and be of service to the voters</p> <p>22 of Texas. So, you know, again, it's to</p> <p>23 everybody's advantage to make sure that</p> <p>24 there's, you know, conversations in advance of</p> <p>25 sending a lot of faxes into an office or</p>	<p>81</p> <p>1 they get a notification that the web app won't</p> <p>2 work?</p> <p>3 A. Well, we can turn on the feature,</p> <p>4 only -- we can turn it on in counties. We can</p> <p>5 turn it on in specific, you know, much like</p> <p>6 our states national work. We can turn it on</p> <p>7 in the state and not another state. So for</p> <p>8 the pilot what we did is we turned it on for</p> <p>9 residents that were coming through the site</p> <p>10 that were, you know, in those counties.</p> <p>11 Q. So does that work through the IP</p> <p>12 address? In other words, like if someone is</p> <p>13 in a non-pilot county and they log into the</p> <p>14 webpage, it's just not even -- it doesn't</p> <p>15 populate on their computer?</p> <p>16 A. I think it's address-based, so we're</p> <p>17 able to --</p> <p>18 Q. Okay.</p> <p>19 A. -- kind of be address-based. You</p> <p>20 know, if you're, you know, a resident of that</p> <p>21 -- if your address is within a specific</p> <p>22 county, then your workflow would look</p> <p>23 different.</p> <p>24 Q. And I mentioned IP address, but</p> <p>25 you're talking about physical address?</p>

<p style="text-align: right;">82</p> <p>1 A. Yeah, 'cause I'm not really sure on 2 the, you know, -- your -- your IP -- 3 IP address -- I mean, I am not a, you know, -- 4 your -- your physical address that you enter 5 in a form is what's going to determine your 6 workflow at Vote.org. 7 Q. Sure and I -- 8 A. And actually your IP should, you 9 know, would be there, but I don't know the 10 answer to your IP question, but I can tell you 11 that when somebody enters in their, like, 12 actual address -- 13 Q. Okay. 14 A. -- but it would only take them 15 through a workflow that works and not in that 16 -- at that address. 17 Q. That makes sense. I only ask 18 because I remember one time I went to 19 Australia and I couldn't pull up Netflix on my 20 computer because it was disabled based on the 21 IP address, so that's my only familiarity with 22 how IP addresses can block you. 23 But anyway, looking at this email, 24 it also says that there's some wise words from 25 Sarah about opinion letters from the AG/SOS,</p>	<p style="text-align: right;">84</p> <p>1 would be thrown out and Vote.org immediately 2 shut off the tool. 3 Q. Okay. Let me back up actually. So 4 this part says the rough costs for OVR work -- 5 and I'm assuming "OVR" means online voter 6 registration? 7 A. Yeah. I think that's fair to 8 assume. 9 Q. And then it says \$2 million. Does 10 that \$2 million apply nationwide, or is that 11 referring to Texas specifically? 12 A. I don't know. I would assume that 13 would mean nationwide, but I don't know the 14 answer. 15 Q. Based on the amount, though, you 16 think it's likely that this was a nationwide 17 budget? 18 A. I honestly don't -- I don't know, 19 but that seems like a large number to me. 20 Q. Okay. We -- if you need to also 21 find this information out on a break, we would 22 like to ensure we do that. 23 Did Vote.org look into getting an AG 24 opinion from the State of Texas? 25 A. I mean, again, I'm not -- I wasn't</p>
<p style="text-align: right;">83</p> <p>1 and is Sarah referring to Sarah Jackal, who's 2 in the Cc line here? 3 A. Yes. 4 Q. And is she the general counsel of 5 Vote.org? 6 A. She was at that time. 7 Q. What does she -- is her role with 8 Vote.org now? 9 A. She doesn't have one. 10 Q. Okay. Why is that? 11 A. She left Vote.org to work at another 12 civic organization. 13 Q. Okay. What did Vote.org do in terms 14 of looking at opinion letters from the AG/SOS 15 -- and when I say, "AG/SOS," we can agree that 16 means Attorney General/Secretary of State? 17 A. And your question is what did 18 Vote.org do? 19 Q. Yes. 20 A. Well, I think when the Secretary of 21 State, you know, in 2018 made a statement that 22 --that the word "copy" actually meant original 23 and would require the wet signature and not a 24 copy of the signature, and that any, you know, 25 registrations process through the e-sign pool</p>	<p style="text-align: right;">85</p> <p>1 privy to all of Sarah's conversations, but I 2 know that Vote.org specifically spoke to 3 several county election officials and that, in 4 general, we are all -- we always try to work 5 with, like, both state and county officials to 6 make sure that we're, you know, that we're 7 operating in the best way possible since I 8 think everybody has the same goal of serving 9 the voters. 10 Q. What was Vote.org's -- what were 11 Vote.org's efforts to work with the State of 12 Texas in rolling out this project, other than 13 your meetings/communications with county 14 officials? 15 A. I, you know, I'd have to look. 16 Again, I'm not sure everything that was done, 17 but in general, you know, we work with 18 officials across the state in every state we 19 go into to make sure that what we're doing is 20 serving the interest of the voters because 21 that's the goal is to get everybody through a 22 process that's from start to finish, and where 23 people can participate in elections. 24 So I do know that, you know, two 25 members of our team went to the State of</p>

<p style="text-align: right;">106</p> <p>1 Q. I think now might be a good time to 2 actually take a break. I know you all -- but 3 we can go off the record if everyone's okay 4 with that.</p> <p>5 A. Yeah.</p> <p>6 MR. NKWONTA: It's fine with us.</p> <p>7 MR. SCANLON: I mean I guess I'll 8 take --</p> <p>9 THE REPORTER: We're going off the 10 record. The time is 11:21 a.m.</p> <p>11 (Recess taken.)</p> <p>12 THE REPORTER: We're back on the 13 record. The time is 11:32 a.m.</p> <p>14 BY MR. SCANLON:</p> <p>15 Q. Okay. Ms. Hailey, I'm going to move 16 on to Topic 4 now, the factual basis for any 17 contention that Vote.org has alleged it 18 suffered an injury as a result of HB 3107. 19 And you understand that when I say HB 3107 I'm 20 talking about the bill that was passed that 21 included basically what Vote.org has referred 22 to as the wet signature rule codified. Right?</p> <p>23 A. Right.</p> <p>24 Q. So if I say HB 3107 or wet signature 25 rule, can we have an agreement that I'm</p>	<p style="text-align: right;">108</p> <p>1 time, to let me know. And you did a good job 2 of doing that the first time we went on break. 3 But I just have to caveat that if there is a 4 question that's been asked, that we get an 5 answer to the question before we go on the 6 break. Is that fair?</p> <p>7 A. Yeah, that's fair.</p> <p>8 Q. Thank you. Okay.</p> <p>9 So going back to HB 3107, what would 10 you characterize the injury that Vote.org has 11 suffered as a result of that bill?</p> <p>12 A. I think that the biggest injury is 13 that we can't carry forth our mission of 14 serving the voters the most streamlined way 15 possible. Our mission at Vote.org is to 16 strengthen US democracy by creating technology 17 that makes the process to participate in 18 elections accessible to voters. And so with 19 the rule, you know, it's now very clear that 20 we can't use our e-sign tool in Texas, which I 21 believe is probably one of the most innovative 22 tools that we have, and if scaled can serve, 23 you know, Texans -- many Texans all throughout 24 the state.</p> <p>25 Q. Are there any other base -- bases</p>
<p style="text-align: right;">107</p> <p>1 talking about the same thing basically? I 2 know it's a little confusing but the only 3 issue in this case is that portion of HB 3107 4 that has the fax provision basically.</p> <p>5 A. Well, would that include -- if you 6 say that, would that include when the 7 Secretary of State in 2018 made the statement 8 that a copy wasn't an original because then --</p> <p>9 Q. I'll clarify if we're talking about 10 the statement from 2018, because I am going to 11 ask questions about that, but when I say HB 12 3107 or the wet signature rule I'm just 13 talking about -- I guess that's probably not a 14 good idea really because the wet signature 15 rule was part of the advisory I guess. So 16 let's just say if I'm talking about HB 3107, 17 it's the wet signature rule codified, the 18 provision that's at issue in this case.</p> <p>19 A. Okay. Yes.</p> <p>20 Q. Okay. Another thing I wanted to 21 make sure I brought up that I forgot earlier 22 was -- and this is supposed to be part of my 23 check list, but we've already taken a couple 24 of breaks already, but I just wanted to let 25 you know if -- if you need a break at any</p>	<p style="text-align: right;">109</p> <p>1 for the injury that you're alleging in this 2 suit?</p> <p>3 A. Yeah, I think, you know, the time, 4 energy, resources it takes our team, 5 especially a small team, to go ahead and build 6 a full work flow for Texas, to build a tool 7 that we then can't use, the time and energy, 8 you know, that was spent that we had to 9 develop it and spend time on the ground to -- 10 the fact that we can't like now use this 11 technology to serve voters in the state.</p> <p>12 One of the big things for us is 13 constantly -- again, like I said before, we're 14 a small team internally so that means that we 15 have to spend a pretty large amount of time 16 discussing Texas and trying to figure out what 17 we, you know, what we -- what ways we can 18 serve the voters in Texas. When we can't use 19 the e-sign tool then we have to try to think 20 of -- our mission doesn't really change, we 21 still have to, you know, do our best to -- to 22 just be innovative and think about other ways 23 that we can serve the voters and get them from 24 the process, you know, from start-to-finish, 25 you know, through the -- through the voting</p>

<p>110</p> <p>1 process.</p> <p>2 So I would say that the biggest</p> <p>3 thing for us is the time of staff, energy of</p> <p>4 staff, resourcing of -- of, you know, having</p> <p>5 to have these conversations, having to take on</p> <p>6 extra expenses to make sure that our work</p> <p>7 flows are, you know, compliant with Texas,</p> <p>8 then developing technology that ultimately</p> <p>9 can't be used, and then trying to come back to</p> <p>10 it on a pretty consistent basis to figure out</p> <p>11 if there are other things that we can engage</p> <p>12 in that will -- that we can scale that will</p> <p>13 serve voters.</p> <p>14 Q. Okay. And the -- the web app, or</p> <p>15 the e-sign app that was -- that was developed</p> <p>16 for the whole country. Right?</p> <p>17 A. No, our e-sign work flow for Texas</p> <p>18 was developed for Texas because Texas has both</p> <p>19 the fax and the requirement to, you know, have</p> <p>20 to -- by print and mail, so that is -- that's</p> <p>21 -- that is for Texas.</p> <p>22 Q. I see. What percentage of your</p> <p>23 operating budget does that project constitute?</p> <p>24 A. I would say that, you know, we'd</p> <p>25 have to go back to look at 2018, but I think</p>	<p>112</p> <p>1 of information, but I guess I would just ask,</p> <p>2 if possible, if we can just focus kind of on</p> <p>3 the specific question that I ask. So the</p> <p>4 question I asked was is there a percentage</p> <p>5 that you can attach to your operations focused</p> <p>6 on the web app in Texas?</p> <p>7 A. A percentage of the budget? Off the</p> <p>8 top of my head I'd have to go look, but I</p> <p>9 think that the biggest thing, again, is just</p> <p>10 the time it takes to take about half the team,</p> <p>11 have half the engineers developing technology</p> <p>12 that they can't use and then being, you know,</p> <p>13 taken away from actually doing our job, which</p> <p>14 is to serve voters.</p> <p>15 I think that that is -- that's</p> <p>16 probably the biggest cost to Vote.org is just</p> <p>17 having to spend so much time and engineering</p> <p>18 developing technology that can no longer be</p> <p>19 used, or turned on. That -- that is the</p> <p>20 biggest -- that's the biggest problem.</p> <p>21 And, you know, continuous</p> <p>22 conversations and confusion over -- over when</p> <p>23 we might be able to turn, you know, turn on</p> <p>24 the -- the e-sign tool, which now as a result</p> <p>25 of the bill that was just passed, we now know</p>
<p>111</p> <p>1 the biggest thing at this point is that we</p> <p>2 could turn on the technology but now because</p> <p>3 of the bill we can't. So I think that that,</p> <p>4 you know, the biggest issue is really just the</p> <p>5 fact that we can't use it to serve voters or</p> <p>6 to serve our mission. And now we're going to</p> <p>7 have think about, you know, what other ways we</p> <p>8 can come up with to do that.</p> <p>9 But we already developed new</p> <p>10 technology once for Texas, and now we're going</p> <p>11 to have to do that again, or try to work with</p> <p>12 people to find other ways to get voters</p> <p>13 through the easiest, you know, process</p> <p>14 possible. About over half of our users are,</p> <p>15 you know, under -- are 35 and under, so that</p> <p>16 means that we're constantly trying to think</p> <p>17 about ways that people that participate in a,</p> <p>18 you know, innovative way using --</p> <p>19 Q. Well --</p> <p>20 A. -- smartphones and things like</p> <p>21 that.</p> <p>22 MR. SCANLON: And I'll just object</p> <p>23 as non-responsive.</p> <p>24 BY MR. SCANLON:</p> <p>25 Q. Ms. Hailey, you're giving me a lot</p>	<p>113</p> <p>1 is an impossibility.</p> <p>2 Q. Is it your position that any law</p> <p>3 that prevents Vote.org from registering voters</p> <p>4 in the most convenient way possible is a harm</p> <p>5 to Vote.org?</p> <p>6 A. Well, yeah, our job is to build</p> <p>7 technology that makes it accessible for</p> <p>8 voters, you know, it increases accessibility</p> <p>9 for voters so that they don't have to go</p> <p>10 through a series of steps. We know that when</p> <p>11 somebody drops, you know, has to go through a</p> <p>12 series of steps, that you're more likely to</p> <p>13 get drop off.</p> <p>14 And so, yeah, I think the harm is</p> <p>15 not being able to use a tool that works and</p> <p>16 that specifically gets voters through the</p> <p>17 process in a streamlined way where they can</p> <p>18 have an experience through their cell phone or</p> <p>19 any other tablet or device they want to use</p> <p>20 and to be able to, you know, access their --</p> <p>21 their -- or initiate their registration using</p> <p>22 our tool. I think that that is the, you know,</p> <p>23 that is -- that is the big harm.</p> <p>24 What we'd like to do is be able to</p> <p>25 use the tool to serve voters at the end of the</p>

<p>114</p> <p>1 day. We built it for Texas, we're excited 2 about it for Texas, we -- our pilot project we 3 consider to be a success and -- and we'd like 4 to see at scale. 5 Q. So that's a yes? 6 MR. NKWONTA: Object to form. 7 THE WITNESS: I'm sorry? 8 BY MR. SCANLON: 9 Q. That's a yes for the question that I 10 asked? 11 A. What was your question again? 12 Q. So anything that doesn't allow 13 Vote.org to use the most convenient technology 14 to register to vote causes Vote.org a harm? 15 A. No, I mean I wouldn't -- 16 MR. NKWONTA: Objection, asked and 17 answered. 18 THE WITNESS: Yeah, I wouldn't 19 phrase it that way. I think the harm here is 20 developing technology, having election 21 administrators like the technology, find it 22 useful, find it easy to get voters through the 23 process, increase accessibility and then have 24 to shut all of that down before, you know, 25 being able to use it. I think that's the</p>	<p>116</p> <p>1 lots of new technology I think that there are 2 moments where, you know, we'll make changes, 3 and if we were able to scale it, we would get 4 better and better at the service we provide to 5 and our engineers would spend more time on 6 that tool. But, yeah, we had to create, you 7 know, create the tool before talking to people 8 about using the tool. 9 Q. Okay. Is it also your position that 10 any law that prevents Vote.org -- actually, 11 strike that question. 12 Are there I guess specific projects 13 you can identify that Vote.org had to put on 14 hold or curtail in response to HB 3107? 15 A. Yeah, I mean I think that as a 16 result of HB 3107 basically what's in that 17 bill as it applies to the, you know, wet 18 signature rule, is that we can never turn on 19 our feature again. But like essentially the 20 work load that we built is, you know, is lost. 21 I think it makes it really clear that -- that 22 -- that now we're unable to use any of that 23 technology in Texas, and that -- that is 24 really the, you know, the biggest -- one of 25 our biggest issue is just now we've lost the</p>
<p>115</p> <p>1 harm. 2 But it's not really so much about 3 Vote.org or us in particular, it's about our 4 mission to serve voters and how voters are 5 able to participate in elections. And here I 6 would think that literally everyone on this 7 call would be really excited about people 8 participating in elections and having, you 9 know, barriers to entry like streamlined, so I 10 think that for us it's really about the fact 11 that we can't fulfill our mission. 12 BY MR. SCANLON: 13 Q. So you talked about all the time 14 and, you know, effort you had to spend in 15 developing the technology before it launched. 16 Right? 17 A. Yes. 18 Q. Before you launched the pilot 19 program. Right? 20 A. Yes. 21 Q. And that was all done before you 22 contacted anybody at the county level to talk 23 about the roll out, correct? 24 A. Well, yeah, I mean we would have -- 25 of course when we rolled it out with -- with</p>	<p>117</p> <p>1 ability, it's all sitting there, we could turn 2 it on, the but bill clearly tells us that we 3 can't. 4 Q. Other than the e-sign function in 5 the web app are there any specific projects 6 that Vote.org had to put on hold due to the 7 issues causes by not being able to turn it on 8 as you put it? 9 A. Well, I mean that -- for us that is, 10 you know, our project is -- is to get voters 11 through our platform in the most streamlined 12 way possible. I think that what it does is 13 because we are a small staff we do have to 14 spend time, but we have a large user base in 15 Texas, we do have to spend time now trying to 16 figure out new ways to get people through the 17 most streamlined, you know, streamlined way 18 possible to participate in elections. 19 So that means we'll be spending time 20 doing, you know, anything we can to help 21 service voters in the state of Texas. It 22 means that our team has to come up -- it's 23 kind of like having a great solution to 24 something and then saying, you know, you have 25 to just start all over again, figure out</p>

<p>126</p> <p>1 May 28, 2021.</p> <p>2 A. Yeah, I see that.</p> <p>3 Q. And in the Yea column we have 146</p> <p>4 votes, correct?</p> <p>5 A. Yes, I see that.</p> <p>6 Q. Zero Nays, two abstentions, two no</p> <p>7 vote, I think that's what NV stands for, but</p> <p>8 you would agree with me that this was</p> <p>9 essentially unanimously passed in the</p> <p>10 legislature. Right?</p> <p>11 A. Well, I would agree that 146 people</p> <p>12 voted Yea, yeah.</p> <p>13 Q. And zero voted Nay.</p> <p>14 A. Yes.</p> <p>15 Q. Going back to the complaint real</p> <p>16 quick in Paragraph 20, this next sentence, you</p> <p>17 said Vote.org -- when I say you I'm either</p> <p>18 referring to Vote.org or you personally but,</p> <p>19 "No longer able to use features of its web</p> <p>20 application that it created specifically for</p> <p>21 Texas, Vote.org has been force to divert</p> <p>22 resources from its general nationwide</p> <p>23 operations - as well as its specific programs</p> <p>24 in other states - to redesign its Texas voter</p> <p>25 registration in GOTV programs," which I</p>	<p>128</p> <p>1 through the e-sign and successfully register</p> <p>2 to vote?</p> <p>3 Q. In Texas, yes.</p> <p>4 A. In Texas. I mean this is -- it's</p> <p>5 like a yes and no because, yes, we were doing</p> <p>6 the pilot and people were able to successfully</p> <p>7 use the technology, and then, no, because the</p> <p>8 Secretary of State issued a statement saying</p> <p>9 that voters who use our e-sign technology</p> <p>10 would have their registrations thrown out, and</p> <p>11 so we shut off the, you know, we shut off the</p> <p>12 e-sign tool and then for people who had</p> <p>13 already, you know, used it, I'm assuming a</p> <p>14 certain -- I know that the Secretary of State</p> <p>15 issued, you know, issued notices to people who</p> <p>16 used it, you know, had already gone through</p> <p>17 that process.</p> <p>18 Q. And that was in the 2018 cycle,</p> <p>19 correct?</p> <p>20 A. That's right.</p> <p>21 Q. Was Vote.org ever able to do it in</p> <p>22 the 2016 cycle?</p> <p>23 A. No, Vote.org -- see Vote.org was</p> <p>24 founded in 2016, so --</p> <p>25 Q. Okay.</p>
<p>127</p> <p>1 understand to mean Get Out To Vote programs,</p> <p>2 "and utilize more expensive (and less</p> <p>3 effective) means of achieving its voter</p> <p>4 registration goals in the state." Did I read</p> <p>5 that correctly?</p> <p>6 A. That's correct.</p> <p>7 Q. And I know we've talked about this</p> <p>8 quite a bit already, but when you use the term</p> <p>9 full use, was there a time that Vote.org was</p> <p>10 able to help people register to vote using the</p> <p>11 digital signature technology successfully in</p> <p>12 Texas?</p> <p>13 A. Well, Vote.org provides the tools so</p> <p>14 that people can initiate the process to</p> <p>15 register to vote. Your question is was there</p> <p>16 a time when making -- I'm sorry, I'm reading</p> <p>17 and hearing your question at the same time.</p> <p>18 Can you repeat that?</p> <p>19 Q. Oh, it's okay. I can -- I can</p> <p>20 repeat it. Was there a time when Vote.org</p> <p>21 using the e-signature app had users use that</p> <p>22 app to successfully register to vote?</p> <p>23 A. Was there a time -- so I just want</p> <p>24 to repeat it to make sure, was there a time</p> <p>25 when using our app people were able to go</p>	<p>129</p> <p>1 A. , you know, this -- this pilot was</p> <p>2 a, you know, 28 -- 2018 pilot.</p> <p>3 Q. How - how many people registered</p> <p>4 using this program --</p> <p>5 A. Over 2,000.</p> <p>6 Q. -- the pilot program?</p> <p>7 A. Over 2,000.</p> <p>8 Q. Over 2,000?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And that was only in the</p> <p>11 jurisdictions that Vote.org targeted, correct?</p> <p>12 A. I guess I would say is like that was</p> <p>13 in the jurisdictions where we had the e-sign</p> <p>14 tool turned on. So people would go to our</p> <p>15 site to register, we have, you know, we have a</p> <p>16 high number user base and so we already have a</p> <p>17 high volume of traffic across the nation, in</p> <p>18 Texas we have a high volume of traffic that</p> <p>19 comes into the site. So it would be like</p> <p>20 where we turned on the tool to service that,</p> <p>21 you know, service that traffic.</p> <p>22 Q. And of the 2,000 -- well, I'll</p> <p>23 strike that.</p> <p>24 Let's ask -- so that -- the</p> <p>25 jurisdictions that the tool was turned on, did</p>

<p style="text-align: right;">130</p> <p>1 that include -- that includes Travis County,</p> <p>2 correct?</p> <p>3 A. That includes all the counties that</p> <p>4 are in this lawsuit.</p> <p>5 Q. Did it also include Harris County?</p> <p>6 A. I don't believe so.</p> <p>7 Q. Okay. So it would only include</p> <p>8 Travis, Bexar County, Dallas County and</p> <p>9 Cameron County, correct?</p> <p>10 A. Yeah, the -- the counties named in</p> <p>11 the lawsuit.</p> <p>12 Q. Okay. Is there a reason why it</p> <p>13 didn't include Harris County? Did Vote.org</p> <p>14 look at Harris County for this pilot program?</p> <p>15 A. Yeah, we looked at several counties</p> <p>16 for the pilot program. I think the biggest</p> <p>17 thing is just having election administrators</p> <p>18 who wanted to run the pilot.</p> <p>19 Q. Well, why did they not want to run</p> <p>20 the pilot?</p> <p>21 A. I think because there was a lot of</p> <p>22 confusion in 2018 before the Secretary of</p> <p>23 State's statement, you know, so some election</p> <p>24 administrators interpreted the law in</p> <p>25 different, you know, in different ways. And</p>	<p style="text-align: right;">132</p> <p>1 you know, having their registration thrown out</p> <p>2 or something like that, that's our worst</p> <p>3 nightmare. We don't want that to happen.</p> <p>4 MR. SCANLON: Okay. Objection, non-</p> <p>5 responsive.</p> <p>6 BY MR. SCANLON:</p> <p>7 Q. So was any advice sought from the</p> <p>8 Secretary of State prior to the launch? I</p> <p>9 mean you talked about you had the counties and</p> <p>10 they were in dispute as to interpretation</p> <p>11 about this provision. Would it not have made</p> <p>12 sense to get some kind of communication</p> <p>13 officially from the Secretary of State to</p> <p>14 clear this up to make sure that you didn't</p> <p>15 waste money rolling out a tool that was not</p> <p>16 going to be compliant with the Texas law?</p> <p>17 A. I think we rolled out a tool that we</p> <p>18 believed that we believed -- we talked to, you</p> <p>19 know, general counsel, talked to our</p> <p>20 attorneys, I think everyone believed it to</p> <p>21 be -- I think everybody believed a copy meant</p> <p>22 a copy, not an original wet signature, and</p> <p>23 so -- and that's how the law read at the time,</p> <p>24 so I don't -- I don't think on the Vote.org</p> <p>25 side we had a lack of clarity.</p>
<p style="text-align: right;">131</p> <p>1 so anyone who isn't a part -- wasn't a part of</p> <p>2 the pilot, we had people who, you know,</p> <p>3 counties that didn't want to participate or</p> <p>4 where it was like, you know, it wasn't clear</p> <p>5 to them if the, you know, new technology would</p> <p>6 be something that they wanted to participate</p> <p>7 in.</p> <p>8 Q. But it was clear once the Secretary</p> <p>9 of State basically gave the public statement,</p> <p>10 correct?</p> <p>11 A. Yeah, when the Secretary of State</p> <p>12 gave the public statement just to avoid any,</p> <p>13 you know, any issue, we went ahead and just</p> <p>14 turned off the tool.</p> <p>15 Q. Could you have gotten clarity from</p> <p>16 the Secretary of State prior to the launch?</p> <p>17 A. I think that, you know, the</p> <p>18 Secretary of State certainly made themselves</p> <p>19 clear in that statement, and so we quickly,</p> <p>20 you know, we quickly turned the tool off.</p> <p>21 Like I said before, we really want to partner</p> <p>22 with state officials and county officials to</p> <p>23 make sure that our technology is, you know, is</p> <p>24 working to serve the voter. Obviously any</p> <p>25 situation that would end up with a voter not,</p>	<p style="text-align: right;">133</p> <p>1 Q. Well, Ms. Hailey, I mean you said</p> <p>2 everyone thought that it -- that a copy meant</p> <p>3 that you didn't have to mail in the signed</p> <p>4 copy, but you just said that there were</p> <p>5 election administrators who didn't want to</p> <p>6 participate in this program. Right?</p> <p>7 A. Yeah, I do think there are election</p> <p>8 administrators that -- look, any time there's</p> <p>9 innovation and technology there are people who</p> <p>10 feel comfortable or don't feel comfortable or</p> <p>11 push back or not. We felt after consulting,</p> <p>12 you know, with our counsel that -- that the</p> <p>13 law didn't say anything about a wet signature.</p> <p>14 But I think that you have -- you have a lot</p> <p>15 of -- a lot of people in Texas who had a lot</p> <p>16 of, you know, different varying perspectives.</p> <p>17 And so I can respect that.</p> <p>18 And then you asked this question</p> <p>19 earlier because you were trying to get at an</p> <p>20 exact, you know, an exact moment with the, you</p> <p>21 know, where a conversation with the Secretary</p> <p>22 of State's office, and like I said, our</p> <p>23 general counsel at the time, Sarah Jackel led</p> <p>24 that, and she's no longer here, but so all I</p> <p>25 can tell you is that they did everything they</p>

<p>174</p> <p>1 MR. NKWONTA: So that's my 2 instruction to answer. 3 MR. SCANLON: Thank you for 4 clarifying that. I appreciate it. I think 5 that should be it for now if we're ready to go 6 back off the record. 7 THE REPORTER: We're going off the 8 record. The time is 12:57 p.m. 9 (Recess taken.) 10 THE REPORTER: We are back on the 11 record. The time is 2:02 p.m. 12 MR. SCANLON: Hello, Ms. Hailey. 13 BY MR. SCANLON: 14 Q. Over the break, we had asked I guess 15 you to kind of see if you could get some 16 response to some of the questions we asked 17 earlier. Were you able to track the 18 information down? 19 A. Yes. 20 Q. Okay. I'll go ahead and start with 21 our question about -- just a second here. 22 Okay. Exhibit -- the question I had about 23 Exhibit 25, which was a copy of the fax. I'll 24 go ahead and screen share Exhibit 25 right 25 now.</p>	<p>176</p> <p>1 -- when they go through the e-sign process. 2 Q. Okay. 3 A. I can add even more clarity to that 4 down the road. 5 Q. Okay. Does the user see a picture 6 of what this will look like before they -- the 7 -- the -- the full application before they 8 send the e-signature application? 9 A. Yes. 10 Q. Okay. And how does that happen, is 11 that with a popup? 12 A. Not a -- not a popup I don't think. 13 I think they can -- it takes you -- I think 14 there's a button that would take you to, you 15 know, review your application so that's -- 16 that's probably how they see it. And I can 17 talk to our engineer to get like a line by 18 line on how they see it. 19 Q. Okay. Is that who you talked to 20 during the break, your engineer? 21 A. Yes. 22 Q. And what is his name? 23 A. Jake -- 24 Q. Or -- I'm sorry, it could be -- 25 could be her. I don't think you specified</p>
<p>175</p> <p>1 Were you able to tell whether this 2 notation at the top of this form was applied 3 by Vote.org or one of the entities that it 4 contracted with to do the e-sign app? 5 A. Yes. It was applied by Vote.org. 6 It's in the code. 7 Q. Okay. 8 A. And a voter can see -- see that 9 before they -- before they send. So when they 10 see the registration application, they see 11 that at the top. 12 Q. So they see this basically before 13 they send or they just see the notation at the 14 top? 15 A. I believe they can see -- the -- the 16 portion you're talking about that's affixed to 17 the form, I believe they can see that. 18 Q. Okay. So the part where it says, 19 "Application previously submitted by fax at 22 20 Sep 2018 16:24 CDT," when do they -- when does 21 the user see that in the process that we 22 discussed earlier? 23 A. I'd have to -- I'd have to go back 24 again, but I know that that's put on there by 25 Vote.org and that the user sees that at -- at</p>	<p>177</p> <p>1 gender. I'm sorry, being a sexist again. 2 A. Jake Levine. 3 Q. Jake Levine. Okay. So we talked 4 about the fax notation. 5 We also wanted to follow up on who, 6 if anybody, at the Texas Secretary of State's 7 Office was contacted by Vote.org prior to the 8 launch of the web app? 9 A. No one was contacted prior to the 10 launch of the web app. They went to counties 11 and talked to different counties before the 12 launch of the web app. 13 Q. Okay. And do you know, are there 14 any counties that were contacted other than 15 the counties that are named parties to this 16 lawsuit? 17 A. Yes. 18 MR. NKWONTA: Objection. Beyond of 19 scope of topic 11, but you may answer to the 20 extent that you know, Andrea. 21 THE WITNESS: Yes, there are other 22 counties. This is, you know, the counties 23 that are -- that ran the pilot are the 24 counties in the lawsuit, but there were other 25 counties contacted that -- that Sarah, you</p>

<p style="text-align: right;">254</p> <p>1 Q. So did you rely on every document 2 that's been produced in this case when you 3 were, you know, compiling your responses to 4 the Interrogatories?</p> <p>5 A. I mean, I -- I suppose. I mean, we 6 -- we produced everything we possibly could 7 and then answered the, you know, and then 8 responded to the best of our ability.</p> <p>9 Q. Okay. And, again, you see in the 10 response here where it says that there's an 11 objection to the request "as outside the scope 12 of the State's limited intervention." And you 13 incorporate "objections set forth in 14 Plaintiff's Motion for a Protective Order." I 15 know that's lawyer talk, but I need to know, 16 is Vote.org not producing any documents 17 because of this objection?</p> <p>18 MR. NKWONTA: Objection. Calls for 19 a legal conclusion.</p> <p>20 MR. SCANLON: I just want to state 21 for the record Federal Rule of Civil Procedure 22 34(b)(2)(C) requires that any objections that 23 are asserted in a response to a Request for 24 Production state whether the Respondent to 25 these requests is withholding documents</p>	<p style="text-align: right;">256</p> <p>1 Civil Procedure but I am working under the 2 understanding that they do.</p> <p>3 Q. Okay. I guess while we're on the 4 record, I'll just ask opposing counsel if we 5 can agree to do that.</p> <p>6 MR. NKWONTA: We'll certainly take a 7 look. Are these original responses or the 8 amended responses? I know that we've sent a 9 couple rounds of responses. We sent some 10 amended responses after the hearing.</p> <p>11 MR. SCANLON: Is it a fair point 12 that these are the amended?</p> <p>13 MR. NKWONTA: Just a second. Do you 14 mind scrolling -- I'm sorry, what exhibit 15 number is this?</p> <p>16 MR. SCANLON: This is Exhibit 3.</p> <p>17 MR. NKWONTA: We'll -- we'll 18 certainly take a look and amend. I don't want 19 to take up -- or we can go off the record if 20 you want to discuss something. I don't want 21 to take up more time of the deposition.</p> <p>22 MR. SCANLON: I -- if we can have an 23 agreement that an amendment will be made to 24 state whether -- for each objection, documents 25 are withheld or not, I think that should solve</p>
<p style="text-align: right;">255</p> <p>1 pursuant to the objection.</p> <p>2 BY MR. SCANLON:</p> <p>3 Q. So with that in mind, I'll just go 4 back and ask you, Ms. Hailey, are any 5 documents that are responsive to this request 6 being held back because of the objection?</p> <p>7 MR. NKWONTA: Objection. Calls for 8 a legal conclusion.</p> <p>9 THE WITNESS: Yeah, I'm -- I'm not -- 10 -- we're not really trying to -- I'm not aware 11 of anything that we're holding back. I mean, 12 I don't -- we definitely went through every 13 single request and then produced anything that 14 is within our, you know, that we have at 15 Vote.org.</p> <p>16 BY MR. SCANLON:</p> <p>17 Q. Will you agree to -- with me to work 18 with your lawyer to amend your responses to 19 these Requests for Productions -- Request for 20 Productions to comply with the Rule of Civil 21 Procedure?</p> <p>22 A. Well, you know, I take the -- we 23 definitely take the advisement of our counsel, 24 and work with our counsel to determine what 25 the -- I -- I don't know all the rules of</p>	<p style="text-align: right;">257</p> <p>1 the problem, and I -- I won't have to spend too 2 much time on this, as I was planning to.</p> <p>3 MR. NKWONTA: Yes, we can certainly 4 -- we can certainly agree to amend to clarify 5 that. I think there's some -- our amended 6 responses also stated that we were standing on 7 our 2403(b) objection, which there's some 8 theory there, so that -- that absolves us of 9 some duty to also having to search if you're 10 correct. So I think we'll clarify and we'll 11 supplement.</p> <p>12 MR. SCANLON: Okay. Thank you. 13 With that in mind, I'll go ahead and proceed. 14 I just want to go through 4 and 5.</p> <p>15 BY MR. SCANLON:</p> <p>16 Q. There are requests for documents 17 that show a diversion of resources. And, 18 again, there's an objection as to the scope of 19 our intervention. I guess I'll just ask, have 20 you searched for financial documents like 21 invoices and receipts that show your 22 expenditures, you know, within the period 23 that's outlined in the complaint?</p> <p>24 A. I think we looked through all our 25 budgets, yeah.</p>

<p>258</p> <p>1 Q. Okay. And we've got several 2 exhibits that are budgetary Excel 3 spreadsheets. Are those the documents you're 4 referring to? 5 A. Most likely, yeah. I'm guessing 6 that --the exhibits, that you haven't opened 7 all your exhibits in the chat and I'm guessing 8 you're -- some of them are, I see that you've 9 got, and some budgets here. 10 Q. Okay. Moving on. I mean, that's a 11 similar request. Did you -- under Request for 12 Production No. 5, if you're familiar with 13 that, did you search for any other documents 14 that tended to show the expenditures of 15 Vote.org besides the budget documents that 16 were produced? 17 A. You know, I -- I think we definitely 18 have a good idea of, you know -- yeah, I mean, 19 of all of our different budgets at Vote.org. 20 What are you -- you're asking me if I've 21 searched for anything else that's under my 22 control -- under Vote.org's control for 23 documents in our possession, custody or 24 control related to the expenditures that 25 Vote.org has foregone.</p>	<p>260</p> <p>1 counsel who then spends all their time one 2 state or, you know, if it's in, you know, our 3 -- an engineer, then it's going to be, like, 4 their entire time on a state. So it -- it's - 5 - we don't have a lot of -- we don't have a 6 lot of, like, duplicative people. 7 So I think us, the biggest thing is 8 purely the amount of -- amount staff time. 9 And there's, you know, yeah, additional time, 10 but I didn't put -- that would figure into 11 that as well. But our staff time and staff 12 resources means that we're not developing 13 things for other places or -- 14 Q. Does Vote.org use time sheets to 15 capture the amount of hours its employees 16 work? 17 A. No, we don't use time sheets. 18 Q. Okay. Do you intend to supplement 19 the record with any additional documentation 20 of this sort before trial? 21 MR. NKWONTA: Objection. Calls for 22 a legal conclusion. 23 THE WITNESS: Yeah. I don't -- I 24 don't know. 25 BY MR. SCANLON:</p>
<p>259</p> <p>1 I mean, part of the biggest thing 2 for us is, again, the human capital of being 3 such a small team, and then putting so much 4 time and energy and resources into even the 5 one state. So I think that that, you know, I 6 think that there's a lot there beyond, even, 7 some of the documents that were requested is 8 here. 9 Q. Are your employees hourly or do they 10 earn a yearly salary? 11 A. Our employees are salaried. 12 Q. Do you have any hourly employees? 13 A. We have consultants that are hourly. 14 Q. Okay. Would those kind of ex -- 15 would any kind of expenditures like that kind 16 of tend to show, you know, the extra hours of 17 work that you're talking about? 18 A. I think really, like how much our 19 team, you know, of the internal team would 20 have to spend trying to, you know, discussing 21 taxes or how much, you know, when our, like, 22 only general counsel's -- it's not like we -- 23 we don't have like a general counsel's office, 24 and our general counsel left to go be in 25 Texas. That's like the Vote.org general</p>	<p>261</p> <p>1 Q. All right, at this time, you're not 2 aware of any documents of this nature that 3 you're going to rely on? 4 MR. NKWONTA: Same objection. 5 THE WITNESS: Yeah, I -- I -- I 6 probably don't -- I don't know what the, you 7 know, what we're going to rely on at trial. 8 BY MR. SCANLON: 9 Q. And No. 6 asked for non-privileged 10 communications among the officers and board of 11 directors related to Secretary of State 12 Pablos' response in paragraph 19. And we can 13 go to that, but I think you know what that 14 refers to. 15 We talked about earlier how 16 Secretary Pablos made an announcement and, you 17 know, that kind of caused Vote.org to have to 18 notify the users that this applied to. Is 19 that fair to say? 20 A. Yes. 21 Q. So were there communications among 22 Vote.org employees about how to respond to 23 that? 24 A. I have -- I'm not sure. I mean, it 25 would have been in our general counsel's</p>

<p style="text-align: right;">294</p> <p>1 during that call Sarah was told that there was 2 going to be some kind of press statement like 3 what was made? 4 A. I don't think so. I don't know, but 5 I don't think so. I think if there was a 6 statement coming, we would have shut off the 7 tool. 8 Q. Okay. And what did Vote.org do once 9 it found out about the statement? I guess I 10 should back up. How did Vote.org find out 11 about the statement? 12 A. I believe the news. And we shut off 13 the tool. 14 Q. Okay. Other than shutting off the 15 tool, did Vote.org do anything else to 16 respond? 17 A. Yeah. I mean, I think there was a 18 lot of conversation about, you know, about the 19 tool itself. Would it be able to be used in 20 the future? Is there anything, you know, 21 anything we can do? 22 You know, confusion over the 23 statement because that's not the way -- the 24 Secretary of State's interpretation is not the 25 interpretation, like, you know, discussing</p>	<p style="text-align: right;">296</p> <p>1 time, the wasted conversations, the wasted 2 staff. Like I said, you know, I think you're 3 getting an idea of how small we are. 4 So I think that that's -- that's, 5 you know, primarily -- primarily the expense 6 at that -- at that moment, is just dumping it. 7 Then I guess expense to, you know, 8 communications, you know, around the tool. I 9 think there are some reporters who reached 10 out, so then trying to talk about messaging, 11 around what we, you know, what we did. 12 So there was probably, you know, 13 comms. expense. But, really, it's like the 14 whole -- all of that takes -- it hits 15 different parts of Vote.org, whether it's RJC 16 or comms. or engineers. 17 I think the biggest expense was just 18 organizing all of that, organizing are own 19 response, talking to everybody about it, and - 20 and the fact that it just pretty much, you 21 know, it's right before an election, so I 22 think it just takes up, you know, our -- ours 23 team's time and energy. 24 Is there anything else we need to 25 do? Anybody else we need to talk to? It's</p>
<p style="text-align: right;">295</p> <p>1 things that were not in the original statute. 2 I think that there was, you know -- 3 yeah, I think those are the main things that's 4 -- staff discussions, people wanting to know 5 why we aren't using the technology anymore. I 6 think that probably that is -- you know, 7 that's what happened then -- yeah. 8 Q. Was that -- anything that happened 9 with that the reason for Debra Cleaver's 10 termination? 11 A. No. 12 Q. So -- and we don't have to get into 13 it, but the termination was for completely 14 unrelated reasons to the Wet Signature Rule? 15 A. Yes. 16 Q. Okay. And you're still not going to 17 give me her phone number? 18 A. I don't have her phone number in 19 front of me. 20 Q. Do you know how much more expensive 21 Vote.org's operations were after Secretary 22 Pablos made the announcement? 23 A. I think the expense to us in that 24 moment is, again, like the wasted technology, 25 the wasted trips, the wasted human, you know,</p>	<p style="text-align: right;">297</p> <p>1 just an exhausting, you know, experience at 2 the staff level and so I think it's the staff 3 time. Like that probably takes up, like, half 4 of our team's time. And then they, you know, 5 and then just trashing something that we know 6 works and that serves voters. 7 Q. We talked a little bit about the 8 question in Interrogatory No. 4, about more 9 expensive and less effective means. and I 10 just want to ask how do you define less 11 effective? 12 A. Oh, like -- the example I gave, 13 that's the kind of thing that we would try to 14 think of, like, okay, can we partner? Who has 15 printers, since people don't have printers at 16 home. Can we -- like how -- who -- how do we 17 help connect voters? 18 We don't have printers. Primarily, 19 you know, because that primarily hits younger 20 voters in particular, since half of them, you 21 know, like -- I think it's something like 52 22 percent, somewhere in there, don't have 23 printers at home. So then our team gets busy 24 being, like, well, hey, who could do something 25 about this?</p>

<p>298</p> <p>1 They're like NextDoor is a really</p> <p>2 popular app. And then we have to reach out to</p> <p>3 the NextDoor team, and then we have to ask</p> <p>4 them, hey, do you have the ability internally</p> <p>5 for you guys to, like, make it so that people</p> <p>6 in different neighborhoods can volunteer to</p> <p>7 print, you know, to let people come over and</p> <p>8 use their printer? And, you know, all of that</p> <p>9 is -- that's time, energy and resources, and -</p> <p>10 -and so we're constantly thinking of things,</p> <p>11 you know, like that.</p> <p>12 And that's less effective because</p> <p>13 that just is. Like, every time there's a</p> <p>14 barrier to, you know, there's another step</p> <p>15 someone has to take in the process, then</p> <p>16 you're going to get dropout, especially among</p> <p>17 younger voters, disabled voters, voters of</p> <p>18 color, and that drop-off happens.</p> <p>19 You know, like it's much more</p> <p>20 effective to be able to -- somebody to be able</p> <p>21 to initiate that process right there on their</p> <p>22 phone or at home or on their iPad or whatever</p> <p>23 it is they use, and be able to do that, than</p> <p>24 to, like -- even our -- even our solutions</p> <p>25 aren't great, right?</p>	<p>300</p> <p>1 doing our jobs if everyone's forms were</p> <p>2 incomplete.</p> <p>3 Q. Going to No. 5, Interrogatory No. 5.</p> <p>4 Are there any communications with the -- with</p> <p>5 Texas election officials, whether it's at the</p> <p>6 state or county level that we have not already</p> <p>7 discussed?</p> <p>8 A. That we haven't already discussed.</p> <p>9 We discussed a lot of, you know, a lot of the</p> <p>10 communications. I think -- I think what</p> <p>11 you're -- you've seen are just kind of like</p> <p>12 the nature of the communications.</p> <p>13 I -- I don't -- I can't say that</p> <p>14 Sarah didn't, like -- as you know, she went to</p> <p>15 different, you know, county -- in different</p> <p>16 counties and had different conversations, and</p> <p>17 I don't know if all of her that -- all those</p> <p>18 conversations are --</p> <p>19 Q. Sure. After the press conf -- the</p> <p>20 press release came out, were there</p> <p>21 communications still going on with counties or</p> <p>22 the state that Vote.org was doing in relation</p> <p>23 to the Wet Signature Rule?</p> <p>24 A. Yeah, I mean, I'm sure -- we</p> <p>25 communicated that we were turning off the tool</p>
<p>299</p> <p>1 Like now I'm assuming if somebody's</p> <p>2 on NextDoor or not, and then they find out if</p> <p>3 their neighbor has a printer or not, and if</p> <p>4 they can go over their print -- their</p> <p>5 neighbor's place to try to print something</p> <p>6 out, like that is way less effective than the</p> <p>7 literally two minutes it could take using, you</p> <p>8 know -- using the app or using somebody's</p> <p>9 smartphone, so I think --</p> <p>10 Q. Well, is there -- I'm sorry, I don't</p> <p>11 mean to cut you off, but is it -- I'm kind of</p> <p>12 running out of time here. Is it effective if</p> <p>13 you -- if they use the app and then their</p> <p>14 application gets returned as incomplete, and</p> <p>15 they have to go through another process to</p> <p>16 register?</p> <p>17 A. Yeah, we wouldn't want, you know,</p> <p>18 that -- that to happen. It would definitely -</p> <p>19 - we'd like to see a streamlined process where</p> <p>20 they could effectively use the e-sign tool and</p> <p>21 they could use our tool to complete their --</p> <p>22 complete their, you know, their registration</p> <p>23 and do it in, like two minutes.</p> <p>24 Now, obviously, we wouldn't want to</p> <p>25 see -- we wouldn't find it -- we wouldn't be</p>	<p>301</p> <p>1 and, you know, effective immediately. I -- I</p> <p>2 think, yeah, so there would be communications</p> <p>3 like that.</p> <p>4 Q. Okay. Were there any communications</p> <p>5 with those folks either before or after HB3107</p> <p>6 was passed?</p> <p>7 A. No, because, you know, well first of</p> <p>8 all we're -- we're understaffed. But I would</p> <p>9 say that, you know, once HB3107 was passed,</p> <p>10 there's really no longer a question of whether</p> <p>11 we can turn back to the tool or not.</p> <p>12 We can't run anymore pilot programs,</p> <p>13 we can't scale a program, we can't, you know,</p> <p>14 serve voters in a way that would give them</p> <p>15 streamlined access. So there's -- there's not</p> <p>16 so much to talk about.</p> <p>17 Q. Okay. Going to No. 6, you'll</p> <p>18 forgive me if there's some more lawyer talk</p> <p>19 here, but the objection here is that it is too</p> <p>20 burdensome to calculate a dollar amount and</p> <p>21 expenses related to the redesign of the Wet</p> <p>22 Signature Rule. Do you think it's -- it's too</p> <p>23 burdensome to ascertain that information?</p> <p>24 A. So are you asking me basically if I</p> <p>25 agree with the objection?</p>

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,
Plaintiff,

v.

JACQUELYN CALLANEN, in her
official capacity as the
Bexar County Elections
Administrator, et al.,

Defendants,

and

KEN PAXTON, in his official
capacity as Attorney General
of Texas, et al.,

Intervenor-Defendants.

Case No.

5:21-cv-649

JKP-HJB

Videotaped Deposition of KEITH INGRAM

Conducted Remotely via Zoom

Friday, March 4, 2022

10:06 a.m. EST

Reported by Lisa A. Knight, RDR, CRR, RSA

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<p>1 name in italics next to it.</p> <p>2 Q. Yeah. Like a typed-out</p> <p>3 signature?</p> <p>4 A. Right.</p> <p>5 Q. Got it. Okay.</p> <p>6 So can you just explain the</p> <p>7 difference, then, between a wet ink signature</p> <p>8 and an imaged signature?</p> <p>9 A. Well, one of them is signed on</p> <p>10 the actual piece of paper and one of them is</p> <p>11 a picture.</p> <p>12 Q. A picture of what?</p> <p>13 A. A picture of a signature.</p> <p>14 Q. Okay. But is an imaged</p> <p>15 signature a picture of a wet ink signature?</p> <p>16 A. Sometimes.</p> <p>17 Q. Okay. What else could it be a</p> <p>18 picture of?</p> <p>19 A. We get JPEGs from the</p> <p>20 Department of Public Safety, and those are</p> <p>21 physical signatures electronically captured.</p> <p>22 Q. So would you also call that an</p>	<p>1 to an "imaged signature," I'm referring to a</p> <p>2 picture of a wet ink signature.</p> <p>3 Does that make sense?</p> <p>4 A. Okay.</p> <p>5 Q. And when I'm asking you</p> <p>6 about -- I will do my very best to ask you</p> <p>7 about physical signatures electronically</p> <p>8 captured, but if you are ever confused when</p> <p>9 I use the term "electronic signature," please</p> <p>10 let me know.</p> <p>11 A. Okay.</p> <p>12 Q. Does that make sense?</p> <p>13 A. Sure.</p> <p>14 Q. Okay. So, Mr. Ingram, I want</p> <p>15 to now sort of turn to -- in addition to your</p> <p>16 sort of more general authority on voter</p> <p>17 registration, I'd like to spend a few minutes</p> <p>18 discussing the specific processes by which</p> <p>19 your office processes voter registration</p> <p>20 applications.</p> <p>21 Does that make sense?</p> <p>22 A. Okay.</p>
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<p>1 imaged signature then?</p> <p>2 A. I call it a physical signature</p> <p>3 electronically captured.</p> <p>4 Q. Okay. So what's the</p> <p>5 difference, then, between a physical</p> <p>6 signature electronically captured and an</p> <p>7 imaged signature?</p> <p>8 A. Well, an imaged signature is</p> <p>9 just a picture. So it could be of something</p> <p>10 that was physically captured on an electronic</p> <p>11 device or it could be a picture of a</p> <p>12 signature on a piece of paper.</p> <p>13 Q. Okay. Okay. Understood.</p> <p>14 So for today's purposes, even</p> <p>15 if you disagree with my characterization --</p> <p>16 and I don't think you do -- when I use the</p> <p>17 term "wet ink signature," I'm referring to</p> <p>18 signatures created with ink on a piece of</p> <p>19 paper.</p> <p>20 Does that make sense?</p> <p>21 A. Okay.</p> <p>22 Q. Okay. And when I'm referring</p>	<p>1 Q. Okay. So I'd like to start</p> <p>2 with voters who register to vote with paper</p> <p>3 applications delivered to -- similar to the</p> <p>4 one you brought with you today, delivered to</p> <p>5 their county registrar or elections</p> <p>6 administrator.</p> <p>7 Are you with me so far?</p> <p>8 A. Okay.</p> <p>9 Q. All right. So, first, is it</p> <p>10 correct that paper voter registration</p> <p>11 applications should be delivered to the</p> <p>12 county voter registrar, whether that be a tax</p> <p>13 assessor-collector or election administrator?</p> <p>14 A. Well, I don't know about</p> <p>15 "should." That's a hard thing to say.</p> <p>16 We prefer it that way, but</p> <p>17 there's quite a few of them that are</p> <p>18 addressed to our office that we have to sort</p> <p>19 and send out to the counties.</p> <p>20 Q. Okay. So, in general, is -- in</p> <p>21 general, you would prefer that, you know,</p> <p>22 paper voter registration applications go</p>

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<p>1 directly to the county registrar. Is that</p> <p>2 fair to say?</p> <p>3 A. Agreed. Sure.</p> <p>4 Q. But sometimes they do come to</p> <p>5 your office.</p> <p>6 A. Sometimes they come to our</p> <p>7 office. They're addressed to us.</p> <p>8 Q. Okay. And when they come to</p> <p>9 your office, you send them to the county</p> <p>10 voter registrars or election administrators</p> <p>11 that deal with voter registration. Is that</p> <p>12 correct?</p> <p>13 A. We do.</p> <p>14 Q. Okay. Do you do anything else</p> <p>15 with those applications that come to your</p> <p>16 office, besides batch them and send them out?</p> <p>17 A. That is it. We sort them and</p> <p>18 send them.</p> <p>19 Q. You don't keep copies of those</p> <p>20 applications?</p> <p>21 A. No.</p> <p>22 Q. And when a county voter</p>	<p>1 Both online and offline</p> <p>2 counties will manually input information from</p> <p>3 paper voter registration applications into</p> <p>4 the TEAMS database. Is that correct?</p> <p>5 A. No.</p> <p>6 Q. Okay. Let's go with online</p> <p>7 counties first. What do online counties do</p> <p>8 with the information that they have from</p> <p>9 paper voter registration applications?</p> <p>10 A. They will take the information</p> <p>11 from the paper application and input it</p> <p>12 directly into TEAM.</p> <p>13 Q. Okay. And that requires them</p> <p>14 looking at the paper application; right?</p> <p>15 A. Right.</p> <p>16 Q. And typing that information</p> <p>17 into TEAM?</p> <p>18 A. Agreed.</p> <p>19 Q. Okay. What about offline</p> <p>20 counties?</p> <p>21 A. So offline counties will take</p> <p>22 the paper application and input it directly</p>
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<p>1 registrar or elections administrator receives</p> <p>2 a paper application, either directly from the</p> <p>3 voter or from your office, that the voter</p> <p>4 sent to you --</p> <p>5 (Cell phone ringing.)</p> <p>6 A. Sorry.</p> <p>7 Q. That's okay. It happens. It</p> <p>8 just happened to me. So I'll start my</p> <p>9 question again. So we can -- we can strike</p> <p>10 that?</p> <p>11 So when a voter sends a paper</p> <p>12 application to the county registrar or you</p> <p>13 send those paper applications to the county</p> <p>14 registrar, the county registrar -- is it</p> <p>15 correct to say that the county registrar</p> <p>16 manually puts that information into the TEAMS</p> <p>17 database?</p> <p>18 A. I agree with that.</p> <p>19 Q. Okay.</p> <p>20 A. Either directly or indirectly.</p> <p>21 Q. Okay. So let's break that down</p> <p>22 just for a moment.</p>	<p>1 into whatever voter registration system they</p> <p>2 use.</p> <p>3 Q. All right. And once they input</p> <p>4 it into the -- let's use Bexar County as an</p> <p>5 example. Do you know off the top of your</p> <p>6 head what voter registration system their</p> <p>7 county uses?</p> <p>8 A. Sure. It's VOTEC VEMACS.</p> <p>9 Q. So Bexar County, the elections</p> <p>10 administrator in Bexar County, Ms. Callanen,</p> <p>11 will put the information from the paper voter</p> <p>12 registration application into VOTEC VEMACS.</p> <p>13 Is that correct?</p> <p>14 A. Well, I doubt that she does it.</p> <p>15 Q. Well, sure. Her office.</p> <p>16 Someone in her office.</p> <p>17 A. I can't imagine Jacque putting</p> <p>18 in a voter registration application. I'm</p> <p>19 sure she's done it in her life, but not</p> <p>20 often.</p> <p>21 Q. Okay. So I'll rephrase.</p> <p>22 Someone from Ms. Callanen's</p>

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<p style="text-align: right;">Page 69</p> <p>1 office looks at the paper voter registration</p> <p>2 application and puts that information into</p> <p>3 VOTEC. Is that fair to say?</p> <p>4 A. I agree with that.</p> <p>5 Q. Okay. And then VOTEC will sync</p> <p>6 with TEAM. Is that right?</p> <p>7 A. We batch process overnight,</p> <p>8 yes.</p> <p>9 Q. Okay. So what is -- okay. So</p> <p>10 what does batch processing entail from VOTEC</p> <p>11 to TEAM?</p> <p>12 A. So they send us their changes</p> <p>13 and we send them our changes. It doesn't</p> <p>14 necessarily mean syncing. Syncing is a</p> <p>15 different process.</p> <p>16 Q. Fair enough.</p> <p>17 So they'll send you their</p> <p>18 changes. And those changes are the</p> <p>19 information that came from the voter</p> <p>20 registration applications. Is that correct?</p> <p>21 A. Right. That would be a new</p> <p>22 voter. That's a change. It's a new voter.</p>	<p style="text-align: right;">Page 71</p> <p>1 number or social, are matched. And if the</p> <p>2 last name or former last name, the date of</p> <p>3 birth, and the number provided match, that</p> <p>4 voter will be issued a VUID by our office,</p> <p>5 which goes back to the county.</p> <p>6 Q. All right. And what about for</p> <p>7 online counties?</p> <p>8 A. For online, that -- what we</p> <p>9 call "live check," you know, the checking of</p> <p>10 the last name, the date of birth, and the</p> <p>11 number provided, happens in realtime.</p> <p>12 So it bounces from our system</p> <p>13 over to DPS when the voter registrar inputs</p> <p>14 the voter registration information. And then</p> <p>15 the VUID is assigned almost immediately,</p> <p>16 but -- it takes a little bit for the traffic,</p> <p>17 but it's a near-realtime exchange.</p> <p>18 Q. Okay. And this is a computer</p> <p>19 process; correct?</p> <p>20 A. Agree.</p> <p>21 Q. There's no one manually</p> <p>22 checking each voter; correct?</p>
<p style="text-align: right;">Page 70</p> <p>1 Q. Okay. And you'll send them</p> <p>2 changes, so new voters or updated</p> <p>3 information, from DPS?</p> <p>4 A. We do send them applications</p> <p>5 from DPS, yes.</p> <p>6 Q. Okay. So why don't I ask you</p> <p>7 this. Instead of me trying to sort of walk</p> <p>8 you through this process, why don't you walk</p> <p>9 me through the process from the time that a</p> <p>10 voter sends their paper application to a</p> <p>11 county registrar to the time they receive</p> <p>12 their VUID, as you understand it. For</p> <p>13 offline counties, first.</p> <p>14 A. Sure.</p> <p>15 So it will come to Bexar</p> <p>16 County. They will input it into their</p> <p>17 system. That will come to us that night as a</p> <p>18 new voter and will be requesting a VUID. So</p> <p>19 it goes through us to DPS.</p> <p>20 And the last name, the date of</p> <p>21 birth, and whatever number the voter</p> <p>22 provided, either their driver's license</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Agree with that.</p> <p>2 Q. Okay. And so the only things</p> <p>3 that your office uses to check for</p> <p>4 eligibility and assign VUIDs are last name,</p> <p>5 date of birth, and either Social Security</p> <p>6 number or driver's license number. Is that</p> <p>7 correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And that's correct for online</p> <p>10 and offline counties; is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. And so do the online -- do they</p> <p>13 provide you with any other information, the</p> <p>14 online counties, apart from last name, date</p> <p>15 of birth, and either Social Security number</p> <p>16 or driver's license number for the voter?</p> <p>17 A. For the online counties,</p> <p>18 they've entered the whole application. So</p> <p>19 there's the voter's address, their preference</p> <p>20 on whether or not they want to be a poll</p> <p>21 worker, all the things that are on a voter</p> <p>22 registration application.</p>

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<p>1 Q. Okay. And what about the</p> <p>2 offline counties?</p> <p>3 A. It's the same thing. We get</p> <p>4 everything that's on the voter registration</p> <p>5 application.</p> <p>6 Q. Okay. So using everything</p> <p>7 that's on the voter registration application.</p> <p>8 But county registrars -- and</p> <p>9 now I'm talking voter registration; I'm</p> <p>10 talking about online and offline counties --</p> <p>11 they don't send you copies of the voter</p> <p>12 registration applications that they receive.</p> <p>13 Is that correct?</p> <p>14 A. That's correct. They send us</p> <p>15 fields, with data populating those fields.</p> <p>16 Q. Right. So they don't send you</p> <p>17 scans of those applications. Right?</p> <p>18 A. That's right.</p> <p>19 Q. And they don't send you</p> <p>20 pictures of those applications. Is that</p> <p>21 right?</p> <p>22 A. That's right.</p>	<p>1 A. We don't check eligibility on</p> <p>2 the front end.</p> <p>3 Q. Okay. But that is how you</p> <p>4 assign a VUID number; is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And then those folks are</p> <p>7 registered to vote, once they have their VUID</p> <p>8 number; is that correct?</p> <p>9 A. Thirty days later, yes.</p> <p>10 Q. Okay. So all you need to</p> <p>11 confirm that a voter can register to vote is</p> <p>12 last name, date of birth, and either Social</p> <p>13 Security number or driver's license number.</p> <p>14 Is that correct?</p> <p>15 A. If they match, yes.</p> <p>16 Q. And if they don't match, you</p> <p>17 send that information back to the counties.</p> <p>18 Is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And that's called an error</p> <p>21 file; is that right?</p> <p>22 A. No. It's just a failed live</p>
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<p>1 Q. Okay. And I know that this</p> <p>2 might seem sort of basic, but I just want to</p> <p>3 make sure I'm very clear on what's happening.</p> <p>4 And so they don't -- and they</p> <p>5 don't send you scans of the voter's</p> <p>6 signature. Is that correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And they don't send you</p> <p>9 pictures of voter signatures?</p> <p>10 A. That's correct.</p> <p>11 Q. And they don't send you copies</p> <p>12 of voter signatures. Is that correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. And so you are able to</p> <p>15 determine whether a voter is eligible to vote</p> <p>16 using only their last name, date of birth,</p> <p>17 and Social Security number or driver's</p> <p>18 license number that they provide. Is that</p> <p>19 correct?</p> <p>20 A. That's not an eligibility</p> <p>21 check; it's an identity check.</p> <p>22 Q. Okay.</p>	<p>1 check, and they will have to be sent a notice</p> <p>2 of incomplete.</p> <p>3 Q. Okay.</p> <p>4 And is that the same process --</p> <p>5 so we were sort of talking in the context of</p> <p>6 new voters. Is it the same process for</p> <p>7 updating voter registrations?</p> <p>8 A. I would have to check with my</p> <p>9 VR people to be sure. But I don't think that</p> <p>10 a change in registration goes through live</p> <p>11 check. It already has a VUID assigned.</p> <p>12 Q. All right. But in order to</p> <p>13 make changes to voter registration, the only</p> <p>14 information that your office needs is last</p> <p>15 name, date of birth, and Social Security</p> <p>16 number or driver's license number.</p> <p>17 Is that correct?</p> <p>18 A. To make a change, did you say?</p> <p>19 Q. Yeah. To confirm that that</p> <p>20 voter is the same voter.</p> <p>21 A. Yeah, I don't think we --</p> <p>22 I don't think we use all that information in</p>

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<p>1 a change.</p> <p>2 Q. Okay. What information do you</p> <p>3 need for a change?</p> <p>4 A. Whatever the voter provides</p> <p>5 that's different.</p> <p>6 Q. Okay.</p> <p>7 A. Our office doesn't need</p> <p>8 anything.</p> <p>9 The county voter registrar --</p> <p>10 if a person is changing their last name</p> <p>11 because they got married, then they'll send</p> <p>12 an updated voter registration application to</p> <p>13 the county. The county will change the</p> <p>14 voter's last name in the record and make the</p> <p>15 former name the former name. And that would</p> <p>16 be that. We don't have anything to do with</p> <p>17 it.</p> <p>18 Q. Oh. Okay.</p> <p>19 A. It's a county-based elections</p> <p>20 system in Texas.</p> <p>21 Q. Understood. That's very</p> <p>22 helpful. Thank you. Like I said, some of my</p>	<p>1 good sense?</p> <p>2 A. Sure.</p> <p>3 Q. Okay. So when voters -- or I</p> <p>4 will say "registrants." When a potential</p> <p>5 registrant goes to DPS, either to get a</p> <p>6 license, an identification card, conduct some</p> <p>7 other business, they are given the</p> <p>8 opportunity to register to vote. Is that</p> <p>9 correct?</p> <p>10 A. I agree with that.</p> <p>11 Q. Okay. And if the registrant is</p> <p>12 getting a driver's license or ID card for the</p> <p>13 first time, then the registrant provides DPS</p> <p>14 with their signature. Is that correct?</p> <p>15 MS. HUNKER: Objection. Form.</p> <p>16 Vague.</p> <p>17 A. Yeah, I mean, that's not the</p> <p>18 only time, but, yes.</p> <p>19 BY MS. YUKEVICH:</p> <p>20 Q. Okay. Do they provide their</p> <p>21 signature when they're getting their driver's</p> <p>22 license for the first time?</p>
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<p>1 questions today are going to be basic for</p> <p>2 you. But they're very helpful for me, so</p> <p>3 I appreciate it.</p> <p>4 And so to be clear: Going back</p> <p>5 to new voters, for online and offline</p> <p>6 counties, they don't send you any information</p> <p>7 related to the voter's signature. Is that</p> <p>8 correct?</p> <p>9 A. Agreed.</p> <p>10 Q. And are there any steps in the</p> <p>11 voter registration process that your office</p> <p>12 uses to register a voter that we have not</p> <p>13 discussed?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. I mean, we haven't talked about</p> <p>17 the DPS process, but...</p> <p>18 Q. You have foreshadowed my very</p> <p>19 next question.</p> <p>20 I would like to continue with</p> <p>21 voters who registered to vote at the</p> <p>22 Department of Public Safety. Does that make</p>	<p>1 A. They do.</p> <p>2 Q. Do they provide their signature</p> <p>3 when they're getting an ID card for the first</p> <p>4 time?</p> <p>5 A. They do.</p> <p>6 Q. Okay. When else do registrants</p> <p>7 provide their signature to DPS?</p> <p>8 A. So on the second renewal,</p> <p>9 you've got to go back to the office and</p> <p>10 you've got to sign again.</p> <p>11 Q. Understood.</p> <p>12 I, a very long time ago, had a</p> <p>13 Texas driver's license, and I never got to</p> <p>14 the second renewal. How long between when</p> <p>15 you first get your driver's license and the</p> <p>16 second renewal?</p> <p>17 A. Historically, it's been</p> <p>18 six years, that a license is good for</p> <p>19 six years. So you've got that first renewal</p> <p>20 that you can do online, and then six</p> <p>21 more years, and then you've got to go to the</p> <p>22 office. So as many as 12 years.</p>

20 (Pages 77 to 80)

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<p>1 I understand -- I might be</p> <p>2 wrong about this, but I think that that's</p> <p>3 stretching out to 8 and 8.</p> <p>4 Q. Understood.</p> <p>5 But, generally, at least</p> <p>6 12 years before you provide a new signature.</p> <p>7 A. Right.</p> <p>8 Q. And so does DPS, for -- let's</p> <p>9 talk about someone who's getting their</p> <p>10 driver's license or ID card for the first</p> <p>11 time.</p> <p>12 Does DPS transmit all of the</p> <p>13 information that you need to register a voter</p> <p>14 electronically?</p> <p>15 A. Yes.</p> <p>16 Q. What information do they</p> <p>17 provide you?</p> <p>18 A. Everything that's on the voter</p> <p>19 registration application.</p> <p>20 Q. Okay. Do they also provide you</p> <p>21 with images of voter signatures from DPS?</p> <p>22 A. They do.</p>	<p>1 A. We've got a program. I think</p> <p>2 we're using Melissa Data now. It could</p> <p>3 be that we've changed, but I think we're</p> <p>4 using Melissa Data to parse the address by</p> <p>5 county, and it goes out to the appropriate</p> <p>6 county, the file.</p> <p>7 We are just a pass-through</p> <p>8 entity. The only thing that we change in</p> <p>9 DPS's data is we direct it to a particular</p> <p>10 county.</p> <p>11 Q. Okay.</p> <p>12 A. If the file came from DPS, pass</p> <p>13 it to the appropriate county. That's it.</p> <p>14 Q. Okay. All right.</p> <p>15 And does your office do</p> <p>16 anything different to confirm that a voter</p> <p>17 can register to vote for DPS applications</p> <p>18 than they do for paper registration</p> <p>19 applications?</p> <p>20 A. No. Once the county gets that</p> <p>21 file, they treat it just like they would</p> <p>22 information off a paper application.</p>
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<p>1 Q. Okay. And does anyone in your</p> <p>2 office look at those signatures?</p> <p>3 A. We do not.</p> <p>4 Q. Okay. And do you use those</p> <p>5 signatures to register voters to vote?</p> <p>6 A. We do not. The county does.</p> <p>7 Q. Okay. So let's break that</p> <p>8 down.</p> <p>9 So when DPS sends you -- sorry.</p> <p>10 Strike that.</p> <p>11 So you receive all of the</p> <p>12 information from DPS electronically. Is that</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And your office will send all</p> <p>16 that information back down to the counties</p> <p>17 electronically? Can we talk about how that</p> <p>18 happens?</p> <p>19 A. That's right.</p> <p>20 Q. Okay. Can you explain that</p> <p>21 process in a little bit more detail. What do</p> <p>22 you do once you receive information from DPS?</p>	<p>1 They send the VUID request to</p> <p>2 us, we do a live check, send the VUID back to</p> <p>3 the county.</p> <p>4 Q. Oh. Okay. So this is</p> <p>5 interesting. So I just -- I want to be -- so</p> <p>6 let me be clear then.</p> <p>7 So you'll get this information</p> <p>8 from DPS. Fair?</p> <p>9 A. Fair.</p> <p>10 Q. All the information from the</p> <p>11 voter registration application is what you</p> <p>12 receive. Correct?</p> <p>13 A. Agreed. That's right.</p> <p>14 Q. All right. And then you send</p> <p>15 that information down to the county. Is that</p> <p>16 correct?</p> <p>17 A. Agreed.</p> <p>18 Q. And are we talking about</p> <p>19 offline counties, online counties, or both?</p> <p>20 A. Yes.</p> <p>21 Q. Sorry. So both?</p> <p>22 A. Yes.</p>

21 (Pages 81 to 84)

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<p>1 Q. Okay. You send information</p> <p>2 down to the counties. They input that</p> <p>3 information into TEAM. Is that correct? For</p> <p>4 online counties.</p> <p>5 A. Well, yes. I mean, they open</p> <p>6 the record, and it prepopulates into the</p> <p>7 fields that they look at for inputting a</p> <p>8 voter registration application.</p> <p>9 Q. And then they send that back to</p> <p>10 you?</p> <p>11 A. That's correct.</p> <p>12 Q. And you run your check then.</p> <p>13 A. We do live check and assign a</p> <p>14 VUID, that's right.</p> <p>15 Q. All right. And then you send</p> <p>16 that voter registration file with a VUID back</p> <p>17 down to the counties?</p> <p>18 A. We just assign a VUID to the</p> <p>19 record.</p> <p>20 Q. Okay. And it populates in the</p> <p>21 computer?</p> <p>22 A. Right.</p>	<p>1 information that we get that indicates that</p> <p>2 voter's not eligible. And that would change</p> <p>3 their status before they go to vote for the</p> <p>4 first time.</p> <p>5 But, generally, there's not</p> <p>6 anything in place that all voters have to go</p> <p>7 through to vote the first time.</p> <p>8 Q. Okay. So you might receive</p> <p>9 information that a voter, for example, is</p> <p>10 convicted of a felony. Is that right?</p> <p>11 A. That's right.</p> <p>12 Q. And you'd send that to the</p> <p>13 counties.</p> <p>14 A. Agreed.</p> <p>15 Q. And you might receive</p> <p>16 information that, sadly, a voter has passed</p> <p>17 away. Correct?</p> <p>18 A. That's true.</p> <p>19 Q. And you might send that to the</p> <p>20 counties.</p> <p>21 A. Agreed.</p> <p>22 Q. But in between when a voter</p>
Page 86	Page 88
<p>1 Q. Okay. And I want to be clear</p> <p>2 about something you said before.</p> <p>3 You said that when you are</p> <p>4 assigning VUIDs and registering voters to</p> <p>5 vote, you're not doing an eligibility check.</p> <p>6 Is that what you said?</p> <p>7 A. That's what I said.</p> <p>8 Q. Okay. Can you explain -- I</p> <p>9 want to be clear.</p> <p>10 Once a voter is assigned a VUID</p> <p>11 and then 30 days pass, they are able to vote</p> <p>12 in the next election. Is that correct?</p> <p>13 A. I agree with that.</p> <p>14 Q. And so if they appear to vote</p> <p>15 in person with the proper identification,</p> <p>16 they're able to vote. Right?</p> <p>17 A. Sure.</p> <p>18 Q. There's no mandatory or</p> <p>19 additional eligibility check in between when</p> <p>20 they receive their VUID and when they appear</p> <p>21 to vote for the first time. Is that correct?</p> <p>22 A. Generally. There could be some</p>	<p>1 receives their VUID and they vote in their</p> <p>2 first election, generally, there is no</p> <p>3 additional eligibility check or verification</p> <p>4 that happens in between that time. Right?</p> <p>5 A. Agreed.</p> <p>6 Q. It would only happen if you</p> <p>7 received some information that indicated a</p> <p>8 voter was not eligible.</p> <p>9 A. Agreed.</p> <p>10 Q. And in addition to felony</p> <p>11 convictions and death, what other information</p> <p>12 might you receive that suggests a voter is</p> <p>13 not eligible?</p> <p>14 A. They could have -- they</p> <p>15 could -- we could get an indication that</p> <p>16 they've moved, registered to vote in another</p> <p>17 county, registered in another state, or that</p> <p>18 they are a noncitizen.</p> <p>19 Q. All right. But no</p> <p>20 information -- nothing related to their</p> <p>21 signature on their voter registration</p> <p>22 application; correct?</p>

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<p>1 A. I agree with that.</p> <p>2 MS. YUKEVICH: So we've been</p> <p>3 going for about an hour. Are you okay</p> <p>4 to take a five-minute break?</p> <p>5 I will flag on the record for</p> <p>6 everyone: I have a dog, and we're</p> <p>7 still working from home. And he might</p> <p>8 bark in the background. I forgot to</p> <p>9 tell you at the beginning. It has not</p> <p>10 happened yet, but I do need to take</p> <p>11 breaks about every hour, for you and</p> <p>12 for him, if that's all right.</p> <p>13 THE DEPONENT: Fine with me.</p> <p>14 MS. YUKEVICH: Okay. We can</p> <p>15 take just five minutes. Kathleen, is</p> <p>16 that okay?</p> <p>17 MS. HUNKER: Yeah, it's no</p> <p>18 problem.</p> <p>19 MS. YUKEVICH: Okay. Great.</p> <p>20 We can go off the record.</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 12:10 p.m. We are now off the record.</p>	<p>1 that they meet the qualifications, you know,</p> <p>2 under oath. So that if they lie on that</p> <p>3 document, they can be held liable for lying.</p> <p>4 And so the purpose of voter</p> <p>5 registration is to make sure that you have</p> <p>6 the person, where they are, and that they</p> <p>7 have sworn that they're eligible to vote.</p> <p>8 Q. Okay. And we'll get to the</p> <p>9 purpose of a signature on a voter</p> <p>10 registration application later on in the</p> <p>11 deposition.</p> <p>12 But just to be clear: Your</p> <p>13 office does not use signatures to assign</p> <p>14 VUIDs. Correct?</p> <p>15 A. I agree with that.</p> <p>16 Q. Okay. And you don't use</p> <p>17 signatures to verify a voter's identity</p> <p>18 during the voter registration process. Is</p> <p>19 that correct?</p> <p>20 A. That's right.</p> <p>21 Q. And you don't use signatures to</p> <p>22 determine whether or not a voter is eligible</p>
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<p>1 (Recess taken.)</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 now 12:21 p.m. We are now on the</p> <p>4 record.</p> <p>5 BY MS. YUKEVICH:</p> <p>6 Q. Mr. Ingram, before we shift</p> <p>7 gears into House Bill 3107, I just wanted to</p> <p>8 be clear about the purpose of the voter</p> <p>9 registration process for everything that</p> <p>10 we've talked about so far.</p> <p>11 So you mentioned that the voter</p> <p>12 registration process does not involve an</p> <p>13 eligibility check. Is that correct?</p> <p>14 A. That's correct.</p> <p>15 Q. So what is the purpose, then,</p> <p>16 of the voter registration process if not to</p> <p>17 determine eligibility?</p> <p>18 A. Hmm. The purpose of voter</p> <p>19 registration is to make sure that we've got a</p> <p>20 person identified by their name and residence</p> <p>21 address, so that we know what precinct to put</p> <p>22 them in. And then for the voter to swear</p>	<p>1 to vote in the state of Texas. Is that</p> <p>2 correct?</p> <p>3 A. I agree with that.</p> <p>4 Q. All right. So now I'd like to</p> <p>5 shift gears into House Bill 3107.</p> <p>6 So have you heard of House</p> <p>7 Bill 3107?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And can you just tell me</p> <p>10 what that is?</p> <p>11 A. House Bill 3107 was our</p> <p>12 office's cleanup bill. It was about</p> <p>13 two-and-a-half sessions in the making.</p> <p>14 Q. Okay.</p> <p>15 MS. YUKEVICH: Can we pull up,</p> <p>16 please, what's been premarked as</p> <p>17 Deposition Exhibit B.</p> <p>18 And can we mark this as</p> <p>19 Exhibit B.</p> <p>20 (Ingram Exhibit B, House</p> <p>21 Bill 3107, was marked for</p> <p>22 identification, as of this</p>

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<p>1 date.)</p> <p>2 BY MS. YUKEVICH:</p> <p>3 Q. Do you recognize this,</p> <p>4 Mr. Ingram?</p> <p>5 A. I do.</p> <p>6 Q. What is it?</p> <p>7 A. It's House Bill 3107 on the PDF</p> <p>8 page.</p> <p>9 Q. Great.</p> <p>10 And do you understand that my</p> <p>11 client, Vote.org, is only challenging a</p> <p>12 single provision of House Bill 3107?</p> <p>13 A. Okay.</p> <p>14 Q. Sorry. Did you know that</p> <p>15 before today?</p> <p>16 A. I had no idea. I thought you</p> <p>17 were challenging the requirement that the</p> <p>18 voter registration be signed. That's in</p> <p>19 13.002(b).</p> <p>20 Q. Got it.</p> <p>21 MS. YUKEVICH: So can we go to</p> <p>22 Section 14 of House Bill 3107. And</p>	<p>1 A. That's right.</p> <p>2 Q. All right. And why did you</p> <p>3 write this section of House Bill 3107?</p> <p>4 A. In our previous cleanup bill,</p> <p>5 SB 910, we had apparently been less than</p> <p>6 clear. So we wanted to make sure we were</p> <p>7 clear.</p> <p>8 Q. Okay. Less than clear about</p> <p>9 what?</p> <p>10 A. Well, it said, before this,</p> <p>11 that a copy of a registration application had</p> <p>12 to be submitted. And we never intended for</p> <p>13 it to be a copy. We meant for it to be the</p> <p>14 original.</p> <p>15 So the whole point of SB 910's</p> <p>16 provision was to allow someone to hold their</p> <p>17 place in line, to hold their effective date</p> <p>18 of registration with a fax, but to follow it</p> <p>19 up with the original signed copy of the voter</p> <p>20 registration application.</p> <p>21 Q. Okay. And you say "we never</p> <p>22 intended." Are you speaking about the</p>
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<p>1 sorry. That's on page 8. Can we zoom</p> <p>2 in on the highlighted text.</p> <p>3 BY MS. YUKEVICH:</p> <p>4 Q. Are you familiar with this</p> <p>5 provision of House Bill 3107?</p> <p>6 A. I am.</p> <p>7 Q. Okay. Do you need a second to</p> <p>8 read it, or are you familiar enough to talk</p> <p>9 about it?</p> <p>10 A. I'm familiar.</p> <p>11 Q. Okay. How did you become</p> <p>12 familiar with this provision of House</p> <p>13 Bill 3107?</p> <p>14 A. I helped write it.</p> <p>15 Q. Okay. And so what do you</p> <p>16 understand the term "original signature" to</p> <p>17 mean in the context of Section 14 of House</p> <p>18 Bill 3107?</p> <p>19 A. It means the wet signature on</p> <p>20 the voter registration application.</p> <p>21 Q. So a wet ink signature. Is</p> <p>22 that what "original signature" means?</p>	<p>1 Secretary of State's Office?</p> <p>2 A. That's right.</p> <p>3 Q. Did you also help write Senate</p> <p>4 Bill 910?</p> <p>5 A. I did.</p> <p>6 Q. Okay. And why do you refer to</p> <p>7 this as a cleanup bill?</p> <p>8 A. Both SB 910 and HB 3107 are --</p> <p>9 they contain items that our office believes</p> <p>10 the Election Code has -- needs to be updated</p> <p>11 to be clear.</p> <p>12 So sometimes it's codifying our</p> <p>13 interpretation of the law. Sometimes it's --</p> <p>14 you know, like this one, earlier on,</p> <p>15 specifically had an e-mail as a potential way</p> <p>16 to receive documents. Just like SB 910 added</p> <p>17 fax as a way to receive documents.</p> <p>18 It's just something that we do.</p> <p>19 We try to do it every session. This one</p> <p>20 obviously built up over several sessions, so</p> <p>21 it's particularly long.</p> <p>22 But we take a lot of time in</p>

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<p style="text-align: right;">Page 101</p> <p>1 A. I don't know if our draft did</p> <p>2 that or not. I'd have to look again.</p> <p>3 Q. Okay. But you wanted to make</p> <p>4 it clear that voters couldn't use a copy. Is</p> <p>5 that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And so when you were drafting</p> <p>8 your version of Section 14 of House</p> <p>9 Bill 3107, who did you talk to to come up</p> <p>10 with this language?</p> <p>11 A. So everything in this bill was</p> <p>12 the product of meetings with our lawyers</p> <p>13 here, as we went through every provision of</p> <p>14 the Election Code.</p> <p>15 Q. Okay. And I don't want to get</p> <p>16 in -- and I want to be clear for the record.</p> <p>17 I don't want to get into breaching any sort</p> <p>18 of attorney-client privilege.</p> <p>19 So were you talking to your</p> <p>20 lawyers in their capacity as lawyers or</p> <p>21 policy advisors? Or, you know, how did those</p> <p>22 conversations come about?</p>	<p style="text-align: right;">Page 103</p> <p>1 But we wanted to make sure,</p> <p>2 since there was apparently some</p> <p>3 misunderstanding about this provision perhaps</p> <p>4 being in conflict with 13.002. But it is not</p> <p>5 in conflict with 13.002, and it is exactly</p> <p>6 the same thing as 13.002. It still has to be</p> <p>7 in writing and signed by the voter.</p> <p>8 And you can send a fax in</p> <p>9 advance, to hold your place. But that</p> <p>10 original, signed application, in accordance</p> <p>11 with 13.002(b), has to arrive within</p> <p>12 four days.</p> <p>13 Q. All right. And so this -- is</p> <p>14 it fair to say this change was motivated by</p> <p>15 Vote.org's web application in 2018?</p> <p>16 A. And their misunderstanding of</p> <p>17 Texas law, yes.</p> <p>18 Q. But it is fair to say it was</p> <p>19 motivated by Vote.org's web application in</p> <p>20 2018?</p> <p>21 (Stenographer requested</p> <p>22 clarification due to audio</p>
<p style="text-align: right;">Page 102</p> <p>1 A. Well, as practitioners of</p> <p>2 election law.</p> <p>3 Q. And what were your -- what did</p> <p>4 you consider when you were drafting</p> <p>5 Section 14 of House Bill 3107?</p> <p>6 A. Well, the particular genesis of</p> <p>7 this section was Vote.org's misreading of the</p> <p>8 law in 2018.</p> <p>9 Q. So this change to the law was</p> <p>10 motivated by Vote.org's web application that</p> <p>11 allowed voters to affix an imaged signature</p> <p>12 to voter registration applications. Is that</p> <p>13 fair to say?</p> <p>14 A. I agree with that, that the</p> <p>15 purpose -- there certainly wasn't any purpose</p> <p>16 in SB 910 to abrogate the requirement that</p> <p>17 the voter registration application has to be</p> <p>18 in writing and signed by the voter.</p> <p>19 That's the law, 13.002(b).</p> <p>20 That's the law we cited to Vote.org in 2018</p> <p>21 when we talked to them. That's the law. And</p> <p>22 910 didn't change that.</p>	<p style="text-align: right;">Page 104</p> <p>1 distortion/malfunction.)</p> <p>2 MS. HUNKER: Objection.</p> <p>3 Mischaracterization of the witness's</p> <p>4 testimony.</p> <p>5 You can answer.</p> <p>6 A. I would say this change came</p> <p>7 about as a result of the Vote.org kerfuffle</p> <p>8 in 2018.</p> <p>9 BY MS. YUKEVICH:</p> <p>10 Q. Okay. And we'll get into, you</p> <p>11 know, what you call a "Vote.org kerfuffle" in</p> <p>12 a few.</p> <p>13 Anything else that motivated</p> <p>14 this change?</p> <p>15 A. Well, in particular, in regard</p> <p>16 to that kerfuffle, the conversation that we</p> <p>17 had with Elizabeth Hanshaw Winn.</p> <p>18 Q. Who's Elizabeth Hanshaw Winn?</p> <p>19 A. Elizabeth Hanshaw Winn is a --</p> <p>20 she was at the time -- an assistant county</p> <p>21 attorney for Travis County. And she was a</p> <p>22 former legal director here in the Secretary</p>

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<p>1 of State's Office.</p> <p>2 Q. Okay. What was that</p> <p>3 conversation?</p> <p>4 A. That she had advised Bruce</p> <p>5 Elfant to accept these applications because</p> <p>6 she just assumed the law must have changed</p> <p>7 when she saw "copy" in this provision.</p> <p>8 Q. All right. Who had that</p> <p>9 conversation with her?</p> <p>10 A. Christina Adkins.</p> <p>11 Q. How many times did Ms. Adkins</p> <p>12 speak to Ms. Hanshaw Winn about that</p> <p>13 information?</p> <p>14 A. Once.</p> <p>15 Q. What else did you take into</p> <p>16 consideration when you were drafting</p> <p>17 Section 14 of House Bill 3107?</p> <p>18 A. That's it.</p> <p>19 Q. Did you speak to anyone about</p> <p>20 the effect that this might have on young</p> <p>21 voters?</p> <p>22 A. No.</p>	<p>1 We talked about the fact that a</p> <p>2 cleanup bill can be the codification of the</p> <p>3 Secretary of State's interpretation of the</p> <p>4 Election Code. Is that fair?</p> <p>5 A. I agree with that.</p> <p>6 Q. All right. And is this</p> <p>7 Section 14 of House Bill 3107 the</p> <p>8 codification of the Secretary of State's</p> <p>9 interpretation of the Election Code?</p> <p>10 A. No, ma'am.</p> <p>11 Q. What is Section 14, then, if</p> <p>12 not that?</p> <p>13 A. It's making it clear that this</p> <p>14 section is not in conflict with the rest of</p> <p>15 Texas Election Code, particularly 13.002(b).</p> <p>16 Q. So it is clarifying a statute</p> <p>17 that previously was open to multiple</p> <p>18 interpretations.</p> <p>19 A. We don't believe so. But just</p> <p>20 in case, we wanted to make it very clear.</p> <p>21 Q. Okay.</p> <p>22 A. We think Vote.org knew better</p>
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<p>1 This didn't change the law --</p> <p>2 do you understand? -- that the law already</p> <p>3 required that a voter registration</p> <p>4 application be in writing and signed. So</p> <p>5 this is not a new requirement.</p> <p>6 And so certainly we didn't</p> <p>7 consider the impact. If this had been a new</p> <p>8 requirement, it would have been in our</p> <p>9 cleanup bill. It would have been in another</p> <p>10 bill, by somebody who can make policy. This</p> <p>11 is not making policy.</p> <p>12 Q. Okay. So accepting that --</p> <p>13 okay.</p> <p>14 Did you consider the impact</p> <p>15 that this bill might have on voters of color?</p> <p>16 A. No.</p> <p>17 Like I said, this is not a</p> <p>18 change in law. This is only making sure that</p> <p>19 this section of law isn't perceived to</p> <p>20 conflict with another section of law.</p> <p>21 Q. Understanding that you view</p> <p>22 this to be -- so let's take a step back.</p>	<p>1 than to do what it was doing; we think they</p> <p>2 did it anyway. And we think they did it to</p> <p>3 the detriment of Texas voters.</p> <p>4 Q. Okay. And we certainly can --</p> <p>5 we certainly can get into that in a few.</p> <p>6 I just want to be clear about what Section 14</p> <p>7 did and didn't do and the purpose for it and</p> <p>8 the reasons behind it.</p> <p>9 So because you viewed this as a</p> <p>10 clarification of a law, you didn't look into</p> <p>11 the impact that it might have on young</p> <p>12 voters.</p> <p>13 A. Again, this is not a policy</p> <p>14 change. This is not about impacting voters.</p> <p>15 This is going to have zero impact on voters</p> <p>16 because it is not a change in the law. It is</p> <p>17 not a policy shift at all, with zero -- so</p> <p>18 therefore, it has zero consequences.</p> <p>19 We didn't have to evaluate</p> <p>20 consequences because, again, our office</p> <p>21 doesn't make policy.</p> <p>22 Q. All right. But when your</p>

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<p>1 advertising dollars to advertise</p> <p>2 VoteTexas.gov generally. And VoteTexas.gov</p> <p>3 has all the information on it.</p> <p>4 Q. All right. Anything else</p> <p>5 that -- I just want to make sure that I've</p> <p>6 got the sort of full picture of what you do</p> <p>7 to advertise to voters that they're able to</p> <p>8 request a voter registration application from</p> <p>9 your office.</p> <p>10 A. That's it.</p> <p>11 Q. Okay.</p> <p>12 MS. YUKEVICH: We've been going</p> <p>13 for another hour, and I want to be</p> <p>14 conscious of the fast-and-furious</p> <p>15 typing hands of Ms. Knight.</p> <p>16 So I know it's 12:15 for</p> <p>17 you-all. Can we go off the record</p> <p>18 briefly.</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 1:14 p.m. We are now off the record.</p> <p>21 (Recess taken.)</p> <p>22 THE VIDEOGRAPHER: All right.</p>	<p>1 reasons. The primary reason, obviously, is</p> <p>2 to, you know, be held accountable for the</p> <p>3 statements that they're making with regard to</p> <p>4 their eligibility to register to vote.</p> <p>5 And secondarily, to use that</p> <p>6 signature as proof of identity for other,</p> <p>7 later documents with regard to voting by</p> <p>8 mail.</p> <p>9 Q. Okay. If you'll give me a</p> <p>10 second, I want to go through the voter -- you</p> <p>11 have a copy of the paper voter registration</p> <p>12 application in front of you; right?</p> <p>13 A. I do.</p> <p>14 Q. Okay. And is that the same</p> <p>15 that I would be able to download from the</p> <p>16 Secretary of State's website?</p> <p>17 A. The one that I have is the 2016</p> <p>18 version, not the 2021 version. But the only</p> <p>19 difference between the two is the amount of</p> <p>20 the penalty, at the bottom.</p> <p>21 Q. Okay. If you'll just give me</p> <p>22 one second, I'm going to upload the virtual</p>
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<p>1 The time is 1:35 p.m. We are now on</p> <p>2 the record.</p> <p>3 BY MS. YUKEVICH:</p> <p>4 Q. Okay. Did you have a good</p> <p>5 break, Mr. Ingram?</p> <p>6 A. Indeed.</p> <p>7 Q. Okay. Good.</p> <p>8 So I want to switch gears a</p> <p>9 little bit to talk about something that</p> <p>10 I think you've alluded to a few times during</p> <p>11 your answers today, which is the purpose of</p> <p>12 signatures on voter registration</p> <p>13 applications.</p> <p>14 Are you with me?</p> <p>15 A. Sure.</p> <p>16 Q. Okay. So you'd agree with me</p> <p>17 that voters have to sign their voter</p> <p>18 registration applications; right?</p> <p>19 A. Agree.</p> <p>20 Q. Okay. And why do voters sign</p> <p>21 their voter registration applications?</p> <p>22 A. Well, I think for a couple of</p>	<p>1 one -- excuse me, the electronic version, and</p> <p>2 we can go over that together.</p> <p>3 MS. YUKEVICH: So, Mr. White,</p> <p>4 I'm going to add something, if you</p> <p>5 don't mind. Just give me one second.</p> <p>6 It's one page, so it shouldn't be</p> <p>7 difficult.</p> <p>8 (Discussion off the record.)</p> <p>9 MS. YUKEVICH: When it comes</p> <p>10 in, if we can just mark it as</p> <p>11 Exhibit H, just in case we use any of</p> <p>12 the other ones.</p> <p>13 (Ingram Exhibit H, Texas</p> <p>14 Voter Registration Application,</p> <p>15 was marked for identification, as</p> <p>16 of this date.)</p> <p>17 BY MS. YUKEVICH:</p> <p>18 Q. What is this document that I</p> <p>19 have on the screen, Mr. Ingram?</p> <p>20 A. That looks like the voter</p> <p>21 registration application that we posted for</p> <p>22 volunteer deputy registrars to use if they</p>

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<p style="text-align: right;">Page 157</p> <p>1 can't get any supply from their county.</p> <p>2 Q. Okay. And is this top part,</p> <p>3 above where it says Registration Receipt, is</p> <p>4 that the same as the paper registration</p> <p>5 application that you have in front of you?</p> <p>6 A. No.</p> <p>7 Q. Okay. What's different about</p> <p>8 it?</p> <p>9 A. So it's got an extra section</p> <p>10 here at the top, where it says</p> <p>11 Qualifications. That's not on the paper one</p> <p>12 that I have.</p> <p>13 Q. Is that provided to deputy</p> <p>14 voter registrars, that they have that</p> <p>15 information at the top?</p> <p>16 Or why is that on this one and</p> <p>17 not the one that you have?</p> <p>18 A. Right. Because volunteer</p> <p>19 deputy registrars, what they do is they go</p> <p>20 out and interact with people, trying to get</p> <p>21 them to register to vote.</p> <p>22 And so it's important for the</p>	<p style="text-align: right;">Page 159</p> <p>1 BY MS. YUKEVICH:</p> <p>2 Q. Okay. So is box 10 the</p> <p>3 signature box on the voter registration</p> <p>4 application?</p> <p>5 A. It is the place where the</p> <p>6 signature is captured, yes.</p> <p>7 Q. All right. And when a voter</p> <p>8 signs here, do they affirm that the</p> <p>9 information in the voter registration</p> <p>10 application, specifically boxes 1 through 9,</p> <p>11 are correct?</p> <p>12 A. Right. As well as the three</p> <p>13 statements right above the signature.</p> <p>14 Q. And those three statements are</p> <p>15 that they're a resident of this county and a</p> <p>16 U.S. citizen -- I'm going to paraphrase --</p> <p>17 that they've not been convicted of a felony</p> <p>18 or, if they have, they are -- they've</p> <p>19 completed their incarceration, parole,</p> <p>20 supervision, probation, or they've been</p> <p>21 pardoned; and that they have not been found,</p> <p>22 by a final judgment, to be completely</p>
<p style="text-align: right;">Page 158</p> <p>1 volunteer deputy registrars to have at hand a</p> <p>2 list of the qualifications.</p> <p>3 Q. If a voter requests a paper</p> <p>4 registration application from your office,</p> <p>5 does it include these qualifications at the</p> <p>6 top? Or no?</p> <p>7 A. No.</p> <p>8 Q. And it also wouldn't include</p> <p>9 the registration receipt at the bottom. Is</p> <p>10 that correct?</p> <p>11 A. That's right.</p> <p>12 Q. Can we look specifically at</p> <p>13 box 10 here.</p> <p>14 MS. YUKEVICH: If you can zoom</p> <p>15 in on box 10, Mr. White.</p> <p>16 THE VIDEOGRAPHER: My</p> <p>17 apologies. My audio messed up. Say</p> <p>18 it again, Counsel.</p> <p>19 MS. YUKEVICH: If you could</p> <p>20 zoom in on box 10, please.</p> <p>21 THE VIDEOGRAPHER: Yes, ma'am.</p> <p>22 MS. YUKEVICH: Thank you.</p>	<p style="text-align: right;">Page 160</p> <p>1 mentally incapacitated, or partially, with</p> <p>2 regard -- without the right to vote.</p> <p>3 Is that right?</p> <p>4 A. That's right.</p> <p>5 Q. Okay. And so they're</p> <p>6 signing/affirming that those three statements</p> <p>7 listed in box 10 are correct and that the</p> <p>8 information listed in box 1 through 9 is</p> <p>9 correct?</p> <p>10 A. And that they know that lying</p> <p>11 about that could result in imprisonment.</p> <p>12 Q. Yes. And they know that lying</p> <p>13 can result in imprisonment or fine of up to</p> <p>14 \$4,000, or both. Is that correct?</p> <p>15 A. That's right.</p> <p>16 Q. Okay. And the purpose of the</p> <p>17 signature on the voter registration</p> <p>18 application is to affirm those statements are</p> <p>19 true and that they understand the</p> <p>20 qualifications in box 10. Is that right?</p> <p>21 A. And they understand the penalty</p> <p>22 for lying.</p>

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<p style="text-align: right;">Page 161</p> <p>1 Q. And they understand the penalty</p> <p>2 for lying.</p> <p>3 Any other purpose for the</p> <p>4 signature on the voter registration</p> <p>5 application?</p> <p>6 A. Well, secondarily, it's got a</p> <p>7 use as a -- to help identify that a later</p> <p>8 signature is that of the voter.</p> <p>9 Q. Understood.</p> <p>10 But stick with me for -- and</p> <p>11 we'll get to that. I promise.</p> <p>12 But stick with me in the voter</p> <p>13 registration process. Just, you know, from</p> <p>14 submitting their application to receiving</p> <p>15 their V-U-I-D, or their VUID, the purpose of</p> <p>16 the signature is to affirm that the</p> <p>17 information is correct and they understand</p> <p>18 the penalty for lying.</p> <p>19 A. I agree with that. They're</p> <p>20 swearing to the document.</p> <p>21 Q. Right.</p> <p>22 Any other purpose for the</p>	<p style="text-align: right;">Page 163</p> <p>1 but they purported it to be Keith Ingram,</p> <p>2 here's an inviolate, no fraud, no intervening</p> <p>3 actor signature that's definitely Keith</p> <p>4 Ingram's to compare that application to.</p> <p>5 So --</p> <p>6 Q. Sorry. What is -- I should</p> <p>7 know what the term -- what do you mean by the</p> <p>8 term "inviolate"?</p> <p>9 A. I mean something that's not</p> <p>10 otherwise messed with. Right?</p> <p>11 Here's Keith Ingram's signature</p> <p>12 when he registered to vote. And there was no</p> <p>13 purpose of fraud, there was no third-party</p> <p>14 actors. There was nothing else going on</p> <p>15 except Keith Ingram registering to vote and</p> <p>16 signing his name.</p> <p>17 So you can take it as a pure</p> <p>18 identity. Right? Most of the time.</p> <p>19 Now, obviously if it's an agent</p> <p>20 or if it's a witness, because the person</p> <p>21 can't sign, then there are special</p> <p>22 circumstances. But mostly it's going to be</p>
<p style="text-align: right;">Page 162</p> <p>1 signature in the voter registration process?</p> <p>2 MS. HUNKER: Objection. Form.</p> <p>3 Vague.</p> <p>4 A. Well, it's to identify the</p> <p>5 voter as the voter.</p> <p>6 BY MS. YUKEVICH:</p> <p>7 Q. How do you use a signature to</p> <p>8 identify the voter as the voter?</p> <p>9 A. Well, so --</p> <p>10 MS. YUKEVICH: We can take this</p> <p>11 document down.</p> <p>12 A. Right. So the thing about</p> <p>13 signing a voter registration application is</p> <p>14 that I am filling it out. I'm going through</p> <p>15 it. Got my last name, my first name, my</p> <p>16 residence address. I sign the thing. Keith</p> <p>17 Ingram just turns this in to the voter</p> <p>18 registrar. So Keith Ingram just did that</p> <p>19 signature. Right?</p> <p>20 And then if a later application</p> <p>21 for ballot by mail comes in and somebody</p> <p>22 signed that application for ballot by mail</p>	<p style="text-align: right;">Page 164</p> <p>1 the voter's own signature in an uninfluenced</p> <p>2 context.</p> <p>3 Q. What do you mean by</p> <p>4 "uninfluenced context"?</p> <p>5 A. I mean what I said. An</p> <p>6 uninfluenced context. There's nothing that's</p> <p>7 requiring me to register to vote other than</p> <p>8 my desire to register to vote.</p> <p>9 Q. Okay.</p> <p>10 A. Most of the time.</p> <p>11 Q. Okay. So how do I -- how</p> <p>12 does -- in the voter registration process,</p> <p>13 I'm thinking from the time that -- when I say</p> <p>14 "voter registration process," I mean from the</p> <p>15 time that a voter or a registrant fills out</p> <p>16 the voter registration application and signs</p> <p>17 it to the time that they are assigned a VUID.</p> <p>18 How is the signature used to</p> <p>19 verify identity?</p> <p>20 A. The signature is not used to</p> <p>21 verify identity in that purpose. But the</p> <p>22 signature, as it exists, helps identify that</p>

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<p style="text-align: right;">Page 165</p> <p>1 voter in later contexts.</p> <p>2 You understand, it's an</p> <p>3 important marker of that voter's identity at</p> <p>4 a time other than -- when nothing else was</p> <p>5 going on.</p> <p>6 I don't know how to explain</p> <p>7 this more clearly. I'm running out of words.</p> <p>8 But here is a pure context, where all that's</p> <p>9 going on is I'm registering to vote. Me.</p> <p>10 Sign it. That's me.</p> <p>11 Now, later, if somebody fills</p> <p>12 out an application that may or may not be me,</p> <p>13 then you can compare it to this one to say,</p> <p>14 Yep, that's him. Looks about the same.</p> <p>15 Q. All right. I'm trying to get a</p> <p>16 sense of what you mean by "pure context."</p> <p>17 So let's just suppose that I'm</p> <p>18 a voter or a potential registrant. I'm a</p> <p>19 mom. I have three kids with me. They're</p> <p>20 screaming. I'm talking to a deputy volunteer</p> <p>21 registrar at, like, a county fair, where</p> <p>22 I imagine many of them might go to register</p>	<p style="text-align: right;">Page 167</p> <p>1 registration application and that they</p> <p>2 understand all the admonitions in box 10.</p> <p>3 Is that right?</p> <p>4 A. Right. But it's -- apart from</p> <p>5 that, its very existence matters for that</p> <p>6 voter. Right?</p> <p>7 I don't know how to express</p> <p>8 this.</p> <p>9 Q. I mean, I --</p> <p>10 A. Just because we don't do</p> <p>11 signature comparison at that stage, that</p> <p>12 signature is not used in the VUID assignment</p> <p>13 process, doesn't mean that its existence is</p> <p>14 not important separate from the swearing to</p> <p>15 the application part.</p> <p>16 It helps identify that voter.</p> <p>17 It helps identify that voter, not for the</p> <p>18 purposes of voter registration, but for any</p> <p>19 other purpose thereafter. And its existence</p> <p>20 in that context matters for that reason.</p> <p>21 Q. Okay. And so I think</p> <p>22 I understand what you're saying here.</p>
<p style="text-align: right;">Page 166</p> <p>1 voters to vote.</p> <p>2 I fill out the information</p> <p>3 quickly. I sign quickly. There's lots of</p> <p>4 other things going on.</p> <p>5 I'm just trying to figure out</p> <p>6 what you mean by "pure" content -- "pure</p> <p>7 context."</p> <p>8 A. There's not anything</p> <p>9 influencing whether or not that voter takes</p> <p>10 any action on anything, other than</p> <p>11 registering to vote.</p> <p>12 Q. Okay. All right. But in</p> <p>13 between -- and we'll get on to the early</p> <p>14 ballot board and the signature verification</p> <p>15 committee.</p> <p>16 I'm just trying to make sure I</p> <p>17 understand that in between the voter -- the</p> <p>18 time that the voter fills out the application</p> <p>19 and the time that their VUID is assigned,</p> <p>20 their signature isn't used for anything</p> <p>21 except to affirm that the information is</p> <p>22 correct that they've included in their voter</p>	<p style="text-align: right;">Page 168</p> <p>1 But you'd agree with me that</p> <p>2 there are voters in Texas who are unable to</p> <p>3 sign their voter registration application.</p> <p>4 Correct?</p> <p>5 A. There's some exceptions listed</p> <p>6 on the form itself.</p> <p>7 Q. Right. And those voters are</p> <p>8 still able to register to vote. Is that</p> <p>9 right?</p> <p>10 A. They are.</p> <p>11 Q. And they're still able to vote</p> <p>12 in elections, subsequently; is that correct?</p> <p>13 A. They can.</p> <p>14 Q. And they're able to request</p> <p>15 absentee mail-in ballots; right?</p> <p>16 A. Sure.</p> <p>17 Q. Okay. And their votes are able</p> <p>18 to be counted when they send in a ballot by</p> <p>19 mail.</p> <p>20 A. I agree with that.</p> <p>21 Q. All right.</p> <p>22 MS. YUKEVICH: I apologize. My</p>

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<p style="text-align: right;">Page 169</p> <p>1 dog -- there's a delivery man in</p> <p>2 the -- if you just give us one second</p> <p>3 to go off the record. I apologize.</p> <p>4 THE VIDEOGRAPHER: The time is</p> <p>5 1:48 p.m. We're now off the record.</p> <p>6 (Recess taken.)</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 1:49 p.m. We're now on the record.</p> <p>9 BY MS. YUKEVICH:</p> <p>10 Q. Okay. So we were just talking,</p> <p>11 Mr. Ingram, before we had to take a slight</p> <p>12 impromptu break, about voters who are unable</p> <p>13 to sign their voter registration</p> <p>14 applications. And they're still able to</p> <p>15 register to vote.</p> <p>16 A. That's what we said.</p> <p>17 Q. Great.</p> <p>18 And they're still able to vote</p> <p>19 by mail; correct?</p> <p>20 A. That's what we said.</p> <p>21 Q. Okay. And then -- and so I --</p> <p>22 is there any other purpose for requiring a</p>	<p style="text-align: right;">Page 171</p> <p>1 BY MS. YUKEVICH:</p> <p>2 Q. So would you agree that a wet</p> <p>3 ink signature, as someone signs with, you</p> <p>4 know -- let's strike that too.</p> <p>5 Would you agree with me that a</p> <p>6 wet ink signature serves the purpose of</p> <p>7 affirming the accuracy of the information on</p> <p>8 a voter registration application and the</p> <p>9 admonitions in box 10 of the voter</p> <p>10 registration application?</p> <p>11 MS. HUNKER: Objection. Form.</p> <p>12 Objection. Compound.</p> <p>13 You can answer.</p> <p>14 A. I agree that a signature does</p> <p>15 that. I don't know if it has to be in ink.</p> <p>16 It could be also in graphite pencil. But an</p> <p>17 original signature does that, yes.</p> <p>18 BY MS. YUKEVICH:</p> <p>19 Q. Okay. And does an imaged</p> <p>20 signature have the -- do the same thing?</p> <p>21 A. Not necessarily. It could, but</p> <p>22 it could also not.</p>
<p style="text-align: right;">Page 170</p> <p>1 signature, whether it be a wet signature or</p> <p>2 an imaged signature, on a voter registration</p> <p>3 form?</p> <p>4 A. I think that's it. I mean,</p> <p>5 obviously for later use, but...</p> <p>6 Q. Okay. And so let's get on to</p> <p>7 those -- let's get on to those later uses</p> <p>8 now -- oh, and I apologize. I do want to</p> <p>9 ask.</p> <p>10 So one more time. When we're</p> <p>11 talking about a signature here and</p> <p>12 affirmation, when we're talking about a</p> <p>13 signature that affirms the accuracy of box 1</p> <p>14 through 9 and the statements in box 10, would</p> <p>15 you agree with me that a wet ink signature</p> <p>16 can serve as an affirmation of the accuracy</p> <p>17 of that information and the affirmations</p> <p>18 in -- of the accuracy of the information and</p> <p>19 the affirmations in box 10?</p> <p>20 MS. HUNKER: Object to form.</p> <p>21 MS. YUKEVICH: Yeah. Fair</p> <p>22 enough. Let me take that back.</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. Why not? Can you explain that</p> <p>2 to me?</p> <p>3 A. Well, I know that whenever the</p> <p>4 DPS electronically captures the signature on</p> <p>5 their capture device, that the -- they are</p> <p>6 read those three statements.</p> <p>7 So that electronic signature is</p> <p>8 in the context of those three statements, and</p> <p>9 they're making a physical signature that is</p> <p>10 electronically captured and transmitted with</p> <p>11 their voter registration record.</p> <p>12 Q. All right. And so someone --</p> <p>13 if a voter were to affix an imaged signature</p> <p>14 onto a voter registration application, would</p> <p>15 that have the same effect as signing with a</p> <p>16 wet ink pen?</p> <p>17 A. It certainly could. It could</p> <p>18 also be done by somebody else in another</p> <p>19 context, and me not having any control over</p> <p>20 it.</p> <p>21 I've got here an exemplar of my</p> <p>22 signature that people use all the time to</p>

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<p>1 send stuff out, that I'm supposed to review</p> <p>2 before it goes out, but I don't know if I</p> <p>3 always do.</p> <p>4 So my signature could be used</p> <p>5 without my knowledge for a letter, or for any</p> <p>6 purpose really, and I wouldn't know it. And</p> <p>7 I certainly didn't affirm anything about it.</p> <p>8 Q. Okay. So presume with me that</p> <p>9 it is the voter, the registrant, affixing</p> <p>10 their imaged signature to a voter</p> <p>11 registration application.</p> <p>12 Would you, then, agree with me</p> <p>13 that it serves the same purpose as a wet ink</p> <p>14 signature on a voter registration</p> <p>15 application?</p> <p>16 A. I've already said it can. And</p> <p>17 it certainly -- in the context where you are</p> <p>18 reading the same three statements and then</p> <p>19 you're, you know, putting the JPEG of your</p> <p>20 signature under those three statements, it</p> <p>21 could definitely mean the same thing, sure.</p> <p>22 Q. Okay. But your concern is one</p>	<p>1 Q. Okay. Voters are able to mail</p> <p>2 in voter registration applications; is that</p> <p>3 correct?</p> <p>4 A. Sure.</p> <p>5 Q. And they're able to do that</p> <p>6 using a -- they're able to do that when</p> <p>7 they've signed their voter registration</p> <p>8 application with a wet ink signature. Is</p> <p>9 that correct?</p> <p>10 A. Or a pencil.</p> <p>11 Q. Or a pencil.</p> <p>12 But that's correct; right?</p> <p>13 Voters are able to mail in a signed voter</p> <p>14 registration application and register to</p> <p>15 vote. Is that correct?</p> <p>16 A. Sure.</p> <p>17 Q. They don't need to appear in</p> <p>18 front of a voter registrar to register to</p> <p>19 vote. Is that correct?</p> <p>20 A. That's right.</p> <p>21 Q. And they don't need to appear</p> <p>22 in front of a member of the Secretary of</p>
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<p>1 of someone -- let's use me as an example, if</p> <p>2 I'm registering to vote in the state of</p> <p>3 Texas.</p> <p>4 Your concern is that someone</p> <p>5 who is not the voter, someone who's not me,</p> <p>6 will affix my signature to the voter</p> <p>7 registration application.</p> <p>8 A. That could certainly happen,</p> <p>9 yes. And then you didn't swear to anything.</p> <p>10 Q. Right. But is that your -- is</p> <p>11 that your concern --</p> <p>12 A. My concern --</p> <p>13 Q. -- about imaged signatures?</p> <p>14 A. No. My concern is that the</p> <p>15 Texas law doesn't allow for it. Texas law</p> <p>16 says it has to be in writing and signed by</p> <p>17 the voter.</p> <p>18 It doesn't say in writing and a</p> <p>19 picture of the signature attached to it. It</p> <p>20 says it has to be in writing and signed by</p> <p>21 the voter. That's all my concern is, is</p> <p>22 making sure the Texas law is followed.</p>	<p>1 State's Office to register to vote. Is that</p> <p>2 correct?</p> <p>3 A. They do not.</p> <p>4 Q. And they do not need to appear</p> <p>5 in front of an employee of DPS to register to</p> <p>6 vote. Is that correct?</p> <p>7 A. I'd agree with that.</p> <p>8 Q. And so you previously seemed to</p> <p>9 express a concern that with an imaged</p> <p>10 signature, someone else might affix that</p> <p>11 imaged signature to a voter registration</p> <p>12 application.</p> <p>13 Is that fair to say?</p> <p>14 A. That's right. Or it could be</p> <p>15 done out of the context of these three</p> <p>16 statements.</p> <p>17 Q. Okay. And do you have the same</p> <p>18 concern about mail-in voter registration</p> <p>19 applications?</p> <p>20 A. No.</p> <p>21 Q. Why not?</p> <p>22 A. Because the three statements</p>

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<p style="text-align: right;">Page 177</p> <p>1 are right above the signature box --</p> <p>2 Q. Okay.</p> <p>3 A. -- on every voter registration</p> <p>4 application.</p> <p>5 Q. All right.</p> <p>6 A. And it's signed by the voter.</p> <p>7 Q. But you don't have a concern</p> <p>8 that someone else might be signing a voter</p> <p>9 registration application on behalf of a</p> <p>10 voter, even if they're using a pen or a</p> <p>11 pencil?</p> <p>12 A. That's always a possibility,</p> <p>13 certainly. There's been voter registration</p> <p>14 fraud before.</p> <p>15 Q. Okay. So I guess I'm trying to</p> <p>16 find the distinction between your concern</p> <p>17 about imaged signatures being affixed to</p> <p>18 voter registration applications without the</p> <p>19 voter's knowledge and why you are less</p> <p>20 concerned about voter registration</p> <p>21 applications being signed with a wet ink</p> <p>22 signature by someone not the voter.</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. Okay. All right.</p> <p>2 So let's move on to after the</p> <p>3 voter registration process. So after the</p> <p>4 process between -- you know, when a voter</p> <p>5 sends in the voter -- when a voter fills out</p> <p>6 their voter registration application and</p> <p>7 they're assigned their VUID.</p> <p>8 Let's move on from that process</p> <p>9 and move on to the early ballot board process</p> <p>10 and the signature verification committee</p> <p>11 process.</p> <p>12 Okay?</p> <p>13 A. Okay.</p> <p>14 Q. All right. So can you just</p> <p>15 tell me what an early ballot board is?</p> <p>16 A. An early voting ballot board is</p> <p>17 the entity that is charged with the</p> <p>18 responsibility of deciding whether or not to</p> <p>19 accept or reject carrier envelopes in the</p> <p>20 mail ballot context.</p> <p>21 Q. Okay. And does your office</p> <p>22 interact with the early ballot boards in any</p>
<p style="text-align: right;">Page 178</p> <p>1 A. So my concern is not either one</p> <p>2 of those things. My concern is that Texas</p> <p>3 law says in order to register to vote, a</p> <p>4 voter registration application has to be in</p> <p>5 writing and signed by the voter. That's my</p> <p>6 concern.</p> <p>7 The two exceptions to that are</p> <p>8 specifically allowed in statute: 15.021,</p> <p>9 20.066. Otherwise, a voter registration</p> <p>10 application has to be signed. The fact that</p> <p>11 fraud occurs in either context is more or</p> <p>12 less beside the point.</p> <p>13 It's more open to fraud,</p> <p>14 I think, if you just send a JPEG of your</p> <p>15 signature. It could get affixed to anything</p> <p>16 without your knowledge. And you don't</p> <p>17 necessarily even know what you're swearing to</p> <p>18 in that context.</p> <p>19 But that's the secondary</p> <p>20 concern. The primary concern is that the law</p> <p>21 requires it be in writing and signed by the</p> <p>22 voter.</p>	<p style="text-align: right;">Page 180</p> <p>1 county?</p> <p>2 A. Not usually. We have received</p> <p>3 phone calls from ballot boards before, but</p> <p>4 mainly we work through the early voting</p> <p>5 clerk.</p> <p>6 Q. Okay. What have you received</p> <p>7 those phone calls about?</p> <p>8 A. Specific situations before the</p> <p>9 ballot board and what actions they can and</p> <p>10 can't take to sort of rescue a ballot.</p> <p>11 Q. Okay. What do you mean by</p> <p>12 "rescue a ballot"?</p> <p>13 A. So if there's a ballot in front</p> <p>14 of the ballot board that they're going to</p> <p>15 have to reject, the ballot board will</p> <p>16 sometimes call and say, But we've got this</p> <p>17 and this and this other circumstance. Is</p> <p>18 that enough for us to overcome the problem</p> <p>19 and not have to reject this ballot?</p> <p>20 You know, sometimes they call</p> <p>21 about that. Sometimes they call about, you</p> <p>22 know -- well, that's it, actions they can or</p>

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<p style="text-align: right;">Page 181</p> <p>1 cannot take.</p> <p>2 Q. Okay. Any of those early</p> <p>3 ballot boards ever call you related to</p> <p>4 signatures on voter registration</p> <p>5 applications?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What did a -- in what</p> <p>8 context? Can you just explain that to me?</p> <p>9 A. Well, there will be one part of</p> <p>10 the ballot board that wants to reject a</p> <p>11 ballot because they don't believe the</p> <p>12 signatures are of the same person. And then</p> <p>13 there will be another faction of the ballot</p> <p>14 board that wants to accept it because they</p> <p>15 think they could be of the same person. So</p> <p>16 then they'll call our office and want to know</p> <p>17 what the standard is.</p> <p>18 And the standard is: whether</p> <p>19 or not the signatures could have been made by</p> <p>20 the same person. We don't take a "were they"</p> <p>21 and we don't, you know, require any sort of</p> <p>22 forensic analysis. It's just: Could they</p>	<p style="text-align: right;">Page 183</p> <p>1 board rejected this. I think it should be</p> <p>2 accepted. Do you think I should take it to</p> <p>3 court?</p> <p>4 And I look at it, and I say,</p> <p>5 Yeah, you should take that one to court.</p> <p>6 Q. Did you ever tell them no, that</p> <p>7 they shouldn't take it to court?</p> <p>8 A. No. I tell them, If you think</p> <p>9 it was a wrongful rejection, you should take</p> <p>10 it to court.</p> <p>11 We assist and advise; we don't</p> <p>12 tell them what to do.</p> <p>13 Q. Okay. And do early -- you said</p> <p>14 that since 2015 or 2017, you're not sure,</p> <p>15 which is totally fine, early ballot boards</p> <p>16 have used voter registration application</p> <p>17 signatures in their signature verification</p> <p>18 process. Is that correct?</p> <p>19 A. Well, I don't know whether</p> <p>20 they've used them or not. They've -- the law</p> <p>21 has allowed those signatures to be part of</p> <p>22 the process.</p>
<p style="text-align: right;">Page 182</p> <p>1 have possibly been made by the same person?</p> <p>2 It's a fairly loose standard.</p> <p>3 And some ballot boards want to apply a</p> <p>4 stricter standard than that.</p> <p>5 Q. Okay. And do you ever look at</p> <p>6 the signatures that early ballot boards are</p> <p>7 looking at, to see if they could be made by</p> <p>8 the same person?</p> <p>9 A. Almost never.</p> <p>10 Q. And can you tell me about how</p> <p>11 many times you've ever done that?</p> <p>12 A. Maybe three or four. And</p> <p>13 it's -- and it was after the fact.</p> <p>14 When the ballot board has</p> <p>15 finished their work, then the early voting</p> <p>16 clerk has the opportunity to take wrongfully</p> <p>17 rejected ballots to District Court and ask</p> <p>18 the court to reverse the ballot board's</p> <p>19 decision.</p> <p>20 And so sometimes -- I can think</p> <p>21 of a couple of times the early voting clerk</p> <p>22 has sent me signatures and said, The ballot</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. Are you aware of any time when</p> <p>2 an early ballot board used a voter</p> <p>3 registration application signature during</p> <p>4 their deliberations?</p> <p>5 A. Sure.</p> <p>6 Q. Okay. How many times?</p> <p>7 A. It happens every election, all</p> <p>8 the time. All day, into the night.</p> <p>9 I've been down to Bexar County</p> <p>10 and I've looked at their adjudication system.</p> <p>11 So what Bexar County does: For every by-mail</p> <p>12 voter, they have every single signature for</p> <p>13 that voter in the file.</p> <p>14 So the ballot board person can</p> <p>15 just click through and look at all of the</p> <p>16 signatures: from carrier envelopes, from</p> <p>17 other applications for ballot by mail, voter</p> <p>18 registrations, voter registration updates.</p> <p>19 I mean, any signature that</p> <p>20 voter's got on Bexar County's file, they can</p> <p>21 just look at them. They can put them all up</p> <p>22 on the screen at the same time and look at</p>

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<p style="text-align: right;">Page 185</p> <p>1 'em. They can -- it's very user-friendly.</p> <p>2 Q. Okay. And they're doing that</p> <p>3 in a computer system. Is that correct?</p> <p>4 A. That's right.</p> <p>5 Q. They're not looking at paper</p> <p>6 voter registration applications?</p> <p>7 A. That's right. And a lot of the</p> <p>8 big counties use similar systems.</p> <p>9 Q. All right. And do early ballot</p> <p>10 boards also use signatures from applications</p> <p>11 they obtained from DPS?</p> <p>12 A. No -- I mean, yes, if you're</p> <p>13 talking about voter registration</p> <p>14 applications. If you're talking about</p> <p>15 driver's license applications, no.</p> <p>16 Q. I'm sorry. I apologize. I am</p> <p>17 talking about voter registration</p> <p>18 applications.</p> <p>19 Do they use those signatures</p> <p>20 from voter registration applications?</p> <p>21 A. Sure.</p> <p>22 Q. So I want to turn -- are you</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. All right. And are you aware</p> <p>2 of large numbers of DPS signatures not having</p> <p>3 any merit or being legible?</p> <p>4 A. No. The ones I've seen look</p> <p>5 like the signature.</p> <p>6 Q. Have you ever seen a signature</p> <p>7 from a voter registration application that</p> <p>8 came through DPS that looked illegible or</p> <p>9 unusable?</p> <p>10 A. Well, I haven't seen very many</p> <p>11 of them. Only if the county has printed</p> <p>12 the -- made the PDF report, like they're</p> <p>13 supposed to. Then I've seen some of those.</p> <p>14 And they look like signatures.</p> <p>15 You know, some people's</p> <p>16 signatures are more scribbly than others.</p> <p>17 Q. Fair enough.</p> <p>18 And if this was a significant</p> <p>19 issue, is that something that would be raised</p> <p>20 with your office?</p> <p>21 A. Yes. If offline counties -- or</p> <p>22 any county was having trouble with DPS</p>
<p style="text-align: right;">Page 186</p> <p>1 aware of any issues that early ballot boards</p> <p>2 have had using signatures from DPS voter</p> <p>3 registration applications in this process?</p> <p>4 A. Well, I believe that some</p> <p>5 offline counties might not have preserved</p> <p>6 that signature. So I don't know for sure,</p> <p>7 but I -- because I'd rather not know. But</p> <p>8 I think that sometimes they're not following</p> <p>9 procedure when they get a DPS application and</p> <p>10 they haven't preserved that signature.</p> <p>11 Q. All right. But are you aware</p> <p>12 of any time where an early ballot board has</p> <p>13 looked at a signature from DPS and said,</p> <p>14 like, We just can't use this signature in our</p> <p>15 adjudication process?</p> <p>16 A. No.</p> <p>17 Q. Would they have called you</p> <p>18 about that?</p> <p>19 A. Potentially. But if it's a</p> <p>20 signature that is illegible or doesn't have</p> <p>21 any merit to their proceedings, they wouldn't</p> <p>22 necessarily call me about that, no.</p>	<p style="text-align: right;">Page 188</p> <p>1 signatures, I think they would have told us,</p> <p>2 yes.</p> <p>3 Q. Now I want to turn to signature</p> <p>4 verification committees. Does your office</p> <p>5 ever interact with signature verification</p> <p>6 committees?</p> <p>7 A. I'm sure we do, but they're not</p> <p>8 the ones that would end up calling me.</p> <p>9 Q. Okay. And are you aware of how</p> <p>10 signature verification committees function?</p> <p>11 A. It's very much the same as</p> <p>12 ballot boards, except that they cannot reject</p> <p>13 ballots.</p> <p>14 Q. And do they -- do signature</p> <p>15 verification committees use voter application</p> <p>16 signatures from DPS voter registration</p> <p>17 applications?</p> <p>18 A. Sure.</p> <p>19 Q. And are you aware of them ever</p> <p>20 not being able to use a DPS signature because</p> <p>21 it was unclear or illegible?</p> <p>22 A. I don't know. I haven't heard</p>

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<p style="text-align: right;">Page 189</p> <p>1 of it. I'm sure it happens, but the county</p> <p>2 people would know that better than me.</p> <p>3 Q. So you said you're sure it</p> <p>4 happens. Why are you sure it happens?</p> <p>5 A. Because those kind of things</p> <p>6 are bound to happen. But, again, county</p> <p>7 election officials would know the incidents</p> <p>8 and how often that occurs. I sure don't.</p> <p>9 Q. Okay. But you've never heard</p> <p>10 of it happening before?</p> <p>11 A. That's right.</p> <p>12 Q. And if it was a significant</p> <p>13 problem, it would have been raised with your</p> <p>14 office at some point.</p> <p>15 A. I would think so.</p> <p>16 Q. And it hasn't been raised with</p> <p>17 your office?</p> <p>18 A. That's right.</p> <p>19 Q. So I want to move now to what</p> <p>20 we've been talking about as imaged</p> <p>21 signatures. Right? Which is a picture, as</p> <p>22 we agreed earlier, of a wet ink signature.</p>	<p style="text-align: right;">Page 191</p> <p>1 anything. But what does that have to do with</p> <p>2 anything?</p> <p>3 Q. Well, you've expressed a</p> <p>4 concern that someone will affix imaged</p> <p>5 signatures to a whole host of documents,</p> <p>6 presumably including voter registration</p> <p>7 applications. Is that fair?</p> <p>8 A. Sure.</p> <p>9 Q. And so my question is -- I'm</p> <p>10 trying to ascertain why you don't have that</p> <p>11 same concern for voter registration</p> <p>12 applications where someone just signs with a</p> <p>13 wet ink signature on someone else's behalf</p> <p>14 and mails in that voter registration</p> <p>15 application.</p> <p>16 A. It's not their signature.</p> <p>17 When somebody affixes my JPEG</p> <p>18 signature to a document, that's my signature.</p> <p>19 Q. Um-hum.</p> <p>20 A. Right? Whether or not I read</p> <p>21 that document.</p> <p>22 If somebody purports to be me</p>
<p style="text-align: right;">Page 190</p> <p>1 So a JPEG of a wet ink signature.</p> <p>2 Are you with me?</p> <p>3 A. Okay.</p> <p>4 Q. Okay. And so you mentioned</p> <p>5 earlier that you believed that it was easier</p> <p>6 to mess with a -- I might be -- it was easier</p> <p>7 to mess with JPEG signatures, imaged</p> <p>8 signatures, than wet ink signatures. Is that</p> <p>9 right?</p> <p>10 A. Well, what I mean is that you</p> <p>11 can affix that to documents that I've never</p> <p>12 read. You can take my JPEG, and you can put</p> <p>13 it on anything. Right?</p> <p>14 My signature -- you can't make</p> <p>15 me sign something I don't want to sign.</p> <p>16 Q. All right. But someone can</p> <p>17 sign something on your behalf; right?</p> <p>18 A. But that's not my signature,</p> <p>19 and I didn't sign it.</p> <p>20 Q. Understood. But someone can</p> <p>21 sign something on your behalf; right?</p> <p>22 A. I guess anybody can do</p>	<p style="text-align: right;">Page 192</p> <p>1 and signs a piece of paper, that ain't me.</p> <p>2 Q. All right. But during the</p> <p>3 voter registration process, you testified</p> <p>4 earlier you don't use signatures to determine</p> <p>5 someone's eligibility to register to vote.</p> <p>6 Correct?</p> <p>7 A. I agree with that.</p> <p>8 Q. And you don't use signatures to</p> <p>9 verify someone's identity in the voter</p> <p>10 registration process. Correct?</p> <p>11 A. Agreed.</p> <p>12 Q. And so your -- okay.</p> <p>13 And so my question is: Have</p> <p>14 you ever provided training to any county</p> <p>15 election administrator about how to tell the</p> <p>16 difference between a wet ink signature and an</p> <p>17 imaged signature?</p> <p>18 A. Nope.</p> <p>19 Q. Have you ever received training</p> <p>20 about how to tell the difference between a</p> <p>21 wet ink signature and an imaged signature?</p> <p>22 A. No.</p>

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<p>1 administrators?</p> <p>2 A. Oh, yes. Absolutely.</p> <p>3 Q. Okay. And what was the</p> <p>4 substance of your conversation there?</p> <p>5 A. That Vote.org was deceiving</p> <p>6 Texas voters, and we cannot stand for that.</p> <p>7 Q. I understand.</p> <p>8 And that was your office's</p> <p>9 perspective; is that correct?</p> <p>10 A. That was definitely our</p> <p>11 office's perspective, yes.</p> <p>12 Q. Okay. And did you discuss with</p> <p>13 those four counties, Dallas, Cameron, Bexar,</p> <p>14 or Travis, the substance of any meetings that</p> <p>15 they might have had with Vote.org?</p> <p>16 A. No, not that I recall. I don't</p> <p>17 think that any of them met with Vote.org or</p> <p>18 talked to them. Maybe they did. I don't</p> <p>19 know.</p> <p>20 We did talk to League of Women</p> <p>21 Voters about their conversation, as well as</p> <p>22 Jeremy Smith.</p>	<p>1 announcement that's still on the screen here,</p> <p>2 this press release, your office issued the</p> <p>3 announcement -- why did your office issue</p> <p>4 this announcement?</p> <p>5 A. Because there was a group out</p> <p>6 there that was deceiving Texas voters, and we</p> <p>7 wanted to put the truth out.</p> <p>8 Q. I understand.</p> <p>9 So this -- is it fair to say</p> <p>10 that you released this announcement to stop</p> <p>11 Vote.org from using its e-signature tool?</p> <p>12 A. Well, to stop voters from using</p> <p>13 it, because it was going to mess them up with</p> <p>14 regard to registering to vote.</p> <p>15 Q. I understand.</p> <p>16 So it was to stop Vote.org from</p> <p>17 offering the e-signature tool and to</p> <p>18 discourage voters from using it. Is that</p> <p>19 correct?</p> <p>20 MS. HUNKER: Objection. Asked</p> <p>21 and answered.</p> <p>22 A. Yeah, it was definitely to</p>
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<p>1 Q. Okay. Who did you speak with</p> <p>2 at the League of Women Voters?</p> <p>3 A. Cindy Weatherby.</p> <p>4 Q. Okay. And you spoke to Jeremy</p> <p>5 Smith as well?</p> <p>6 A. Maybe Cindy told us about</p> <p>7 Jeremy's conversation. Maybe we talked to</p> <p>8 Jeremy directly. I don't remember.</p> <p>9 Q. Okay. Do you have any records</p> <p>10 of any of these conversations?</p> <p>11 A. No.</p> <p>12 Q. No notes or written summaries</p> <p>13 of any of these conversations?</p> <p>14 A. No.</p> <p>15 Q. Does anyone in your office</p> <p>16 have -- just to be as clear as I can: No one</p> <p>17 in your office has those either; correct?</p> <p>18 A. I don't believe so. We could</p> <p>19 have sent an e-mail to the executive office</p> <p>20 summarizing what Cindy had said. I don't</p> <p>21 know. Maybe we did; maybe we didn't.</p> <p>22 Q. All right. And so the</p>	<p>1 discourage voters. We didn't have any</p> <p>2 control over Vote.org.</p> <p>3 BY MS. YUKEVICH:</p> <p>4 Q. And before you issued this</p> <p>5 announcement, or since your office issued</p> <p>6 this announcement, has anyone in the</p> <p>7 Secretary of State's Office conducted any</p> <p>8 research on the possibility of fraud related</p> <p>9 to wet ink signatures?</p> <p>10 A. No.</p> <p>11 Q. Has anyone in your office</p> <p>12 conducted any research on the possibility of</p> <p>13 fraud related to imaged signatures?</p> <p>14 A. No.</p> <p>15 Q. Has anyone in your office</p> <p>16 conducted any research on the possibility of</p> <p>17 fraud related to digital or electronic</p> <p>18 signatures?</p> <p>19 A. No.</p> <p>20 Q. Has anyone in your office</p> <p>21 attended training on any of those topics,</p> <p>22 fraud related to signatures in general?</p>

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<p style="text-align: right;">Page 213</p> <p>1 A. No.</p> <p>2 Q. And before you issued the 2018</p> <p>3 announcement, is what I'm talking about,</p> <p>4 right here on the screen, or since then, has</p> <p>5 anyone in the Secretary of State's Office</p> <p>6 spoke with any experts on signatures?</p> <p>7 A. I don't know how to answer that</p> <p>8 question.</p> <p>9 Q. Have you spoken with anyone --</p> <p>10 has anyone in your office ever spoken with</p> <p>11 anyone who studies wet, imaged, or electronic</p> <p>12 signatures?</p> <p>13 A. Again, I don't know how to</p> <p>14 answer that question. We talk to a lot of</p> <p>15 people. We talk to thousands of people.</p> <p>16 Q. Okay. Has your office</p> <p>17 intentionally sought out the advice of any</p> <p>18 experts on signature verification?</p> <p>19 A. No.</p> <p>20 Q. Has your office intentionally</p> <p>21 sought out the advice of any experts on</p> <p>22 signature matching?</p>	<p style="text-align: right;">Page 215</p> <p>1 A. Storage capacity.</p> <p>2 Q. What does that mean?</p> <p>3 A. That means that in our old TEAM</p> <p>4 system, we kept a copy of the signature from</p> <p>5 DPS with the voter's record. And it was</p> <p>6 impacting our storage capacity.</p> <p>7 And storage, if you wanted to</p> <p>8 have instantaneous backups and all that rot</p> <p>9 with your service-level agreements of always</p> <p>10 on/always available, then it gets to be very</p> <p>11 expensive very fast.</p> <p>12 And so storage capacity became</p> <p>13 a real issue for us in 2013, a money --</p> <p>14 Q. All right. All right.</p> <p>15 Any other major recurring</p> <p>16 problems related to signatures before 2018?</p> <p>17 A. No.</p> <p>18 Q. What about after?</p> <p>19 A. No.</p> <p>20 Q. Before 2018 or after 2018, did</p> <p>21 your office have any policies or procedures</p> <p>22 in place relating to imaged signatures on</p>
<p style="text-align: right;">Page 214</p> <p>1 A. No.</p> <p>2 Q. And has your office ever sought</p> <p>3 out the advice, intentionally, of any experts</p> <p>4 on handwriting in general?</p> <p>5 A. No.</p> <p>6 Q. Prior to 2018, were you aware</p> <p>7 of any problems or issues related to</p> <p>8 signatures on voter registration</p> <p>9 applications?</p> <p>10 A. I don't know what that means.</p> <p>11 Q. Were there -- we talked earlier</p> <p>12 about the fact that your office is generally</p> <p>13 aware of, like, major or recurring issues in</p> <p>14 the voter registration process. Is that</p> <p>15 fair?</p> <p>16 A. That's fair.</p> <p>17 Q. Okay. Were there any major or</p> <p>18 recurring issues related to voter</p> <p>19 registration signatures that your office was</p> <p>20 aware of before 2018?</p> <p>21 A. Sort of. Yes.</p> <p>22 Q. What were they?</p>	<p style="text-align: right;">Page 216</p> <p>1 voter registration applications?</p> <p>2 A. I'm sorry. What?</p> <p>3 Q. Before 2018, did your office</p> <p>4 have any policies in place related to imaged</p> <p>5 signatures or telling the difference between</p> <p>6 wet ink signatures and imaged signatures?</p> <p>7 A. So our office obviously follows</p> <p>8 Texas law, which says that a voter</p> <p>9 registration application has to be in writing</p> <p>10 and signed by the voter.</p> <p>11 There's two exceptions to that:</p> <p>12 One, that allows for updates to your voter</p> <p>13 registration at Texas.gov; and, two, that</p> <p>14 allows for physical signature to be</p> <p>15 electronically captured and transmitted from</p> <p>16 DPS, in the context with the DPS transmittal.</p> <p>17 So obviously our office</p> <p>18 enforced that policy, that a voter</p> <p>19 registration application had to be signed by</p> <p>20 the voter, with the -- with two exceptions.</p> <p>21 Q. All right. So your office</p> <p>22 didn't really consider the difference between</p>

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<p>1 a wet ink signature and an imaged signature</p> <p>2 prior to 2018?</p> <p>3 A. There was no reason to</p> <p>4 consider. Right? Nobody has tried to</p> <p>5 deceive Texas voters into thinking that a</p> <p>6 picture was a signature.</p> <p>7 Q. Are you aware of any</p> <p>8 instances -- first, let me back up.</p> <p>9 What do you understand the term</p> <p>10 "voter fraud" to mean?</p> <p>11 A. Well, "voter fraud" can mean a</p> <p>12 lot of things. But generally, what it means</p> <p>13 is the injection into or the subtraction from</p> <p>14 legitimate vote counts, either fraudulent</p> <p>15 votes or taking away legal votes.</p> <p>16 Q. Okay. What do you mean by</p> <p>17 take -- what do you mean by "taking away</p> <p>18 legal votes"?</p> <p>19 A. Well, subtracting legal votes</p> <p>20 from the count.</p> <p>21 Q. Sorry. Are you saying</p> <p>22 "illegal" or "legal"? I apologize.</p>	<p>1 instances of voter fraud relating to wet ink</p> <p>2 signatures on voter registration</p> <p>3 applications?</p> <p>4 A. No. Wet ink signatures on</p> <p>5 applications for ballot by mail.</p> <p>6 Q. All right. Are you aware of</p> <p>7 any instances -- can you tell me about those</p> <p>8 instances of voter fraud?</p> <p>9 A. Sure.</p> <p>10 There was a scheme in Dallas.</p> <p>11 I don't remember the year. 2016, maybe.</p> <p>12 That was a May election, so it wasn't a</p> <p>13 partisan election. And there was a series of</p> <p>14 about 700 ballots that were requested, all</p> <p>15 with the same assistant. And those requested</p> <p>16 ballots were not requested by the actual</p> <p>17 voters.</p> <p>18 So Dallas County, Toni</p> <p>19 Pippins-Poole and her staff, compared the</p> <p>20 signatures on the application with the</p> <p>21 signatures on the voter registration and</p> <p>22 determined that a large number of these</p>
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<p>1 A. "Legal." Legally cast ballots</p> <p>2 should be counted.</p> <p>3 Q. Right. And -- I understand.</p> <p>4 And so you're subtracting --</p> <p>5 A. Sorry.</p> <p>6 Q. It's okay.</p> <p>7 So either subtracting legal</p> <p>8 votes or adding illegal votes --</p> <p>9 A. Generally.</p> <p>10 Q. -- is generally what you define</p> <p>11 "voter fraud" to be.</p> <p>12 A. Sure.</p> <p>13 Q. And how -- are you aware of any</p> <p>14 instances of voter fraud connected to imaged</p> <p>15 signatures on voter registration</p> <p>16 applications?</p> <p>17 A. I can't think of an instance</p> <p>18 where that was the issue. You know,</p> <p>19 obviously some things that the voter didn't</p> <p>20 sign that other people did sign have been an</p> <p>21 issue.</p> <p>22 Q. All right. So those are</p>	<p>1 hadn't been signed by the voter, hadn't been</p> <p>2 requested by the voter.</p> <p>3 And so there's nothing they</p> <p>4 could do under Texas law except send the</p> <p>5 ballot out. So they went ahead and sent the</p> <p>6 ballot out for these applications, but they</p> <p>7 also went and got a court order to hold these</p> <p>8 700 applications and return the ballots</p> <p>9 separately, so that -- and notify these</p> <p>10 700 voters, so that they could come in and</p> <p>11 say, yes, I did request that or, no, I did</p> <p>12 not, and have the opportunity to vote in</p> <p>13 person.</p> <p>14 So there was, you know, a</p> <p>15 special provision made to allow those voters</p> <p>16 the opportunity to vote instead of having</p> <p>17 their votes stolen by fraudsters who signed</p> <p>18 their name.</p> <p>19 Q. And all those signatures that</p> <p>20 you're talking about, those were all wet ink</p> <p>21 signatures. Is that correct?</p> <p>22 A. They were all original</p>

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<p>1 signatures on an application, that's right.</p> <p>2 Q. And any instances of voter</p> <p>3 fraud in any context connected to imaged</p> <p>4 signatures? So pictures of voter -- pictures</p> <p>5 of signatures affixed to documents.</p> <p>6 A. No, I can't think of any.</p> <p>7 Q. Okay. Any instances of voter</p> <p>8 fraud connected to the voter registration</p> <p>9 applications that come through DPS?</p> <p>10 A. No.</p> <p>11 Q. Any instances of voter fraud</p> <p>12 that you're aware of connected to the</p> <p>13 signatures that voters provide to DPS?</p> <p>14 A. No.</p> <p>15 Q. And I might have cut you off</p> <p>16 before. Are there other instances of voter</p> <p>17 fraud that you're aware of connected to wet</p> <p>18 ink signatures, either on voter registration</p> <p>19 applications or applications to vote by mail?</p> <p>20 A. There was a pretty widespread</p> <p>21 problem back in 2010 in Harris County, before</p> <p>22 I got into this chair. But where a group was</p>	<p>1 voter registration applications from voters</p> <p>2 who used Vote.org's web application in 2018?</p> <p>3 A. We did not.</p> <p>4 Q. How do you know?</p> <p>5 A. Because they weren't addressed</p> <p>6 to us.</p> <p>7 Q. All right. Do you know if</p> <p>8 voters were able to register to vote using</p> <p>9 the process that we discussed before after</p> <p>10 they submitted voter registration</p> <p>11 applications signed using Vote.org's</p> <p>12 e-signature function?</p> <p>13 A. I don't know.</p> <p>14 Q. And why not? Why don't you</p> <p>15 know?</p> <p>16 A. How would I know? How would</p> <p>17 our office have any idea about that?</p> <p>18 Q. And is that because the</p> <p>19 information that you receive is sort of</p> <p>20 filtered through the county level?</p> <p>21 A. The counties are the ones who</p> <p>22 register voters in Texas.</p>
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<p>1 incentivized to register as many people as</p> <p>2 possible by a compensation scheme. And they</p> <p>3 were fabricating registrations and submitting</p> <p>4 them.</p> <p>5 Q. Anything more recent than that?</p> <p>6 A. I can't think of any.</p> <p>7 Q. And you would presumably be</p> <p>8 aware of those issues if they existed. Is</p> <p>9 that right?</p> <p>10 A. If it was large scale, yes.</p> <p>11 Q. So we've talked -- I want to</p> <p>12 just go back a bit to talking about</p> <p>13 Vote.org's web application.</p> <p>14 And so you're obviously aware</p> <p>15 that in 2018, Vote.org created this web</p> <p>16 application with an e-sign function to be</p> <p>17 used in the state of Texas. Right?</p> <p>18 A. I agree.</p> <p>19 Q. Okay. And you learned about it</p> <p>20 first from Remi Garza. Is that right?</p> <p>21 A. That's right.</p> <p>22 Q. And did your office process any</p>	<p>1 Q. But you have to assign -- you</p> <p>2 have to process that information, make sure</p> <p>3 it matches, and assign a VUID. Right?</p> <p>4 A. Right.</p> <p>5 Q. And so if counties were</p> <p>6 entering information from voter registration</p> <p>7 applications signed using Vote.org's</p> <p>8 e-signature function, your office would have</p> <p>9 no way of knowing that?</p> <p>10 A. That's right.</p> <p>11 Q. Did you instruct counties to</p> <p>12 reject voter registration applications from</p> <p>13 voters who used Vote.org's web application?</p> <p>14 A. No.</p> <p>15 Q. What did you tell counties to</p> <p>16 do with applications that came -- that voters</p> <p>17 submitted if they signed them using</p> <p>18 Vote.org's web application?</p> <p>19 A. To send a notice of incomplete</p> <p>20 registration.</p> <p>21 Q. Okay. And then -- I</p> <p>22 understand.</p>

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<p style="text-align: right;">Page 225</p> <p>1 And if voters didn't cure their</p> <p>2 signature in the statutory time period, then</p> <p>3 their voter registration application would be</p> <p>4 rejected. Is that right?</p> <p>5 A. That is correct.</p> <p>6 MS. YUKEVICH: All right.</p> <p>7 I actually -- I think we've been going</p> <p>8 for about another hour. I think I'm</p> <p>9 almost done with my questions. Maybe</p> <p>10 10 or 15 minutes.</p> <p>11 So maybe it makes sense to take</p> <p>12 a 10-minute break and come back. And</p> <p>13 then we'll spend 10 or 15 more minutes</p> <p>14 together, Mr. Ingram.</p> <p>15 THE DEPONENT: Okay.</p> <p>16 MS. YUKEVICH: Okay.</p> <p>17 THE VIDEOGRAPHER: The time is</p> <p>18 2:38 p.m. We are now off the record.</p> <p>19 (Recess taken.)</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 2:49 p.m. We are now on the record.</p> <p>22 ///</p>	<p style="text-align: right;">Page 227</p> <p>1 registration applications with a wet ink</p> <p>2 signature?</p> <p>3 A. To make sure that they get</p> <p>4 registered properly.</p> <p>5 Q. Right.</p> <p>6 Any -- does your office have</p> <p>7 any interest in ensuring -- apart from, you</p> <p>8 know, ensuring voters are registered and that</p> <p>9 they've complied with the law, is there any</p> <p>10 separate interest that's served by wet ink</p> <p>11 signatures on voter registration</p> <p>12 applications?</p> <p>13 A. Well, again --</p> <p>14 MS. HUNKER: Objection.</p> <p>15 Personal knowledge. Form.</p> <p>16 A. -- what we talked about before:</p> <p>17 The fact that it's a signature to which you</p> <p>18 can compare later signatures to see if it's</p> <p>19 the same. To see if it's the voter.</p> <p>20 BY MS. YUKEVICH:</p> <p>21 Q. Understood.</p> <p>22 I'm trying to get a sense if</p>
<p style="text-align: right;">Page 226</p> <p>1 BY MS. YUKEVICH:</p> <p>2 Q. Okay. Mr. Ingram, as promised,</p> <p>3 I only have, like, maybe ten more minutes and</p> <p>4 then I will be done.</p> <p>5 Thank you so much for sticking</p> <p>6 with me today. I do appreciate it. I know,</p> <p>7 you know, you've been through these before,</p> <p>8 but I do really appreciate it.</p> <p>9 So I did want to ask you: We</p> <p>10 had talked about the purpose and function of</p> <p>11 a signature on a voter registration</p> <p>12 application. But are there any other, you</p> <p>13 know, interests that you believe are served</p> <p>14 by House Bill 3107 or Section 14, in</p> <p>15 particular?</p> <p>16 A. Right. As we discussed, the</p> <p>17 purpose of that section was to just make sure</p> <p>18 it's not in conflict with the rest of Texas</p> <p>19 law.</p> <p>20 Q. Okay. And any interest that</p> <p>21 your office has in ensuring -- apart from</p> <p>22 following Texas law -- that voters sign voter</p>	<p style="text-align: right;">Page 228</p> <p>1 there's anything else -- any other reason</p> <p>2 that your office thinks that wet ink</p> <p>3 signatures are important on voter</p> <p>4 registration applications.</p> <p>5 A. What we've talked about today.</p> <p>6 Q. Okay. And then I wanted to ask</p> <p>7 about -- very briefly about the announcement</p> <p>8 that your office put out in 2018 that we were</p> <p>9 talking about earlier.</p> <p>10 We don't need to put it back up</p> <p>11 on the screen, but I was curious if there was</p> <p>12 any policy changes that happened in your</p> <p>13 office as a result of that announcement.</p> <p>14 A. No.</p> <p>15 Q. Okay. And any policy changes</p> <p>16 in your office as a result of the passage of</p> <p>17 House Bill 3107 and Section 14, in</p> <p>18 particular?</p> <p>19 A. No.</p> <p>20 Q. Okay. I want to go back to</p> <p>21 your conversations that you and the folks in</p> <p>22 your office had with the counties</p>

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IN THE UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

----- +
 VOTE.ORG, |
 Plaintiff, | Case No.
 vs. | 5:21-cv-649-JKP-HJB
 |
 JACQUELYN CALLANEN, |
 in her official capacity as |
 the Bexar County Elections |
 Administrator; BRUCE ELFANT, |
 in his official capacity as |
 the Travis County Tax |
 Assessor-Collector; |
 REMI GARZA, in his official |
 capacity as the Cameron County |
 Elections Administrator. |
 MICHAEL SCARPELLO, in his |
 official capacity as the |
 Dallas County Elections |
 Administrator, |
 |
Defendants.

CAPTION CONTINUED ON NEXT PAGE

Remote Videotaped Deposition of
 RIVELINO LOPEZ 30(b)(6)
 February 11, 2022

DIGITAL EVIDENCE GROUP
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<p style="text-align: right;">Page 121</p> <p>1 contacted every person who had submitted an</p> <p>2 application via fax using -- through Vote.org,</p> <p>3 right?</p> <p>4 A Our office contacted who?</p> <p>5 Q The individuals identified in the faxes</p> <p>6 that you received from Vote.org.</p> <p>7 A No, we didn't contact them, no.</p> <p>8 MR. STONE: Oh, I'm sorry. Henry, could</p> <p>9 you take down the exhibit that you have on the</p> <p>10 screen?</p> <p>11 Q I'm dropping in the chat what I'm</p> <p>12 marking as Exhibit 4. And I'm going to use the</p> <p>13 share screen feature to show it to you, Mr. Lopez.</p> <p>14 (Exhibit 4 was marked for identification</p> <p>15 and attached to the deposition transcript.)</p> <p>16 BY MR. STONE:</p> <p>17 Q Can you see Exhibit 4 on your screen</p> <p>18 right now?</p> <p>19 A Yes.</p> <p>20 Q Does it look like a newspaper article</p> <p>21 from the Dallas Morning News?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 123</p> <p>1 Q Now let's go up to the top of this --</p> <p>2 the first page of this -- sorry, the second page</p> <p>3 of this exhibit, I want to get the date. Do you</p> <p>4 see the date on October 4th, 2018, on this</p> <p>5 document?</p> <p>6 A Yes.</p> <p>7 Q Okay. So did you -- did your office</p> <p>8 notify the individuals who submitted -- who</p> <p>9 Vote.org had submitted applications on behalf of</p> <p>10 that they needed to submit an application --</p> <p>11 strike that.</p> <p>12 Did you contact the individuals from</p> <p>13 whom you received voter registration applications</p> <p>14 from Vote.org to notify them that their</p> <p>15 applications were incomplete?</p> <p>16 A The one thing I can think that she may</p> <p>17 be referring to is when they reject it, they do</p> <p>18 their rejection letter that they need to fill out</p> <p>19 a complete application. So that may have been the</p> <p>20 context she was referring to.</p> <p>21 Q Would the individuals who had -- so the</p> <p>22 deadline I think we established was October 9th or</p>
<p style="text-align: right;">Page 122</p> <p>1 Q And is it titled, "Hundreds of voter</p> <p>2 registrations filed in Dallas County used online</p> <p>3 tool -- using online tool could be invalid and</p> <p>4 open to legal challenges."</p> <p>5 Did I read that correctly?</p> <p>6 A Yes.</p> <p>7 Q I'm very good at reading.</p> <p>8 Let's go down to page 4 of this exhibit.</p> <p>9 And I'm going to read to you the second paragraph</p> <p>10 from the bottom. I'm going to highlight it so</p> <p>11 that you can see it. Do you see it on your</p> <p>12 screen?</p> <p>13 A Yes.</p> <p>14 Q Tell me if I'm reading this accurately.</p> <p>15 "Pippins-Poole said Dallas County will follow the</p> <p>16 state's guidance and notify applicants that their</p> <p>17 registrations are incomplete and require an</p> <p>18 original signature. To finish their registration,</p> <p>19 they would need to send in an original signature</p> <p>20 within ten days of receiving the notice."</p> <p>21 Did I read that accurately?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 124</p> <p>1 thereabouts, 2018, right?</p> <p>2 A Right.</p> <p>3 Q And the Secretary of State's</p> <p>4 announcement came five days before that on October</p> <p>5 4th of 2018, right?</p> <p>6 A Right.</p> <p>7 Q Based on your knowledge, training, and</p> <p>8 experience, would the individuals who had</p> <p>9 applications submitted on their behalf by Vote.org</p> <p>10 have -- would they have received notification that</p> <p>11 their application had been rejected prior to that</p> <p>12 October 9th, 2018, deadline?</p> <p>13 A Maybe some. I can't say all of them.</p> <p>14 Q For those who didn't receive</p> <p>15 notification prior to that October 9th, 2018,</p> <p>16 deadline -- well, let me strike that.</p> <p>17 When a voter receives a notification</p> <p>18 that their application -- when a voter receives</p> <p>19 notification that their voter registration</p> <p>20 application has been rejected, do they have an</p> <p>21 opportunity to cure whatever defect there is?</p> <p>22 A Yes.</p>

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1 Q And if they cure that defect, what is
2 the effective date of their voter application?

3 A They respond ten days from the rejection
4 or incomplete letter. It goes back to the
5 original application date. If it's after, then
6 they -- the dates, say if it's the 12th day, then
7 it goes off of that date.

8 Q So the -- sorry. I got a notification
9 that my Internet wasn't stable so I paused for a
10 moment.

11 So the 478 applications received,
12 applicants that submitted applications by fax in
13 2018 that were rejected would have received
14 notification from your office at some point,
15 right?

16 A Right.

17 Q Of that 478 applications that were
18 submitted by fax in 2018, do you know how many of
19 them were actually from Vote.org?

20 A I don't.

21 Q Is it fair to say, though, not all of
22 the 478 voter registration applications that you

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1 applications, you could not have sent out a notice
2 to them that their application had been rejected,
3 could you?

4 A That's right.

5 Q Those 259 voters potentially were
6 disenfranchised, weren't they?

7 A Could have been, yes.

8 Q By Vote.org?

9 A From when they sent the original
10 application and I got them registered, I don't
11 have that information, though.

12 Q Do you know how many of the -- do you
13 know how many of the applications -- voter
14 registration applications that were submitted by
15 Vote.org, how many of the applicants themselves
16 subsequently cured the defects with their
17 applications?

18 A No, I don't.

19 Q If they didn't cure the defects with
20 their applications, they couldn't vote, right?

21 MR. HARRIS: Objection. Calls for
22 speculation.

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1 received in 2018 were from Vote.org?

2 A Yes, that's fair.

3 Q So we've got two numbers. We've got the
4 number provided by Vote.org of 737 individuals who
5 used their app and wanted to register via fax,
6 right?

7 A Right.

8 Q And then we've got the 478 applications
9 that you received on the 28th that were actually
10 by fax, right?

11 A Yes.

12 Q And not even all of those were from
13 Vote.org, right?

14 A Right.

15 Q Let's just assume they were. That's
16 just still 259 applications that you never
17 received from Vote.org, right?

18 MR. HARRIS: Objection. Calls for
19 speculation.

20 Q Oh, go ahead and answer. I'm sorry.

21 A I said yes. I'm sorry.

22 Q If you didn't receive those 259

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1 A Yes, if they never got registered, they
2 couldn't vote.

3 MR. STONE: I am almost done. If we
4 could take a five-minute break, I think when we
5 come back, I may just have a few more questions
6 and I'll pass the witness.

7 VIDEO TECHNICIAN: All right. The time
8 is 4:49 p.m. Off the record.

9 (A brief recess was taken.)

10 VIDEO TECHNICIAN: All right. The time
11 is 5:02 p.m. We are back on the record.

12 MR. STONE: I pass the witness.

13 MR. HARRIS: Okay. I didn't expect that
14 one. Fair enough.

15 FURTHER EXAMINATION

16 BY MR. HARRIS:

17 Q All right. So let's -- I only have a
18 few questions, Mr. Lopez, and then I will be out
19 of your face. And so what I want to do is circle
20 back on your meeting with my client, Vote.org.
21 Okay? And so as I understand your earlier
22 testimony was that you were not there for the

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Terrie Pendley

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IN THE UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

VOTE.ORG,)	Case No.
Plaintiff,)	5:21-cv-649-JKP-HJB
v.)	
JACQUELYN CALLANEN, in her official)	
capacity as the Bexar County Elections)	
Administrator; BRUCE ELFANT, in his)	
official capacity as the Travis County)	
Tax Assessor-Collector; REMI GARZA, in)	
his official capacity as the Cameron)	
County Elections Administrator;)	
MICHAEL SCARPELLO, in his official)	
Capacity as the Dallas County Elections)	
Administrator,)	
Defendants,)	
and)	
KEN PAXTON, in his official capacity)	
as Attorney General of Texas;)	
LUPE TORRES, in their official capacity)	
as Medina County Elections Administrator;)	
TERRIE PENDLEY, in her official capacity)	
as Real County Tax Assessor-Collector,)	
Intervenor-Defendants.)	

Zoom streaming personal and 30(b)(6) video deposition of TERRIE PENDLEY, called for examination by counsel for the Plaintiff, on Friday, February 25, 2022, commencing at 10:04 a.m. CST, reported by Michele E. French, RPR, RMR, CSR-3091, and Notary Public for the State of Michigan, on behalf of Digital Evidence Group.

DIGITAL EVIDENCE GROUP
 1730 M Street, NW, Suite 812
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 (202) 232-0646

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<p style="text-align: right;">Page 49</p> <p>1 four of their Social Security, some do not. It's an</p> <p>2 either/or. Make sure that it is signed and dated,</p> <p>3 sir.</p> <p>4 Q And do you -- how do you keep track of the</p> <p>5 voter registration applications that you receive?</p> <p>6 A I try to process them in a daily manner, if</p> <p>7 it's not early voting or election day. I just process</p> <p>8 them daily as they come in.</p> <p>9 Right now --</p> <p>10 Q Are you --</p> <p>11 A -- early voting and elections is going on,</p> <p>12 so I have a little stack over here that I need to</p> <p>13 correct, you know, change of addresses, and</p> <p>14 applications, and I will do those on March the 4th.</p> <p>15 Q Understood. So when you say you process an</p> <p>16 application, does that entail using a time stamp or a</p> <p>17 date stamp?</p> <p>18 A We just have a date stamp here, sir.</p> <p>19 Q Okay. So do you -- do you use a bar code?</p> <p>20 A No. I do not have my bar code scanner</p> <p>21 hooked up.</p> <p>22 Q Do you -- do you scan the applications into</p>	<p style="text-align: right;">Page 51</p> <p>1 registration form to the Secretary of State?</p> <p>2 A No, sir.</p> <p>3 Q And you do not send any information from the</p> <p>4 voter registration form to the Secretary of State?</p> <p>5 A No, sir.</p> <p>6 Q So the Secretary of State's office receives</p> <p>7 no information from your office at all with regard to</p> <p>8 your voter registration -- or a given voter</p> <p>9 registration application?</p> <p>10 A No, sir. It's entered into Teams, which</p> <p>11 they have access to.</p> <p>12 Q Okay. So the Secretary of State's office</p> <p>13 does have access to Teams?</p> <p>14 A Yes, sir.</p> <p>15 Q Okay. And can you summarize for me what it</p> <p>16 is that you keep in Teams?</p> <p>17 A I keep all the voters for Real County.</p> <p>18 That's where I print off my voters list, is in Teams.</p> <p>19 It's where I update all my roads for Real County, is</p> <p>20 in Teams.</p> <p>21 Q So when you say that you keep the voters in</p> <p>22 there, you're -- you're referring to pieces of</p>
<p style="text-align: right;">Page 50</p> <p>1 a computer system?</p> <p>2 A No, sir, not here in Real County.</p> <p>3 Q Okay. And so -- and you process an</p> <p>4 application, that means you -- do you take the</p> <p>5 information that is on the application and type it</p> <p>6 into a computer system?</p> <p>7 A Yes, sir, I do.</p> <p>8 Q And what do you do with the voter</p> <p>9 registration card or application when you're done</p> <p>10 putting that information into your computer system?</p> <p>11 A We have a filing cabinet that we keep all of</p> <p>12 our active voters in, and it goes -- filed</p> <p>13 appropriately by last name.</p> <p>14 Q Understood.</p> <p>15 And do you send anything to the Secretary of</p> <p>16 State?</p> <p>17 A No, sir.</p> <p>18 Q Okay. So to be clear, you don't send the</p> <p>19 physical voter registration form to the Secretary of</p> <p>20 State?</p> <p>21 A No, sir.</p> <p>22 Q And you do not send a copy of the voter</p>	<p style="text-align: right;">Page 52</p> <p>1 information from the voter registration applications?</p> <p>2 A Yes, sir.</p> <p>3 Q And can you please state for me which</p> <p>4 particular pieces of information you put into Teams</p> <p>5 from the voter registration applications?</p> <p>6 A I put in all the questions on the voter</p> <p>7 application, sir. When you're entering a new</p> <p>8 application on Teams, you search by their name. It</p> <p>9 will give you whether they're a new voter or if</p> <p>10 they're in another county and you're transferring them</p> <p>11 to your county.</p> <p>12 Q Understood.</p> <p>13 So you include everything except the</p> <p>14 signature that's on the voter registration?</p> <p>15 A Correct, sir.</p> <p>16 Q Okay. So in summary, the Secretary of</p> <p>17 State's office never sees a voter -- a given voter's</p> <p>18 signature?</p> <p>19 A Not that I'm aware of -- I do not know.</p> <p>20 Q Understood.</p> <p>21 A They would have to -- they have to come to</p> <p>22 my office to look at the signature, sir.</p>

13 (Pages 49 to 52)

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<p style="text-align: right;">Page 53</p> <p>1 Q And during your tenure in your current</p> <p>2 positions, no one from the Secretary of State's office</p> <p>3 has come to your office to view a signature; is that</p> <p>4 correct?</p> <p>5 A No, sir.</p> <p>6 Q And to the best of your knowledge, prior to</p> <p>7 your tenure, no one from the Secretary of State's</p> <p>8 office has come to your office to view a signature; is</p> <p>9 that correct?</p> <p>10 A I do not know about before I took office,</p> <p>11 sir, what happened then.</p> <p>12 Q Okay. But no one informed you when you took</p> <p>13 office that the Secretary of State's office or someone</p> <p>14 from that office would come to your office to view a</p> <p>15 signature?</p> <p>16 A No, sir. We do not discuss that.</p> <p>17 Q Okay. Thank you.</p> <p>18 So suppose, again, I am registering to vote</p> <p>19 in Real County --</p> <p>20 A Yes, sir.</p> <p>21 Q -- and suppose that I send you my voter</p> <p>22 registration form --</p>	<p style="text-align: right;">Page 55</p> <p>1 driver's license number and/or Social Security number,</p> <p>2 it will -- I will automatically print you a voter</p> <p>3 registration card at that time.</p> <p>4 On the card itself it gives you your</p> <p>5 validation dates that that card is good for.</p> <p>6 Q Understood.</p> <p>7 And can you explain to me what live check</p> <p>8 is?</p> <p>9 A It's -- it's on Teams, and it checks your</p> <p>10 driver's license number against the number, I guess,</p> <p>11 that I enter into Teams to make sure it's correct</p> <p>12 against your name and birthday.</p> <p>13 Q Understood.</p> <p>14 And what happens if it's -- if that voter --</p> <p>15 excuse me.</p> <p>16 What happens if the driver's license number</p> <p>17 is not correct?</p> <p>18 A Then it will process a letter letting me</p> <p>19 know that it -- that the live check failed, and it</p> <p>20 processes a -- you know, generates a letter, and I</p> <p>21 will send a letter to the registered voter.</p> <p>22 Q And how long does it usually take for you to</p>
<p style="text-align: right;">Page 54</p> <p>1 A Um-hum.</p> <p>2 Q -- and your office has processed it, and I</p> <p>3 suppose you've filed away my -- my voter registration</p> <p>4 card.</p> <p>5 How long --</p> <p>6 A Yes, sir.</p> <p>7 Q How long from receiving my voter</p> <p>8 registration application is it until I am considered</p> <p>9 registered to vote?</p> <p>10 A Once you pass the live check on Teams, which</p> <p>11 takes a minute or two, you're considered registered to</p> <p>12 vote then. If we have an election coming up -- you</p> <p>13 know, you have 31 days after your application is</p> <p>14 processed 'til you have to wait 'til you can vote in</p> <p>15 an election.</p> <p>16 Q Understood.</p> <p>17 And how do I know when I'm registered?</p> <p>18 A I usually send out voters' cards every day,</p> <p>19 every other day, if I have an application. Sometimes</p> <p>20 I go, you know, periods of time.</p> <p>21 If I enter your application into Teams, you</p> <p>22 pass the live check that it does, referencing your</p>	<p style="text-align: right;">Page 56</p> <p>1 send out one of those letters?</p> <p>2 A I do it immediately, sir. If there is a --</p> <p>3 Q Understood.</p> <p>4 A -- a phone number on the application, I also</p> <p>5 call the person. It's only happened to me twice.</p> <p>6 Q Understood.</p> <p>7 And what involvement does your office have</p> <p>8 in processing voter registration applications that</p> <p>9 come through DPS?</p> <p>10 A I -- I handle that, sir. I process the</p> <p>11 application that DPS sends me. I print it out for my</p> <p>12 files once I've completed the application process.</p> <p>13 Q And how do those voter registration</p> <p>14 applications from DPS come to your office?</p> <p>15 A They come through the Teams portal, sir.</p> <p>16 Q Understood.</p> <p>17 Okay. And you said you then -- you print it</p> <p>18 out, the DPS voter registration application, then you</p> <p>19 store it with the other voter registration</p> <p>20 applications?</p> <p>21 A Yes, sir.</p> <p>22 Q Understood.</p>

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<p>1 A No, sir.</p> <p>2 Q How does your office determine whether a</p> <p>3 registration application signature is a wet signature</p> <p>4 or not?</p> <p>5 A We just look at the application, sir, and</p> <p>6 see that it is signed.</p> <p>7 Q Okay. And do you have any policies or</p> <p>8 procedures in place relating to determining whether a</p> <p>9 registration application has a wet signature?</p> <p>10 A No, sir, I don't believe that I do.</p> <p>11 Q Okay. And does your office -- or, sorry.</p> <p>12 Strike that.</p> <p>13 Do you or anyone in your office have any</p> <p>14 training in relation to determining whether a</p> <p>15 registration application contains a wet signature?</p> <p>16 A It would only be me, sir. And a training</p> <p>17 class, I do not believe that I have had one on</p> <p>18 signatures for voters.</p> <p>19 Q To the best of your knowledge, does the</p> <p>20 Texas Secretary of State's office offer such a class?</p> <p>21 A I would have to go to the DocShare site and</p> <p>22 search it, sir. I do not know off the top of my head,</p>	<p>1 A I've never received an application that</p> <p>2 wasn't signed, sir, so --</p> <p>3 Q Under --</p> <p>4 A -- yes.</p> <p>5 Q Understood.</p> <p>6 And you don't use it to verify a</p> <p>7 registrant's identity; is that correct?</p> <p>8 A No, sir.</p> <p>9 Q No --</p> <p>10 A Can you rephrase that question, please.</p> <p>11 Q Yes. Do you use it -- do you use an</p> <p>12 original wet signature on the voter registration</p> <p>13 application to verify the registrant's identity?</p> <p>14 A I usually look at the name they print on</p> <p>15 their application, sir. It's much easier to read than</p> <p>16 their signature sometimes.</p> <p>17 Q Understood.</p> <p>18 So like you said, you don't use -- you don't</p> <p>19 compare the signature on the application to anything</p> <p>20 else?</p> <p>21 A No, sir.</p> <p>22 Q Do you use the wet signature on the voter</p>
Page 70	Page 72
<p>1 no.</p> <p>2 Q Understood.</p> <p>3 So can you tell me -- we've talked a little</p> <p>4 bit about why voters have to sign their voter</p> <p>5 registration applications, but I'd like to ask</p> <p>6 specifically what your -- what your office uses an</p> <p>7 original wet signature for as part of the registration</p> <p>8 process.</p> <p>9 A We -- we just verify the signature, sir,</p> <p>10 against the name on the application, and --</p> <p>11 Q Do --</p> <p>12 A -- verify that it's their signature. I</p> <p>13 mean, that's it's the same name, sir.</p> <p>14 Q Okay. But you don't verify that it's</p> <p>15 specifically that person's signature?</p> <p>16 A I have nothing else in my office to compare</p> <p>17 it to. I just make sure that the printed name and the</p> <p>18 signature name are the same.</p> <p>19 Q Understood.</p> <p>20 And do you use a wet signature as part of</p> <p>21 the registration process to determine eligibility to</p> <p>22 vote?</p>	<p>1 registration form for any other purpose?</p> <p>2 A I do not, sir, no.</p> <p>3 Q And earlier you stated that when you process</p> <p>4 a paper voter registration form, you input the</p> <p>5 information into your computer system and then you</p> <p>6 file it away --</p> <p>7 A Yes, sir.</p> <p>8 Q -- is that correct?</p> <p>9 A Yes, sir.</p> <p>10 Q All right. And do you do anything else with</p> <p>11 the signature on the voter registration application?</p> <p>12 A No, sir.</p> <p>13 Q How long do you maintain those files?</p> <p>14 A A long time, sir. I think we have</p> <p>15 applications going back to my predecessor for a very</p> <p>16 long time.</p> <p>17 Q Understood.</p> <p>18 Sorry. Were you going to add anything?</p> <p>19 A No, sir.</p> <p>20 Q And have you ever referred to those older</p> <p>21 voter registration applications for any reason?</p> <p>22 A Only if I'm looking for them, sir. If I get</p>

18 (Pages 69 to 72)

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<p>1 a deceased notification, I pull them. If I get</p> <p>2 a...something from the Secretary of State letting me</p> <p>3 know that they've moved to a different address, you</p> <p>4 know, I pull the original applications and put them in</p> <p>5 the suspended file.</p> <p>6 But, no, sir, I do not go back and look at</p> <p>7 them --</p> <p>8 Q So --</p> <p>9 A -- unless I have a question or -- you know,</p> <p>10 if I'm looking up an address, if they've moved or</p> <p>11 something, then I pull the original application.</p> <p>12 Q Have you ever gone back and looked at filed</p> <p>13 voter registration applications specifically to look</p> <p>14 for -- look at that signature?</p> <p>15 A No, sir.</p> <p>16 Q So as -- as far as you're concerned, once</p> <p>17 that card is -- the voter registration form is filed,</p> <p>18 you have no use for the voter signature on that form?</p> <p>19 A Not for my office, no, sir, at this time.</p> <p>20 Q Understood.</p> <p>21 And I'd like to direct your attention again</p> <p>22 to Interrogatory No. 4 in Exhibit C.</p>	<p>1 information is there and the boxes are checked?</p> <p>2 A I'm not sure what else there would be to do,</p> <p>3 sir.</p> <p>4 Q Understood.</p> <p>5 And you said you do not scan the signature</p> <p>6 or the voter registration applications into your</p> <p>7 computer system; right?</p> <p>8 A No, sir.</p> <p>9 Q And you said you do not send the signatures</p> <p>10 to the Secretary of State in any -- by any means;</p> <p>11 right?</p> <p>12 A No, sir.</p> <p>13 Q And the Secretary of State's office doesn't</p> <p>14 have access to the signatures unless they were to come</p> <p>15 to your office physically; is that correct?</p> <p>16 A Correct, sir.</p> <p>17 Q I'd like to direct your attention to your</p> <p>18 response to Interrogatory No. 3, in the same exhibit.</p> <p>19 And I believe you stated --</p> <p>20 MR. BARON: If we could zoom in, please.</p> <p>21 BY MR. BARON:</p> <p>22 Q -- "Signatures from voter registration</p>
Page 74	Page 76
<p>1 MR. BARON: Can you scroll down a little bit</p> <p>2 more, to where it says, "Real County first reviews the</p> <p>3 voter registration application in accordance with..."</p> <p>4 Texas Election Code Section 13.143(d-2) -- no. Sorry.</p> <p>5 Hold on.</p> <p>6 "Real County first reviews....," towards the</p> <p>7 bottom third of the page.</p> <p>8 BY MR. BARON:</p> <p>9 Q "Real County first reviews the voter</p> <p>10 registration application in accordance with Section</p> <p>11 13.071 to determine whether it meets the criteria set</p> <p>12 forth in Section 13.002, including the requirement</p> <p>13 that it be signed by the applicant."</p> <p>14 Do you see where I'm reading?</p> <p>15 A Yes, sir.</p> <p>16 Q Okay. And in that response, when you say</p> <p>17 that you're reviewing the voter registration</p> <p>18 application, that entails looking at it to see whether</p> <p>19 it's signed?</p> <p>20 A Yes, sir.</p> <p>21 Q And in terms of the review process, do you</p> <p>22 do anything else, apart from checking to see that the</p>	<p>1 applications can be used by Real County elections</p> <p>2 officials to verify the identity of a voter."</p> <p>3 Is that accurate?</p> <p>4 A Yes, sir.</p> <p>5 Q Now, when you say "Real County elections</p> <p>6 officials," can you state which election officials</p> <p>7 you're referring to?</p> <p>8 A That would be our -- our County Clerk, sir.</p> <p>9 She runs our polling locations and she runs the</p> <p>10 elections. So if she had a question about anything,</p> <p>11 she can look at the application.</p> <p>12 Q And when you say "she can look at the</p> <p>13 application," can you walk me through what that would</p> <p>14 entail?</p> <p>15 A She would have to give me a voter's name and</p> <p>16 birthday. I would look them up in Teams. I would</p> <p>17 make sure -- see if they're active, inactive, or</p> <p>18 cancelled, because I have three different filing</p> <p>19 cabinets. And we would go to the proper filing</p> <p>20 cabinet and pull the application at that time.</p> <p>21 Q And then she would refer to the signature on</p> <p>22 that application?</p>

19 (Pages 73 to 76)

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<p style="text-align: right;">Page 81</p> <p>1 So you said this hasn't happened since you</p> <p>2 assumed office; correct?</p> <p>3 A No, sir.</p> <p>4 Q So this doesn't happen with every mail-in</p> <p>5 ballot?</p> <p>6 A No, sir.</p> <p>7 Q Is there any reason why you cannot use a</p> <p>8 high quality imaged signature to cross reference with</p> <p>9 the other signatures for this purpose?</p> <p>10 MS. AL-FUHAID: Objection, form.</p> <p>11 You may answer.</p> <p>12 THE WITNESS: Oh, could you repeat that,</p> <p>13 sir?</p> <p>14 BY MR. BARON:</p> <p>15 Q Yes, ma'am. Is there any reason why you or</p> <p>16 the County Clerk could not use a high quality imaged</p> <p>17 signature to cross-reference with other signatures in</p> <p>18 the circumstance described in your response to this</p> <p>19 interrogatory?</p> <p>20 A I'm not sure, sir. I'm not sure if she has</p> <p>21 access to the -- I do not know.</p> <p>22 Q I'm sorry. You're not sure if she has</p>	<p style="text-align: right;">Page 83</p> <p>1 that correct?</p> <p>2 THE REPORTER: I'm sorry.</p> <p>3 THE WITNESS: No, sir.</p> <p>4 (Record read for clarification.)</p> <p>5 BY MR. BARON:</p> <p>6 Q I apologize. Your office does not use the</p> <p>7 signatures for any sort of cross-referencing?</p> <p>8 MR. STONE: Objection, form.</p> <p>9 THE WITNESS: No, sir.</p> <p>10 (Reporter interruption for clarification.)</p> <p>11 MR. BARON: Sorry, one moment.</p> <p>12 BY MR. BARON:</p> <p>13 Q Okay. Do precincts in Real County use an</p> <p>14 electronic sign-in sheet or a paper sign-in sheet at</p> <p>15 the ballot -- or at the polling locations, to the best</p> <p>16 of your knowledge?</p> <p>17 A I'm sorry. I barely could hear that, sir.</p> <p>18 Do they use...?</p> <p>19 Q Sorry. Do precincts in Real County use an</p> <p>20 electronic sign-in sheet or a paper sign-in sheet?</p> <p>21 A Paper sign-in sheet.</p> <p>22 Q Understood.</p>
<p style="text-align: right;">Page 82</p> <p>1 access to what?</p> <p>2 A If she has access to -- to the program, the</p> <p>3 high image sig -- I'm not sure what program. Are you</p> <p>4 referring to a program or just comparing of a</p> <p>5 signature?</p> <p>6 Q Oh, I apologize. Allow me to clarify.</p> <p>7 So when I'm referring to a high -- a high</p> <p>8 quality image signature, I just mean that the quality</p> <p>9 of the picture or scan --</p> <p>10 A Okay.</p> <p>11 Q -- is of a good quality so you can make out</p> <p>12 the signature.</p> <p>13 Does that make any sense to you?</p> <p>14 A Well, I'm just thinking, sir. I'm not sure</p> <p>15 what she does. Okay?</p> <p>16 Q Understood.</p> <p>17 A So I don't know what she would do --</p> <p>18 Q Understood.</p> <p>19 A -- or if she could use a -- I don't -- I</p> <p>20 don't know.</p> <p>21 Q Okay. But your office does not use -- use</p> <p>22 the signatures for any sort of cross-referencing; is</p>	<p style="text-align: right;">Page 84</p> <p>1 And what would you do if a voter submitted a</p> <p>2 paper voter registration application without a</p> <p>3 signature?</p> <p>4 A I -- if they are a walk-in, I would ask them</p> <p>5 to sign it. If it was a mail-in, if they left a phone</p> <p>6 number on the application, I would call and ask them</p> <p>7 if they had a chance to come in and sign it or if they</p> <p>8 would like me to mail them, to have them to sign it,</p> <p>9 if it was left blank.</p> <p>10 Q And that would be the same as if someone</p> <p>11 submitted a DPS application with no signature; is that</p> <p>12 correct?</p> <p>13 A Correct, sir.</p> <p>14 Q And what would you do if a submit -- if a</p> <p>15 voter submitted a voter registration application with</p> <p>16 what you deemed to be an imaged -- an imaged</p> <p>17 signature?</p> <p>18 A If there's a phone number, I guess I could</p> <p>19 call them and ask them to verify that it was their</p> <p>20 signature, or I would send them a letter, with a copy</p> <p>21 of the application, asking them to verify. I've never</p> <p>22 ran across that, sir.</p>

21 (Pages 81 to 84)

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<p>1 Q So if you called them and they verified that</p> <p>2 it was their signature, would you process that</p> <p>3 application?</p> <p>4 A If they verified the other information on</p> <p>5 their application, yes, sir.</p> <p>6 Q Understood.</p> <p>7 And would your process be any different for</p> <p>8 an application that came from DPS?</p> <p>9 A No, sir. It would be the same.</p> <p>10 Q And you don't have any dedicated person in</p> <p>11 your office that reviews the signatures on voter</p> <p>12 registration applications; correct?</p> <p>13 A No, sir.</p> <p>14 Q Understood.</p> <p>15 And you -- you personally review voter</p> <p>16 registration applications; right?</p> <p>17 A Yes, sir.</p> <p>18 Q And approximately how much time does it take</p> <p>19 to review a voter registration application?</p> <p>20 A First glance, just a couple of minutes.</p> <p>21 Q Understood.</p> <p>22 And how much time approximately do you take</p>	<p>1 Q So the -- any sort of assessment of</p> <p>2 signatures on mail-in ballots or disputes over</p> <p>3 signatures, those are addressed by the County Clerk;</p> <p>4 is that correct?</p> <p>5 MS. AL-FUHAID: Objection, form.</p> <p>6 You may answer.</p> <p>7 THE WITNESS: On the application -- I'm</p> <p>8 sorry. Repeat that.</p> <p>9 On the application or on the ballot? I'm</p> <p>10 sorry. What -- what did you say?</p> <p>11 BY MR. BARON:</p> <p>12 Q Sure. So when a ballot -- an early -- an</p> <p>13 early ballot comes in, any concerns over signatures,</p> <p>14 that's addressed by the County Clerk?</p> <p>15 A Yes, sir.</p> <p>16 Q And that is the same for any concerns on</p> <p>17 election day with regard to signatures?</p> <p>18 A Yes, sir.</p> <p>19 Q And the process you described to me earlier,</p> <p>20 where the County Clerk comes in and you show her the</p> <p>21 permanent voter registration application, that is the</p> <p>22 same for both of those situations?</p>
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<p>1 to assess a signature on a voter registration</p> <p>2 application?</p> <p>3 A Time-wise?</p> <p>4 Q Yes, ma'am.</p> <p>5 A Like less than a minute. I just look at it.</p> <p>6 Q Would you say a few seconds?</p> <p>7 A I -- yeah. Yes. I just look -- you know,</p> <p>8 look at the application, make sure the signature and</p> <p>9 the name on the application match.</p> <p>10 Q Understood.</p> <p>11 Does Real County have an early ballot board?</p> <p>12 A Not that I'm aware of.</p> <p>13 Q Okay. So your office has no interaction</p> <p>14 with any early ballot board, to your knowledge?</p> <p>15 A No, sir.</p> <p>16 Q And does Real County have a signature</p> <p>17 verification committee?</p> <p>18 A Not that I'm aware of.</p> <p>19 Q And so your office has no interaction with</p> <p>20 any signature verification committee, to your</p> <p>21 knowledge?</p> <p>22 A No, sir.</p>	<p>1 A Yes, sir. She would come to ask me. Yes,</p> <p>2 sir. We would pull it.</p> <p>3 Q And to the best of your knowledge, the</p> <p>4 County Clerk is not or would not treat a printout of a</p> <p>5 DPS voter registration application any different for</p> <p>6 any of these purposes than she would treat a physical</p> <p>7 voter registration application?</p> <p>8 A I can't answer for her, sir. But, no, I</p> <p>9 wouldn't think she would, but I can't answer for her.</p> <p>10 Q And you've never seen her treat them any</p> <p>11 differently?</p> <p>12 A No, sir.</p> <p>13 Q And no one has ever told you that she treats</p> <p>14 them differently?</p> <p>15 A No, sir.</p> <p>16 Q And you're not aware of any policy of her</p> <p>17 office that would suggest that she treats them</p> <p>18 differently?</p> <p>19 A No, sir, I have not seen anything.</p> <p>20 Q Understood. Thank you.</p> <p>21 I'd like to -- all right. Let's stay on</p> <p>22 response to Interrogatory No. 2.</p>

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<p style="text-align: right;">Page 101</p> <p>1 Q Understood.</p> <p>2 Okay. And then in the next clause of that</p> <p>3 sentence, you state, "...electronic signatures can be</p> <p>4 manipulated more easily."</p> <p>5 And I want to clarify. The term "electronic</p> <p>6 signatures," that has the same meaning as when you</p> <p>7 used it earlier in that same sentence?</p> <p>8 A I believe so.</p> <p>9 Q And why do you believe that electronic</p> <p>10 signatures can be manipulated more easily?</p> <p>11 A I just believe they can, sir. With the</p> <p>12 hackers, with the technology nowadays, it could be</p> <p>13 altered very easily if it's done on a computer.</p> <p>14 Can you hold on one second, sir?</p> <p>15 Q Yes, ma'am.</p> <p>16 (Discussion off the record.)</p> <p>17 THE WITNESS: Sorry about that.</p> <p>18 BY MR. BARON:</p> <p>19 Q No problem.</p> <p>20 Have you ever signed a document for someone</p> <p>21 else using their signature?</p> <p>22 A No, sir.</p>	<p style="text-align: right;">Page 103</p> <p>1 Q And do you have any other knowledge of</p> <p>2 electronic signatures being manipulated in the context</p> <p>3 of voter registration?</p> <p>4 MR. STONE: Objection, form.</p> <p>5 MS. AL-FUHAID: Objection, form.</p> <p>6 THE WITNESS: Not to my knowledge.</p> <p>7 BY MR. BARON:</p> <p>8 Q And do you have any firsthand knowledge of</p> <p>9 electronic signatures being manipulated in any</p> <p>10 context?</p> <p>11 MS. AL-FUHAID: Objection, form.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. BARON:</p> <p>14 Q Thank you.</p> <p>15 I'd like to direct your attention to your</p> <p>16 response to Interrogatory No. 5.</p> <p>17 And you stated in this response that you</p> <p>18 were "...not aware of any issues, difficulties, or</p> <p>19 problems related to voter registration applications</p> <p>20 received by Real County that did not contain a wet ink</p> <p>21 signature."</p> <p>22 Is that correct?</p>
<p style="text-align: right;">Page 102</p> <p>1 Q You never signed, for example, a receipt on</p> <p>2 someone else's behalf?</p> <p>3 MS. AL-FUHAID: Objection, form.</p> <p>4 THE WITNESS: I don't believe so.</p> <p>5 BY MR. BARON:</p> <p>6 Q Okay. Have you spoken with any experts on</p> <p>7 signatures about whether an electronic signature can</p> <p>8 be more easily manipulated?</p> <p>9 A No, sir, I have not.</p> <p>10 Q And have you reviewed any research with</p> <p>11 regard to whether electronic signatures can be</p> <p>12 manipulated more easily?</p> <p>13 A No, sir.</p> <p>14 Q And have you read any news articles or</p> <p>15 magazine articles to the fact that electronic</p> <p>16 signatures can be manipulated more easily?</p> <p>17 A No, sir.</p> <p>18 Q And do you have any firsthand knowledge of</p> <p>19 electronic signatures being manipulated in the context</p> <p>20 of voter registration?</p> <p>21 A I do not have firsthand knowledge of that,</p> <p>22 no.</p>	<p style="text-align: right;">Page 104</p> <p>1 A That's correct.</p> <p>2 Q So neither you nor your office have</p> <p>3 experienced or encountered any instances of voter</p> <p>4 fraud from the use of an imaged signature; is that</p> <p>5 correct?</p> <p>6 A That's correct.</p> <p>7 Q And neither you nor your office -- strike</p> <p>8 that.</p> <p>9 Neither you nor your office experienced or</p> <p>10 encountered any other problems or issues arising from</p> <p>11 the use of an imaged signature; is that correct?</p> <p>12 A Not at this time.</p> <p>13 MR. BARON: Okay. And at this point I'd</p> <p>14 like to -- I'd like the court reporter to mark what I</p> <p>15 premarked as Exhibit D.</p> <p>16 (Pendley Exhibit D was marked.)</p> <p>17 MR. BARON: You can put that up on the</p> <p>18 screen, please.</p> <p>19 THE VIDEOGRAPHER: You said "D," right,</p> <p>20 Counsel?</p> <p>21 MR. BARON: Yeah, "D" as in dog.</p> <p>22 THE VIDEOGRAPHER: Thank you.</p>

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<p>1 BY MR. BARON:</p> <p>2 Q I'd like to direct your attention to your</p> <p>3 response to Request for Production number 5.</p> <p>4 MR. BARON: Can we zoom in a little bit.</p> <p>5 Thank you very much.</p> <p>6 BY MR. BARON:</p> <p>7 Q You stated that you were not aware of any</p> <p>8 documents regarding problems, issues, or difficulties</p> <p>9 that Real County has encountered as a result of voter</p> <p>10 registration applications submitted without a wet-ink</p> <p>11 signature.</p> <p>12 Is that correct?</p> <p>13 A That's correct, sir.</p> <p>14 Q And the fact that you haven't had any</p> <p>15 problems with voter fraud or other issues relating to</p> <p>16 the use of imaged signatures is the reason you have no</p> <p>17 documents that are responsive to this request; is that</p> <p>18 correct?</p> <p>19 A Yes, sir.</p> <p>20 Q All right. Thank you, ma'am.</p> <p>21 MR. BARON: We can take down that exhibit.</p> <p>22 BY MR. BARON:</p>	<p>1 THE WITNESS: We have not done -- we have</p> <p>2 not done that since I have taken office, no, sir.</p> <p>3 BY MR. BARON:</p> <p>4 Q Understood.</p> <p>5 And does your office review signatures on</p> <p>6 DPS voter registration applications in situations in</p> <p>7 which a voter accidentally signs the voter list for</p> <p>8 in-person voting in the space for another voter's</p> <p>9 signature?</p> <p>10 MR. STONE: Objection, form.</p> <p>11 MS. AL-FUHAID: Objection, form.</p> <p>12 THE WITNESS: I have not had that happen,</p> <p>13 sir.</p> <p>14 BY MR. BARON:</p> <p>15 Q Okay. Does your office use signatures on</p> <p>16 DPS voter registration applications in other</p> <p>17 situations?</p> <p>18 MS. AL-FUHAID: Objection, form.</p> <p>19 MR. STONE: Objection, form.</p> <p>20 THE WITNESS: No, sir.</p> <p>21 BY MR. BARON:</p> <p>22 Q And that's because those are used by the</p>
Page 106	Page 108
<p>1 Q Voter registration applications come from</p> <p>2 DPS to you with imaged signatures; right?</p> <p>3 A Yes, sir.</p> <p>4 Q And does your office use signatures on DPS</p> <p>5 voter registration applications to verify a voter's</p> <p>6 identity by comparing the signature on the ballot</p> <p>7 application and the carrier envelope certificate to</p> <p>8 the signatures on file with the County Clerk or</p> <p>9 registrar?</p> <p>10 THE REPORTER: I'm sorry.</p> <p>11 MR. STONE: Objection, form.</p> <p>12 MS. AL-FUHAID: Objection, form.</p> <p>13 BY MR. BARON:</p> <p>14 Q I'm sorry. I was reading that too quickly.</p> <p>15 I'll repeat.</p> <p>16 Does your office use signatures on DPS voter</p> <p>17 registration applications to verify a voter's identity</p> <p>18 by comparing the signature on the ballot application</p> <p>19 and the carrier envelope certificate to the signatures</p> <p>20 on file with the County Clerk or voter registrar?</p> <p>21 MR. STONE: Objection, form.</p> <p>22 MS. AL-FUHAID: Objection, form.</p>	<p>1 County Clerk; right?</p> <p>2 A She could have access to look at them if she</p> <p>3 needed to, sir --</p> <p>4 Q Understood.</p> <p>5 A -- but she's never asked.</p> <p>6 Q Has she asked to see the physical copies of</p> <p>7 voter registration applications?</p> <p>8 A Not since --</p> <p>9 MS. AL-FUHAID: Objection, form.</p> <p>10 THE WITNESS: -- I've taken office.</p> <p>11 BY MR. BARON:</p> <p>12 Q Can you repeat your response, please.</p> <p>13 A Not since I've taken office, sir, she has</p> <p>14 not asked to verify.</p> <p>15 Q Understood. Thank you.</p> <p>16 And apart from DPS voter registration</p> <p>17 applications, has your office ever received voter</p> <p>18 registration applications with imaged signatures on</p> <p>19 them, to your knowledge.</p> <p>20 MR. STONE: Objection, form.</p> <p>21 MS. AL-FUHAID: Objection, form.</p> <p>22 THE WITNESS: No, sir.</p>

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IN THE UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

----- +
 VOTE.ORG, |
 Plaintiff, | Case No.
 vs. | 5:21-cv-649-JKP-HJB
 |
 JACQUELYN CALLANEN, |
 in her official capacity as |
 the Bexar County Elections |
 Administrator; BRUCE ELFANT, |
 in his official capacity as |
 the Travis County Tax |
 Assessor-Collector; |
 REMI GARZA, in his official |
 capacity as the Cameron County |
 Elections Administrator. |
 MICHAEL SCARPELLO, in his |
 official capacity as the |
 Dallas County Elections |
 Administrator, |
 |
Defendants.

CAPTION CONTINUED ON NEXT PAGE

Remote Videotaped Deposition of
 MICHAEL SCARPELLO 30(b)(6)
 February 11, 2022

DIGITAL EVIDENCE GROUP
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 (202) 232-0646

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<p>1 please take a moment to review the highlighted</p> <p>2 section in this exhibit and let me know when you</p> <p>3 are ready to proceed.</p> <p>4 A Ready.</p> <p>5 Q Are you familiar with this particular</p> <p>6 bill?</p> <p>7 A Yes.</p> <p>8 Q What is this bill?</p> <p>9 A This bill is a 50-page document, very</p> <p>10 comprehensive, covering a variety of items related</p> <p>11 to elections.</p> <p>12 Q And do you understand that my client,</p> <p>13 Vote.org, is challenging only one particular</p> <p>14 provision of House Bill 3107?</p> <p>15 A Yes.</p> <p>16 Q Do you know -- excuse me.</p> <p>17 Do you know what that provision is?</p> <p>18 A Section 14, I believe.</p> <p>19 Q All right. So we have the highlighted</p> <p>20 text of Section 14. Are you familiar with that</p> <p>21 particular provision, Mr. Scarpello?</p> <p>22 A Yes, yes.</p>	<p>1 existing policy will continue until this</p> <p>2 litigation ends. What is the existing policy as</p> <p>3 it relates to this particular section?</p> <p>4 A I think that's a pretty broad -- I think</p> <p>5 you need to be more precise in your question.</p> <p>6 Q What existing policy did you refer to</p> <p>7 when we discussed the implementation of Section 14</p> <p>8 within H.B. 3107?</p> <p>9 A I'm not sure I understand your question.</p> <p>10 Q Fair enough. Let me ask it this way.</p> <p>11 Do you have a policy as it relates to voter</p> <p>12 registration applications?</p> <p>13 A We have lots and lots of policies</p> <p>14 related to voter registration applications.</p> <p>15 Q And the policy -- one of those policies</p> <p>16 as it relates to voter registration applications</p> <p>17 is the process or policy for accepting and</p> <p>18 rejecting voter registration applications. Would</p> <p>19 that be fair?</p> <p>20 A Yes.</p> <p>21 Q The particular policy in place right now</p> <p>22 for voter registration applications, and in</p>
Page 58	Page 60
<p>1 Q And how did you become familiar with</p> <p>2 that provision?</p> <p>3 A Mostly through this lawsuit.</p> <p>4 Q Prior to the passage of H.B. 3107, did</p> <p>5 you take a position as it relates to Section 14 of</p> <p>6 House Bill 3107?</p> <p>7 A We have -- let's put it this way. We</p> <p>8 have existing policies that I've instructed the</p> <p>9 staff that existing policies will continue until</p> <p>10 reviewed and changed, unless they're changed by</p> <p>11 me. This particular one was never reviewed by me,</p> <p>12 so the existing policy remains.</p> <p>13 Q Got it. So let me ask you this. Do you</p> <p>14 plan to review the existing policy as it relates</p> <p>15 to this particular provision?</p> <p>16 A Yes.</p> <p>17 Q When do you plan to do that?</p> <p>18 A Because we're in the middle of</p> <p>19 litigation, I don't know. That is dependent upon</p> <p>20 the advice of my attorneys after consulting with</p> <p>21 them.</p> <p>22 Q Okay. And you testified that the</p>	<p>1 particular accepting and rejecting voter</p> <p>2 registration application, says what?</p> <p>3 A That there's -- I think -- I'm not</p> <p>4 understanding your question. That is a really,</p> <p>5 really broad question.</p> <p>6 Q Do you accept voter registration</p> <p>7 applications with original signatures?</p> <p>8 A Yes.</p> <p>9 Q Do you accept voter registration</p> <p>10 applications with imaged signatures?</p> <p>11 A Yes, from -- from the Department of</p> <p>12 Public Safety.</p> <p>13 Q Okay. Do you accept voter registration</p> <p>14 applications that include imaged signatures from</p> <p>15 any entity other than DPS?</p> <p>16 A I don't believe so.</p> <p>17 Q Okay. I apologize and thank you for</p> <p>18 helping me do the -- making you work very early</p> <p>19 here.</p> <p>20 So you testified that you accept voter</p> <p>21 registration applications from DPS and that DPS</p> <p>22 uses -- I think the term we used was an imaged</p>

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<p>1 signature; is that correct?</p> <p>2 A I believe, from my memory of these</p> <p>3 documents, I believe there was two different terms</p> <p>4 that were used, imaged and I can't remember what</p> <p>5 the other term was.</p> <p>6 Q Would it -- would it have been</p> <p>7 electronic?</p> <p>8 A Yes.</p> <p>9 Q Okay. What is your understanding of</p> <p>10 what an imaged signature is?</p> <p>11 A An electronic representation of an</p> <p>12 image.</p> <p>13 Q So it is not an original wet signature?</p> <p>14 A Yes.</p> <p>15 Q What is in your understanding -- let me</p> <p>16 strike that.</p> <p>17 What do you understand an original wet</p> <p>18 signature to be?</p> <p>19 A I would -- I would understand that to be</p> <p>20 a document that has -- that contains ink from a</p> <p>21 marking device -- or contains material, if you</p> <p>22 will, from a marking device that goes directly</p>	<p>1 it's basically a paper process for original</p> <p>2 registrations.</p> <p>3 Q All right. So I want to drill down on</p> <p>4 something you just said. Do you have a particular</p> <p>5 position as to whether Texas should have online</p> <p>6 voter registration?</p> <p>7 A I have a personal opinion.</p> <p>8 Q Okay. What is your personal opinion?</p> <p>9 A I believe 41 states or so, it might be</p> <p>10 more than that, have online registration, and it</p> <p>11 seems to me the second largest state in the</p> <p>12 country should have the same.</p> <p>13 Q And is that personal belief based upon</p> <p>14 -- well, let me strike that.</p> <p>15 On what basis do you have that belief,</p> <p>16 that Texas should have online voter registration?</p> <p>17 Why should Texas have it?</p> <p>18 A It's the second largest state in the</p> <p>19 country that, you know, claims to do everything</p> <p>20 the best, you know. We do it bigger and better in</p> <p>21 Texas. And so it seems to me that online</p> <p>22 registration -- not having online registration is</p>
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<p>1 from the marking device to the paper.</p> <p>2 Q Okay. And I'm with you. I'm following</p> <p>3 you.</p> <p>4 So it would be fair to say that an</p> <p>5 original wet signature is not the same thing as an</p> <p>6 imaged signature?</p> <p>7 A Correct.</p> <p>8 Q Correct, all right. So that helps me.</p> <p>9 All right. So we can take down Exhibit B.</p> <p>10 I want to pivot here, and can you</p> <p>11 describe the policy as it relates to the voter</p> <p>12 registration process? So if I were -- just moved</p> <p>13 to Dallas County, I have my Texas ID. How do I</p> <p>14 register to vote in Dallas County?</p> <p>15 A You can fill out a voter registration</p> <p>16 application yourself, hand it to us. You can</p> <p>17 receive a voter registration application from a</p> <p>18 Deputy Registrar, and they'll help you fill it out</p> <p>19 and turn it into them. You can -- and that's --</p> <p>20 that's the primary way. We do -- we do not have</p> <p>21 online registration in Texas for some reason per</p> <p>22 se. And so that's a little bit different. So</p>	<p>1 a bit embarrassing, frankly.</p> <p>2 Q Would it make your job easier if you had</p> <p>3 online voter registration?</p> <p>4 A I am not concerned about the ease of my</p> <p>5 job. I'm concerned about the welfare of the</p> <p>6 public.</p> <p>7 Q So in your concern for the welfare of</p> <p>8 the public, do you believe it would make voting</p> <p>9 easier for the eligible voters in Dallas County if</p> <p>10 you had online voter registration?</p> <p>11 A It would make voter registration easier.</p> <p>12 It would not affect voting directly.</p> <p>13 Q All right. Fair enough. All right. So</p> <p>14 let's look at Exhibit Q. In particular, I want to</p> <p>15 go down to interrogatory number 5.</p> <p>16 (Exhibit Q was marked for identification</p> <p>17 and attached to the deposition transcript.)</p> <p>18 BY MR. HARRIS:</p> <p>19 Q Mr. Scarpello, please take a moment to</p> <p>20 read the interrogatory number 5 and your response</p> <p>21 to it and then let me know once you are ready to</p> <p>22 proceed.</p>

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<p>1 A Sure. (Document review).</p> <p>2 Okay.</p> <p>3 Q All right. If you look down, I'm</p> <p>4 looking particularly at the paragraph that starts</p> <p>5 with "Subject to and without." Do you see that?</p> <p>6 A Yes.</p> <p>7 Q All right. And then in the third row</p> <p>8 down near the end, it says, "Dallas County</p> <p>9 Elections Department has not accepted voter</p> <p>10 registration applications with electronic or</p> <p>11 imaged signatures based on the directions and</p> <p>12 guidance provided by the Texas Secretary of</p> <p>13 State."</p> <p>14 Did I read that correctly?</p> <p>15 A Yes.</p> <p>16 Q And in particular, what I want to know</p> <p>17 is what guidance -- or excuse me -- what direction</p> <p>18 and/or guidance did the Texas Secretary of State</p> <p>19 provide such that you do not accept applications</p> <p>20 with electronic or imaged signatures?</p> <p>21 A I think in other documents, we explain</p> <p>22 that I was not here when that guidance was</p>	<p>1 application?</p> <p>2 A The application itself has certain</p> <p>3 requirements and a person attests to those</p> <p>4 requirements.</p> <p>5 Q And what requirements does a voter</p> <p>6 attest to as part of the application process?</p> <p>7 A I couldn't tell you off the top of my</p> <p>8 head all the -- the long list of requirements.</p> <p>9 Q Could you tell me some of those</p> <p>10 requirements?</p> <p>11 A Age 18, citizen -- citizen of the United</p> <p>12 States, et cetera.</p> <p>13 Q And after I fill out the paper</p> <p>14 application and I sign it I believe with ink, what</p> <p>15 happens with my application?</p> <p>16 A I can -- I can ballpark that for you,</p> <p>17 but that really gets into procedures that</p> <p>18 Mr. Lopez can detail more, but that -- generally</p> <p>19 speaking, that document is imaged and then the</p> <p>20 information from that document is entered into our</p> <p>21 voter registration system, which is called Remax,</p> <p>22 and then that's -- I believe that image -- or that</p>
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<p>1 provided, but my understanding was that at some</p> <p>2 point some time ago, guidance was provided to this</p> <p>3 office by the Secretary of State and that we</p> <p>4 follow that guidance and sent that policy, if you</p> <p>5 will, and we continue that, have not changed that</p> <p>6 policy.</p> <p>7 Q And that policy, just to like come full</p> <p>8 circle, if you will, is the policy that is under</p> <p>9 review during the pendency of this litigation?</p> <p>10 A Yes.</p> <p>11 Q Understood. All right. We can take</p> <p>12 that one down.</p> <p>13 Do you know -- when you received -- you</p> <p>14 told me earlier that the voter registration</p> <p>15 application process in Texas, it's all paper</p> <p>16 because there's no online voter registration,</p> <p>17 right?</p> <p>18 A Correct.</p> <p>19 Q So if I walk into your office to fill</p> <p>20 out an application, do you make any determination</p> <p>21 about whether or not I am actually eligible to</p> <p>22 vote in Texas when I'm coming in to fill out that</p>	<p>1 document marries up with the state's Team voter</p> <p>2 registration system. That image -- or that</p> <p>3 document is then put into storage, I believe, for</p> <p>4 a year and then destroyed after that, and then</p> <p>5 from that point on, only the electronic image of</p> <p>6 the registration exists. Generally speaking</p> <p>7 that's the procedure.</p> <p>8 Q I think that's actually helpful.</p> <p>9 So I just want to make sure I understand</p> <p>10 the process. I come into your friendly office. I</p> <p>11 can state on the record that I am 35 years old so</p> <p>12 I think I meet the age requirement, and I have my</p> <p>13 Texas ID. I am going to sign and hand my</p> <p>14 application to you. Once you receive -- your team</p> <p>15 receives my paper application, do you put like a</p> <p>16 time stamp on the application to note when it was</p> <p>17 received by your office?</p> <p>18 A I believe so.</p> <p>19 Q Any other markings to indicate receipt</p> <p>20 by your office outside of a time stamp, like, for</p> <p>21 example, a barcode?</p> <p>22 A Those would be procedures that I'm not</p>

17 (Pages 65 to 68)

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1 reconvene?

2 A Sure.

3 Q Absolutely. Thank you so much.

4 A All right. Thanks.

5 VIDEO TECHNICIAN: The time is 11:15

6 a.m. Off the record.

7 (A brief recess was taken.)

8 VIDEO TECHNICIAN: We are back on the

9 record. The time is 11:23 a.m.

10 BY MR. SCHUETTE:

11 Q All right. Welcome back, Mr. Scarpello.

12 Did you have a good break?

13 A Wonderful.

14 Q Fair enough.

15 So I believe we left off in our

16 conversation discussing the in-person, I like to

17 say, voter registration process, so I would come

18 into your office, fill out the form. I would meet

19 your requisite, you know, age requirements and the

20 other points you listed earlier. And then I would

21 actually sign in.

22 And do you recall us talking about that?

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1 A Yes.

2 Q And you told me that your team would

3 then take those applications and put it into your

4 system, and there would be an image that would

5 then be sent, I think, to the state. And then you

6 would keep the actual physical records, I think

7 you said, for one year. Is that correct?

8 A No.

9 Q Okay. So --

10 A What you -- what I said was we image --

11 we take an image. It's put into our local voter

12 registration system, and it's attached to the

13 voter's official record within the system. I

14 believe the data from that system goes up to the

15 state system. I don't believe the image does, but

16 that might be something you might want to follow

17 up with Mr. Lopez. I don't know if the state

18 maintains an image. I'm going to guess they

19 don't.

20 Q Okay. Do you use the signature on the

21 voter registration application for any purpose as

22 part of the registration process?

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1 A Yes.

2 Q What do you use it for?

3 A Without the signature, the application

4 is void.

5 Q So you actually need the signature in

6 order for the application to be complete.

7 A Yes.

8 Q Are you comparing it to something?

9 A No.

10 Q Are you using it for any other purpose

11 other than to make sure that the application is

12 complete?

13 A Yes. I mean, it's the proof that -- I

14 believe from getting -- this gets into one of your

15 questions later -- but it gets to the intent of

16 what the purpose of that signature is by the

17 legislature, but I would assume it is to have that

18 person attest that what they have written on that

19 application is accurate.

20 Q Okay. Great. And I'm happy you brought

21 that up. So I want to be extremely clear with my

22 line of questioning at this point. I am not here

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1 to ask you about legislative intent. I do not

2 know what the Texas legislature -- well, I do know

3 what they think about the signature requirement,

4 but that is not the purpose of our conversation

5 today. And so I want to be very clear with you.

6 I will deal with the state when I -- as I deal

7 with the state. But for purposes of our

8 conversation, I don't want you to opine or to

9 speculate about what they -- the purpose I -- my

10 goal here, and I apologize if I'm not as artful as

11 I would want to be, but my purpose in questioning

12 you regarding that particular requirement was

13 really to get at what does your office use it for.

14 And as I understand it, your office does not use

15 it for anything other than to make sure that the

16 application is complete. Is that correct?

17 A It's a required element of the

18 application, correct.

19 Q All right. But it's not a required

20 element of the application process as it relates

21 to voter eligibility?

22 A No.

19 (Pages 73 to 76)

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<p>1 Q What about identity?</p> <p>2 A You would have to be more precise in</p> <p>3 your question.</p> <p>4 Q You're not using that signature to</p> <p>5 verify someone's identity, correct?</p> <p>6 A No.</p> <p>7 Q In fact, from your perspective, your</p> <p>8 office's perspective, there is no real practical</p> <p>9 purpose for that signature or requiring a wet</p> <p>10 signature as opposed to an electronic or imaged</p> <p>11 signature on voter registration applications,</p> <p>12 right?</p> <p>13 A If we were in court, I would say object</p> <p>14 because it's a compound question. I think you</p> <p>15 asked a couple questions there.</p> <p>16 MR. STONE: Okay. Let me do it this</p> <p>17 way. Can we pull up Exhibit Q. All right. And I</p> <p>18 want to scroll down to Interrogatory number 2.</p> <p>19 Q Mr. Scarpello, as I have done</p> <p>20 previously, take a moment to review your response</p> <p>21 to Vote.org's Interrogatory number 2 and let me</p> <p>22 know when you are ready for my next set of</p>	<p>1 role of" -- that of the -- I'm sorry -- "which is</p> <p>2 the role Dallas County Elections Administrator</p> <p>3 plays in connection with processing voter</p> <p>4 registration applications."</p> <p>5 Outside of my blunder there, did I</p> <p>6 accurately read your response to Interrogatory</p> <p>7 number 2?</p> <p>8 A Yes.</p> <p>9 Q And this is still your position,</p> <p>10 correct?</p> <p>11 A Yes.</p> <p>12 Q All right. Let's look at Interrogatory</p> <p>13 number 3. Similarly, could you please take a</p> <p>14 moment to review interrogatory number 3 and your</p> <p>15 response and let me know when you're ready for my</p> <p>16 next line of questions.</p> <p>17 A Okay.</p> <p>18 Q And I want to again focus your attention</p> <p>19 down to the "Subject to and without waiver"</p> <p>20 paragraph. And I'll --</p> <p>21 A I'm reading that.</p> <p>22 Q Go ahead. Thank you for letting me</p>
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<p>1 questions.</p> <p>2 A (Document review).</p> <p>3 Okay.</p> <p>4 Q I'm going to start as I did previously</p> <p>5 and focus your attention on the "Subject to and</p> <p>6 without waiver of said objection" paragraph. Do</p> <p>7 you see that?</p> <p>8 A Yes.</p> <p>9 Q All right. And if you go down to one,</p> <p>10 two, three, fourth line, second word in, it is</p> <p>11 starting with "From."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q So I'm going to read this out loud and</p> <p>15 you can follow along.</p> <p>16 "From the perspective of Defendant</p> <p>17 Scarpello as the Dallas County Election</p> <p>18 Administrator, there is no practical purpose for</p> <p>19 requiring a wet ink signatures as opposed to an</p> <p>20 electronic or imaged signature on voter</p> <p>21 registration applications for purposes of</p> <p>22 registering an individual to vote, which is the</p>	<p>1 know. I apologize. If at any moment I start</p> <p>2 rambling on and you haven't had enough chance,</p> <p>3 just stop me. I will not take offense to it.</p> <p>4 A I've read it and I'm ready to answer</p> <p>5 your question.</p> <p>6 Q Okay. Fair enough. All right.</p> <p>7 So if you look at the 7-2 paragraph, and</p> <p>8 I want to start at the second line, it says,</p> <p>9 "Defendant Scarpello in his official capacity as</p> <p>10 Dallas County Election Administrator sees no</p> <p>11 practical interests of the Dallas County Elections</p> <p>12 Department served by Section 14 of H.B. 1307."</p> <p>13 Did I read that part correctly,</p> <p>14 Mr. Scarpello?</p> <p>15 A Yes.</p> <p>16 Q And this is still your position as you</p> <p>17 testify today?</p> <p>18 A Yes.</p> <p>19 Q Your response goes on to say, "From the</p> <p>20 perspective of Defendant Scarpello as Dallas</p> <p>21 County Election Administrator, there really is no</p> <p>22 practical reason as to whether voter registration</p>

20 (Pages 77 to 80)

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<p style="text-align: right;">Page 81</p> <p>1 applications include wet ink signatures versus</p> <p>2 imaged signatures."</p> <p>3 Did I read that correctly?</p> <p>4 A Yes.</p> <p>5 Q And this is still your position today?</p> <p>6 A Yes.</p> <p>7 Q We can take that down. And we discussed</p> <p>8 earlier that you from time to time do receive</p> <p>9 complaints about the voter registration process.</p> <p>10 Correct? Do you remember us having that</p> <p>11 conversation?</p> <p>12 A Yes.</p> <p>13 Q And you told me that part of that -- I</p> <p>14 hate to use the word complaint -- you used the</p> <p>15 word concern, so I'll use concern if that's kind</p> <p>16 of fair with you. Okay?</p> <p>17 A Okay.</p> <p>18 Q So you receive these concerns from the</p> <p>19 voters in Dallas. Your team then categorizes the</p> <p>20 concerns in order to address those concerns. Is</p> <p>21 that correct?</p> <p>22 A Yes. But typically that is done only</p>	<p style="text-align: right;">Page 83</p> <p>1 Committee?</p> <p>2 A Yes, I am familiar with both of those.</p> <p>3 Q Okay. So let's start with the Early</p> <p>4 Ballot Board. Does your office interact with the</p> <p>5 Early Ballot Board?</p> <p>6 A Yes.</p> <p>7 Q In what way do you interact with the</p> <p>8 Early Voting Ballot board?</p> <p>9 A The Early Voting Ballot Board is --</p> <p>10 Q Early Voting, sorry.</p> <p>11 A -- it's to a certain extent is an</p> <p>12 independent body, but they work with us as far as</p> <p>13 the paperwork regarding appointments and regarding</p> <p>14 the location out where they work, the equipment</p> <p>15 they use, the hours they work, the pay they</p> <p>16 receive. And so, in other words, we take care of</p> <p>17 the administrative pieces of their body, and they</p> <p>18 consult with us. But to a certain extent, they</p> <p>19 are independent as far as their responsibilities.</p> <p>20 Q Does the Early Voting Ballot Board</p> <p>21 request the original hard copy of voter</p> <p>22 registration applications as part of its process</p>
<p style="text-align: right;">Page 82</p> <p>1 during a short period around an election. It's</p> <p>2 not captured year-round.</p> <p>3 Q Okay. Do you know if you have received</p> <p>4 or had any problems with receiving voter</p> <p>5 registration applications from DPS?</p> <p>6 A I believe that is when -- something that</p> <p>7 Mr. Lopez will be able to address more accurately.</p> <p>8 Q Okay. Fair enough.</p> <p>9 And I appreciate you letting me know</p> <p>10 that. So like I said at the top of our</p> <p>11 conversation, if I ask any question of which you</p> <p>12 are not the designee but Mr. Lopez is, it is fine</p> <p>13 for you to let me know. I will note it in my</p> <p>14 record so I do not waste your time, so thank you,</p> <p>15 Mr. Scarpello.</p> <p>16 A Sure.</p> <p>17 Q So I want to scroll down and talk about</p> <p>18 the Early Ballot Board. Are you familiar with the</p> <p>19 Early Ballot Board, Mr. Scarpello?</p> <p>20 A Yes, it's the Early Voting Ballot Board.</p> <p>21 Q Early Voting Ballot Board.</p> <p>22 What about the Signature Verification</p>	<p style="text-align: right;">Page 84</p> <p>1 in the voting, I guess, mechanism?</p> <p>2 A No.</p> <p>3 Q Do you know if the Early Voting Ballot</p> <p>4 Board uses the voter registration applications for</p> <p>5 any purpose?</p> <p>6 A They can to certain circumstances and</p> <p>7 I'll elaborate.</p> <p>8 Q Sure.</p> <p>9 A So the Early Voting Ballot Board and</p> <p>10 sometimes the Signature Verification Committee --</p> <p>11 the Signature Verification Committee is an arm of</p> <p>12 Early Voting Ballot Board. They fall under their</p> <p>13 authority, if you will. Sometimes they have a</p> <p>14 Signature Verification Committee and sometimes</p> <p>15 they don't, and that -- either one of those bodies</p> <p>16 uses -- can use a voter registration system as</p> <p>17 part of vetting a vote-by-mail ballot. So a</p> <p>18 vote-by-mail ballot comes in and that vote-by-mail</p> <p>19 ballot signature is compared against the</p> <p>20 application for a vote-by-mail ballot, and then</p> <p>21 the voter -- the signature on a voter registration</p> <p>22 is sometimes used as a third signature to inspect.</p>

21 (Pages 81 to 84)

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<p>1 It's not every time, but it is used sometimes.</p> <p>2 Q Okay. So I think we're on the same page</p> <p>3 here.</p> <p>4 So if I were to think about the voting</p> <p>5 -- the life -- the lifeline -- the life span of</p> <p>6 the voting process, step 1 would be I need to</p> <p>7 actually be eligible to vote, right?</p> <p>8 A Right.</p> <p>9 Q And would it be fair to say that step 2</p> <p>10 would be actually applying to register to vote?</p> <p>11 Would you agree with me in that regard?</p> <p>12 A Yes.</p> <p>13 Q Okay. And then step 3 would be, I</p> <p>14 guess, you know, voting, whether that be by mail,</p> <p>15 in person, or any of the other ways citizens can</p> <p>16 vote in Texas. Would that be fair?</p> <p>17 A Step 3 would be that application would</p> <p>18 be accepted, and step 4 would be the actual vote.</p> <p>19 Q Okay. So I just want to focus on step</p> <p>20 2.</p> <p>21 So as part of -- in your office, not the</p> <p>22 Early Voting Ballot Board, not the Signature</p>	<p>1 You told me that you believe that in</p> <p>2 prior years, your office has had interactions with</p> <p>3 my client, Vote.org. Is that correct?</p> <p>4 A Yes.</p> <p>5 Q And in those interactions, to the best</p> <p>6 of your knowledge, how would you describe the</p> <p>7 relationship between my client and your office?</p> <p>8 A I couldn't -- I have no knowledge to</p> <p>9 characterize that relationship.</p> <p>10 Q Would it be fair for this to be a line</p> <p>11 of questions for Mr. Lopez?</p> <p>12 A I think that's up to my attorneys to</p> <p>13 determine that.</p> <p>14 MR. HARRIS: Okay. Fair enough. So I</p> <p>15 think what I would like to do here is let's -- let</p> <p>16 me take five minutes and then go over -- I want to</p> <p>17 look at my outline because I do believe I am</p> <p>18 getting into some of those questions regarding</p> <p>19 procedures, interactions that may have predated</p> <p>20 your tenure at Dallas County, so if you will</p> <p>21 indulge me, let me take five minutes and I'll</p> <p>22 consult with Noah to make sure that I am not like</p>
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<p>1 Verification Committee, which does their work</p> <p>2 after the application has been accepted, but for</p> <p>3 your purposes, that signature serves no other</p> <p>4 purpose other than to make sure that that</p> <p>5 application is complete. Is that correct?</p> <p>6 A That's correct.</p> <p>7 Q All right. Has your office had any</p> <p>8 interactions with my client, Vote.org?</p> <p>9 A I have not -- well, I don't -- I don't</p> <p>10 know.</p> <p>11 Q Let me ask --</p> <p>12 A I would assume so, but I -- I have not</p> <p>13 had interactions with them. I assume that</p> <p>14 previously years ago some staff members might</p> <p>15 have.</p> <p>16 Q Okay. Fair enough.</p> <p>17 Let me ask you this way. What do you</p> <p>18 know about my client, Vote.org?</p> <p>19 A Not much.</p> <p>20 Q How would you describe -- well, maybe I</p> <p>21 should -- this is probably a question for</p> <p>22 Mr. Lopez, but you can tell me if you disagree.</p>	<p>1 messing anything up. And then I will come back on</p> <p>2 the record. And if -- at that time I will know</p> <p>3 whether or not I should continue with you or we</p> <p>4 can switch hot seats and I can talk to our other</p> <p>5 friend Mr. Lopez, so give me five minutes,</p> <p>6 Mr. Scarpello.</p> <p>7 THE WITNESS: Okay, great. Thanks.</p> <p>8 MR. HARRIS: Thank you.</p> <p>9 VIDEO TECHNICIAN: The time is 11:40</p> <p>10 a.m. Going off the record.</p> <p>11 (A brief recess was taken.)</p> <p>12 VIDEO TECHNICIAN: Okay. The time is</p> <p>13 11:47 a.m. We are back on the record.</p> <p>14 BY MR. SCHUETTE:</p> <p>15 Q All right. So, Mr. Scarpello, I think</p> <p>16 we will go another 10, 15 with you, we'll break</p> <p>17 for lunch because I'm hungry, and then we'll come</p> <p>18 back, and then I think I'm going to start with our</p> <p>19 other friend, Mr. Lopez, after the lunch break.</p> <p>20 Does that sound okay with you?</p> <p>21 MR. SCHUETTE: This is Jay Schuette</p> <p>22 speaking.</p>

22 (Pages 85 to 88)

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<p>1 just had previously about voter registration</p> <p>2 outreach and your efforts to actually encourage</p> <p>3 voter registration. Do you mean -- do you have</p> <p>4 any funding for certain voter registration</p> <p>5 outreach programs like right now?</p> <p>6 A We get reimbursement from the state for</p> <p>7 certain voter registration activities. I think</p> <p>8 they call it Chapter 19 funds.</p> <p>9 Q Okay. And do you have a budget for</p> <p>10 mailing out voter registration forms?</p> <p>11 A There's a -- there's a lot of voter</p> <p>12 registration forms. Are we -- so are you Talking</p> <p>13 about voter registration applications, voter --</p> <p>14 Q Yes, I'm sorry. Yes. My apologies.</p> <p>15 So for voter registration applications,</p> <p>16 do you have a budget for mailing those out?</p> <p>17 A Sometimes someone asks us to send them a</p> <p>18 voter registration application, we will do so.</p> <p>19 Q Does that cost the office anything?</p> <p>20 A It would cost us, but we would be</p> <p>21 reimbursed by the state.</p> <p>22 Q And who does the reimbursement?</p>	<p>1 Q What is H.B. 3107?</p> <p>2 A It's a House Bill that was passed by the</p> <p>3 Texas legislature in I believe the normal session</p> <p>4 last summer.</p> <p>5 Q What year was it passed?</p> <p>6 A 2021, I believe.</p> <p>7 Q When did it go into effect?</p> <p>8 A The 2020 -- I can't remember its</p> <p>9 effective date.</p> <p>10 Q Is it in effect right now?</p> <p>11 A Yes.</p> <p>12 Q What did H.B. 3107 do?</p> <p>13 MR. HARRIS: Object to form.</p> <p>14 A I think that that's a question that I</p> <p>15 would have to -- I would have to look through page</p> <p>16 by page of H.B. 3107, and then I would have to</p> <p>17 just spend the next couple hours doing that. It's</p> <p>18 a 50-page document that touches on all sorts of</p> <p>19 aspects of voter -- of election administration.</p> <p>20 Q But H.B. 3107 was about election</p> <p>21 administration; is that accurate?</p> <p>22 A That's correct.</p>
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<p>1 A The State of Texas.</p> <p>2 Q Do you know roughly how many voter</p> <p>3 registration applications the State of Texas has</p> <p>4 reimbursed you for?</p> <p>5 A I don't know that off the top of my</p> <p>6 head. I'm sure we have records related to Chapter</p> <p>7 19 reimbursements over the last several years.</p> <p>8 Q All right. And just bear with me. I</p> <p>9 just want to make sure I crossed all my Ts.</p> <p>10 Okay. Have there been any questions</p> <p>11 that I have asked today, Mr. Scarpello, that you</p> <p>12 did not understand?</p> <p>13 A No.</p> <p>14 Q Well --</p> <p>15 A I corrected them.</p> <p>16 MR. HARRIS: With your help, of course.</p> <p>17 You've been a good troop, so I can appreciate</p> <p>18 that. And with that, I will tender the witness.</p> <p>19 EXAMINATION</p> <p>20 BY MR. STONE:</p> <p>21 Q Good morning, Mr. Scarpello.</p> <p>22 A Good morning.</p>	<p>1 Q What did --</p> <p>2 A Yes, that's correct.</p> <p>3 Q What did Section 14 of H.B. 3107 do?</p> <p>4 A It confused a lot of people because of</p> <p>5 its imprecise language. But generally speaking it</p> <p>6 attempts to -- let me take a look at it real</p> <p>7 quick. It basically says that when you receive a</p> <p>8 fax of a voter registration application, that</p> <p>9 there must be -- it must be followed up with a</p> <p>10 hard copy within four business days. And let me</p> <p>11 elaborate. What I'm -- so what's confusing to me</p> <p>12 is the imprecise language, it says, "For</p> <p>13 registration applications submitted by fax machine</p> <p>14 to be effective, a copy of the original containing</p> <p>15 voter's original signature must be submitted." So</p> <p>16 I don't know what that means. Is it a copy or is</p> <p>17 it an original? It's terrible language.</p> <p>18 MR. STONE: Objection. Nonresponsive.</p> <p>19 Q But let me -- let me ask about this a</p> <p>20 little differently.</p> <p>21 Do you understand that to be the wet</p> <p>22 signature rule at issue in this case?</p>

24 (Pages 93 to 96)

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<p>1 A I think the wet signature rule is slang</p> <p>2 and I don't see within any official document.</p> <p>3 MR. STONE: Objection. Nonresponsive.</p> <p>4 Q I am asking if you understand the wet</p> <p>5 signature rule to be referencing Section 14 of</p> <p>6 H.B. 3107 in this case.</p> <p>7 A Yes.</p> <p>8 Q Now, you're a lawyer.</p> <p>9 A Yes.</p> <p>10 Q Are you currently licensed?</p> <p>11 A I am licensed, but my status is</p> <p>12 inactive.</p> <p>13 Q Where are you licensed?</p> <p>14 A State of Nebraska.</p> <p>15 Q How long did you practice law?</p> <p>16 A In what capacity?</p> <p>17 Q How long did you use your law license to</p> <p>18 practice law?</p> <p>19 MR. HARRIS: Object to form.</p> <p>20 A I had an active law license for nine</p> <p>21 years before I went into inactive status.</p> <p>22 Q And during those nine years, how many of</p>	<p>1 question of intent, right? I mean --</p> <p>2 Q So far as suppression -- you understand</p> <p>3 voter suppression to be only a question of intent</p> <p>4 and not effect?</p> <p>5 A No, I think it depends -- the</p> <p>6 terminology can be used to describe an intentional</p> <p>7 act or it can be used to describe an unintentional</p> <p>8 act. I mean, it's a very broad -- it's a very</p> <p>9 broad term.</p> <p>10 Q Could an organization putting the wrong</p> <p>11 day to vote on billboards in a community result in</p> <p>12 voter suppression?</p> <p>13 A Sure. Yes.</p> <p>14 Q How so?</p> <p>15 A Because the net effect would be that</p> <p>16 person -- that voters would be confused and less</p> <p>17 likely to vote.</p> <p>18 Q Do you believe Section 14 --</p> <p>19 VIDEO TECHNICIAN: I think he froze on</p> <p>20 us. Let's give him another second, otherwise it</p> <p>21 will become apparent because he's going to drop</p> <p>22 from Zoom.</p>
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<p>1 those nine years were you practicing law as an</p> <p>2 attorney?</p> <p>3 A Actively? Well, I think that's a vague</p> <p>4 question. As far as -- I worked for several,</p> <p>5 different people but not in a law practice, if</p> <p>6 that's -- in a law firm, no. A couple -- about a</p> <p>7 year.</p> <p>8 Q You have decades of experience</p> <p>9 administering elections, right?</p> <p>10 A That's correct.</p> <p>11 Q What is voter suppression?</p> <p>12 MR. HARRIS: Object to form.</p> <p>13 A I think that is an incredibly -- well,</p> <p>14 it's -- I guess it would be -- a general</p> <p>15 description would be an effort by a person or a</p> <p>16 group to prevent people from casting votes.</p> <p>17 Q Would a group telling the public the</p> <p>18 wrong day to vote be a form of voter suppression?</p> <p>19 A I think that it could be. I don't think</p> <p>20 it necessarily -- it could be a mistake. So</p> <p>21 intentional or by accident, I guess, the net</p> <p>22 result would be voter suppression. It's a</p>	<p>1 MR. STONE: I think I froze. I'm sorry,</p> <p>2 I froze.</p> <p>3 VIDEO TECHNICIAN: Mr. Stone, you froze</p> <p>4 and I interjected right away, so we didn't get</p> <p>5 your question in, so you can just restart.</p> <p>6 MR. STONE: Sorry. This may happen</p> <p>7 periodically. And I apologize. It's just the</p> <p>8 Internet in our government building.</p> <p>9 BY MR. STONE:</p> <p>10 Q Is Section 14 of H.B. 1307 a form of</p> <p>11 voter suppression?</p> <p>12 MR. HARRIS: Objection. Calls for a</p> <p>13 legal conclusion.</p> <p>14 A Let me think about that for a second.</p> <p>15 I think that you could interpret Section</p> <p>16 14 to make registering to vote more difficult with</p> <p>17 a net effect that if you're not registered to</p> <p>18 vote, it makes it more harder -- it makes it more</p> <p>19 difficult to vote, so in essence the answer to the</p> <p>20 question is yes.</p> <p>21 Q And you started to explain it, but how</p> <p>22 would Section 14 of H.B. 3107 be a form of voter</p>

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<p style="text-align: right;">Page 101</p> <p>1 suppression?</p> <p>2 A If you can't register to vote, you can't</p> <p>3 vote. It makes it harder to register to vote.</p> <p>4 Q And who does it make it harder to</p> <p>5 register to vote for in Section 14 of H.B. 3107?</p> <p>6 A Someone who sends in an electronic copy</p> <p>7 of a registration, who wants -- who wants to send</p> <p>8 in an electronic copy of a voter registration.</p> <p>9 Q So would you agree that all the members</p> <p>10 of the legislature that supported H.B. 3107</p> <p>11 supported voter suppression?</p> <p>12 A I think it gets back to what I said</p> <p>13 before. I don't know if they intended to, but the</p> <p>14 net effect may be that they succeeded in voting</p> <p>15 suppression, intending to or not.</p> <p>16 Q H.B. 3107 passed with unanimous consent,</p> <p>17 right?</p> <p>18 A I'm not aware.</p> <p>19 Q How many voters are registered to vote</p> <p>20 in Dallas County? I'm looking for a number.</p> <p>21 A Can you repeat the question?</p> <p>22 Q How many voters are registered to vote</p>	<p style="text-align: right;">Page 103</p> <p>1 election, an Early Voting Ballot Board is</p> <p>2 appointed by the appointing authority. That</p> <p>3 number of people on the Early Voting Ballot Board</p> <p>4 and people on it varies by election. It's not a</p> <p>5 permanent role that's year-round.</p> <p>6 Q What does the Early Voting Ballot Board</p> <p>7 do?</p> <p>8 A The Early Voting Ballot Board does a</p> <p>9 variety of work, including having responsibility</p> <p>10 over early voting -- the ballots cast early,</p> <p>11 whether they be vote by mail or balancing the</p> <p>12 books, for instance, at early voting sites as well</p> <p>13 as handling provisional ballots, the approval of</p> <p>14 provisional ballots.</p> <p>15 Q What is the Signature Verification</p> <p>16 Committee?</p> <p>17 A The Signature Verification Committee is</p> <p>18 also an appointed body. It's not always -- Early</p> <p>19 Voting Ballot Board is in every election. A</p> <p>20 Signature Verification Committee is optional.</p> <p>21 That role can be taken up by the Early Voting</p> <p>22 Ballot Board if it so chooses.</p>
<p style="text-align: right;">Page 102</p> <p>1 in Dallas County?</p> <p>2 A I don't have the exact number, but it's</p> <p>3 approaching 1.4 million.</p> <p>4 Q What percentage of eligible voters in</p> <p>5 Dallas County are currently registered to vote?</p> <p>6 A So the question can be -- I don't know</p> <p>7 if you're asking what percentage of the eligible</p> <p>8 age population is registered to vote or what</p> <p>9 percentage of the total population is registered</p> <p>10 to vote. Either way -- either way I don't have</p> <p>11 that answer off the top of my head.</p> <p>12 Q Thank you.</p> <p>13 What is the Early Voting Ballot Board?</p> <p>14 A The Early Voting Ballot Board is a board</p> <p>15 that is -- in Texas law is a board that has legal</p> <p>16 status that is appointed to do certain -- conduct</p> <p>17 certain actions during an election.</p> <p>18 Q Is there an Early Voter Ballot Board in</p> <p>19 Dallas County?</p> <p>20 A Yes.</p> <p>21 Q Who's on that?</p> <p>22 A It depends on the election. Every</p>	<p style="text-align: right;">Page 104</p> <p>1 Q How does --</p> <p>2 A The Signature Verification Committee,</p> <p>3 what they do is they verify the signatures on</p> <p>4 early voting mail-in ballots.</p> <p>5 Q How do they do that?</p> <p>6 A Currently they have electronic</p> <p>7 signatures that -- well, an application comes in.</p> <p>8 That application is scanned electronically and put</p> <p>9 into an electronic system, and then the ballot is</p> <p>10 sent out and then the ballot comes back in. It is</p> <p>11 scanned into an electronic system, and the two</p> <p>12 electronic signatures are compared side-by-side on</p> <p>13 a screen by the early voting -- by the Signature</p> <p>14 Verification Committee. And if they compare</p> <p>15 favorably, then the -- the ballot is accepted and</p> <p>16 the ballot is opened and counted.</p> <p>17 Q How does a voter register to vote in</p> <p>18 Dallas County using a fax machine as of January</p> <p>19 1st, 2022?</p> <p>20 A If they send a faxed voter registration</p> <p>21 in, it needs to be followed up within four days by</p> <p>22 what -- according to the law, a copy of the</p>

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<p>1 original registration containing the voter's</p> <p>2 original signature.</p> <p>3 Q And how would a voter register to vote</p> <p>4 in Dallas County using a fax machine on January</p> <p>5 1st of 2020?</p> <p>6 A I believe I just answered that question.</p> <p>7 Q No, I asked you about 2022.</p> <p>8 A I'm sorry. The same way.</p> <p>9 Q How would a voter register to vote in</p> <p>10 Dallas County via fax on January 1st of 2017?</p> <p>11 A In that same way.</p> <p>12 Q And by the same way, do you mean they</p> <p>13 would fax in the form and then have to mail in</p> <p>14 within four days a copy?</p> <p>15 A I believe so. Keep in mind that I</p> <p>16 wasn't here in 2017, so I'm not familiar with</p> <p>17 that, but I'm pretty sure nothing has changed</p> <p>18 regarding the policy.</p> <p>19 Q So is it your understanding that in</p> <p>20 2017, 2020, and 2022, that subsequent document</p> <p>21 that is mailed in after the faxed voter</p> <p>22 registration application had to contain a wet</p>	<p>1 A Yes.</p> <p>2 Q So between your start at Dallas County</p> <p>3 as an Election Administrator until the passage of</p> <p>4 H.B. 3107, did an application -- a voter</p> <p>5 registration submitted by fax, was it required to</p> <p>6 be subsequently followed up by a mail-in that</p> <p>7 contained a wet signature?</p> <p>8 A That's correct. Well, I think you have</p> <p>9 to define what a wet signature means.</p> <p>10 Q You received a definition of a wet</p> <p>11 signature earlier in this deposition, but let's go</p> <p>12 over it again. When I use the word "wet</p> <p>13 signature," I'm talking about using a pen to sign</p> <p>14 a piece of paper. Does that make sense?</p> <p>15 A Yes.</p> <p>16 Q Okay. So would you like me to repeat</p> <p>17 the question?</p> <p>18 A Yes.</p> <p>19 Q Okay. I'm asking you about your time in</p> <p>20 Dallas County as an Election Administrator from</p> <p>21 when you began until the passage of H.B. 3107, did</p> <p>22 you require a wet signature on the mail-in that</p>
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<p>1 signature?</p> <p>2 A For what period of time?</p> <p>3 Q 2017. Let's start there.</p> <p>4 A Okay. So for 2017, I believe, a copy of</p> <p>5 the registration must be submitted within the</p> <p>6 fourth business day. The only thing that's</p> <p>7 changed between 2017, unless there might be some</p> <p>8 intervening laws -- let's put it this way. The</p> <p>9 only thing that's changed between 2020 and 2022 is</p> <p>10 the law has added it as -- they call it the</p> <p>11 original registration containing the voter's</p> <p>12 original signature must be made and must be made</p> <p>13 personally rather than some other way.</p> <p>14 Q So is it your testimony that on January</p> <p>15 1st of 2017, your office would accept a voter</p> <p>16 registration application submitted via fax if the</p> <p>17 subsequent mailing contained an imaged signature?</p> <p>18 A I don't know what the policy was in</p> <p>19 2017.</p> <p>20 Q You started in your role as an Election</p> <p>21 Administrator in Dallas County in December of</p> <p>22 2020. Is that correct?</p>	<p>1 had to be submitted following the submission via</p> <p>2 fax of a voter registration application?</p> <p>3 A I don't know that answer for sure. I do</p> <p>4 know what the law states. And the law is not</p> <p>5 entirely clear whether or not it needs to be -- it</p> <p>6 would require a wet signature. I don't know what</p> <p>7 the practice, the procedure was. You would have</p> <p>8 to discuss that with Mr. Lopez.</p> <p>9 Q Sure. I'm not asking about procedure.</p> <p>10 I'm asking about your policy. Well, let me -- let</p> <p>11 me strike that and start again.</p> <p>12 You were the Election Administrator from</p> <p>13 when you began in that role in Dallas County up</p> <p>14 through the passage of H.B. 3107, right?</p> <p>15 A Yes.</p> <p>16 Q And were you responsible for</p> <p>17 establishing policy for your department?</p> <p>18 A I don't know that I'm responsible for</p> <p>19 reviewing and revising every -- being familiar</p> <p>20 with every -- with the thousands of policies. I</p> <p>21 am responsible for implementing -- for maintaining</p> <p>22 the current -- the current policies and reviewing</p>

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<p style="text-align: right;">Page 149</p> <p>1 a question in that it just depends on a person.</p> <p>2 Who has a fax machine, right? If I have a fax</p> <p>3 machine, yes, it's the most convenient thing in</p> <p>4 the world, right? If I -- if I'm a person that</p> <p>5 has a Deputy Registrar come to my door, that's</p> <p>6 most convenient. If I happen to be across the</p> <p>7 street from my office, that's the most convenient.</p> <p>8 I can't speak to 2.4 million people on what's most</p> <p>9 convenient for them.</p> <p>10 Q So it's fair to say you don't know what</p> <p>11 would be the most convenient way to register in</p> <p>12 Dallas County for a voter?</p> <p>13 A That's correct.</p> <p>14 Q Is it fair to say that the wet signature</p> <p>15 rule, you don't know whether that's convenient for</p> <p>16 voters or not?</p> <p>17 MR. HARRIS: Object to form.</p> <p>18 A I think that the -- I think the wet</p> <p>19 signature rule makes it less convenient.</p> <p>20 Q So you can testify about the convenience</p> <p>21 of a wet signature rule but not the convenience of</p> <p>22 any other method of registering to vote in Dallas</p>	<p style="text-align: right;">Page 151</p> <p>1 inconvenience?</p> <p>2 A No, my --</p> <p>3 Q Which ones don't?</p> <p>4 A The lack of having online registration</p> <p>5 is inconvenient.</p> <p>6 Q So right now in Texas voters can</p> <p>7 register using online voter registration?</p> <p>8 A No, they cannot.</p> <p>9 Q So that's not a method that we're</p> <p>10 talking about right now, is it?</p> <p>11 A No.</p> <p>12 Q Okay. I'm asking you about methods that</p> <p>13 you can actually register using -- to vote</p> <p>14 using -- in Texas. Which methods are convenient?</p> <p>15 A I think that the method that DPS uses</p> <p>16 provides some convenience when you get your --</p> <p>17 when you renew your driver's license.</p> <p>18 Q So other than the DPS method of voter</p> <p>19 registration when you renew your driver's license,</p> <p>20 are there any other methods of voter registration</p> <p>21 in Texas that you think are convenient?</p> <p>22 A I'm going to answer the same way. It</p>
<p style="text-align: right;">Page 150</p> <p>1 County; is that accurate?</p> <p>2 A I think that --</p> <p>3 MR. HARRIS: Object to form.</p> <p>4 A I think that the convenience of any</p> <p>5 method is dependent upon the person and the</p> <p>6 situation that they are in. I can say also that</p> <p>7 Texas's laws are -- generally speaking are all</p> <p>8 inconvenient compared to 41 other states.</p> <p>9 MR. STONE: Objection. Nonresponsive.</p> <p>10 Q So the wet signature rule might be more</p> <p>11 convenient for some voters, right?</p> <p>12 A It might be.</p> <p>13 Q But in your opinion all methods of voter</p> <p>14 registration in Texas are inconvenient?</p> <p>15 MR. HARRIS: Objection.</p> <p>16 Mischaracterizes testimony.</p> <p>17 A I would make the same objection because</p> <p>18 that's not what I said.</p> <p>19 Q You didn't just say that in Texas --</p> <p>20 well, let me just ask it again. In Texas -- is it</p> <p>21 your testimony that in Texas all methods of voter</p> <p>22 registration involve some element of</p>	<p style="text-align: right;">Page 152</p> <p>1 depends on the person. I mean, if I'm -- if I</p> <p>2 happen to be at the mall and there is a deputy</p> <p>3 registrar sitting right there at a table, that's</p> <p>4 convenient. Right?</p> <p>5 Q Do you -- do you view the fax machine</p> <p>6 option as a way of circumventing Texas' failure to</p> <p>7 have an online voter registration system.</p> <p>8 MR. HARRIS: Object to form.</p> <p>9 A I think it's a creative way to try to</p> <p>10 operate under the law to provide convenience for</p> <p>11 voters.</p> <p>12 Q Do you view Vote.org's app as a way of</p> <p>13 circumventing Texas's failure to have online voter</p> <p>14 registration?</p> <p>15 MR. STONE: Object to form.</p> <p>16 A I think that -- I don't agree with the</p> <p>17 terminology that you use. I think it's a creative</p> <p>18 way to try to assist people in voting.</p> <p>19 Q So explain to me the difference between</p> <p>20 circumventing and creatively getting around Texas'</p> <p>21 lack of an online voter registration system?</p> <p>22 A I don't think it's --</p>

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1 MR. HARRIS: Objection.

2 Mischaracterizes the prior testimony.

3 A I don't think it's circumventing the

4 law. I think it's working -- the attempt was to

5 work within the law.

6 Q When did Dallas County first begin
7 accepting faxed voter registration applications?

8 A I don't know.

9 Q Do you know the origin of Dallas
10 County's voter registration fax policy?

11 A I don't know.

12 Q Do you believe one of the purposes of
13 the election code is to create uniformity in all
14 the counties so there's no variants for voters?

15 A I believe that's probably one of the
16 purposes.

17 Q Earlier you testified that
18 signature-matching verification could help improve
19 election security. Do you remember that?

20 A Yes.

21 Q So could that be a practical purpose for
22 having the wet signature rule?

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1 A No, because when we -- when we do
2 compare signatures, we do it electronically. We
3 don't do it with a piece of paper.

4 Q But didn't you testify earlier that
5 you're scanning an image of the wet signature into
6 the system?

7 A Yes. So we're looking at the -- when we
8 look at a signature, we look at the signature
9 itself. We don't look at the content -- we don't
10 look at the form. We don't look at the -- we
11 don't study the ink. We look at the stroke of the
12 pen. We look at the -- we look at the
13 characteristics within the signature that would
14 show this signature equals this signature. We
15 don't look at the method on which it -- that
16 signature gets on to the page.

17 Q And when you say "we," who are you
18 talking about?

19 A The office, the Dallas County Elections
20 Department and ultimately the Signature
21 Verification Committee and the Early Voting Ballot
22 Board.

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1 MR. STONE: I'll pass the witness.

2 MR. HARRIS: I have no further questions
3 for Mr. Scarpello.

4 MR. SCHUETTE: Ladies and gentlemen,
5 with that, we're going to allow Mr. Scarpello to
6 go on to his other meetings and we'll pick up with
7 Mr. Lopez.

8 MR. HARRIS: Yes. How long -- we can go
9 off the record. I'm sorry.

10 VIDEO TECHNICIAN: The time is 1:31 p.m.
11 We're going off the record.

12
13 (The deposition was concluded at 1:31 p.m.;
14 signature was not discussed.)

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1 REPORTER'S CERTIFICATION
2 REMOTE VIDEOTAPED DEPOSITION OF MICHAEL SCARPELLO
February 11, 2012

3 I, Michele E. Eddy, Registered Professional
Reporter in and for the District of Columbia, hereby
certify the following:

4 That the witness, MICHAEL SCARPELLO, was duly
sworn by the officer and that the transcript of the
5 oral deposition is a true record of the testimony
given by the witness;

6 That the deposition transcript was submitted on
February 24, 2022 to the witness or to the attorney
7 for the witness for examination, signature and return
to me by March 24, 2022.

8 That the amount of time used by each party at the
deposition is as follows:

9 Mr. Harris: 1 hour, 22 minutes

10 Mr. Stone: 1 hour, 24 minutes

11 That pursuant to information given to the
deposition officer at the time said testimony was
taken, the following includes counsel for all parties
of record:

12 Mr. Joshua Harris and Mr. Noah Baron, Attorney
for Plaintiff

13 Mr. Jonathan Stone and Ms. Kathleen Hunker,
Attorneys for Defendant Attorney General of Texas

14 Mr. Benjamin Stool and Mr. Jason Schuette
Attorneys for Defendant Dallas County Election
15 Administrator

16 Mr. Daniel Lopez and Ms. Barbara Nicholas,
Attorneys for Defendant Rami Garza and Cameron County

17 Ms. Cynthia Veidt and Ms. Gretchen Nagy,
Attorneys for Defendants Bruce Elfant and Travis
County Tax Assessor-Collector

18 Mr. Robert Green, Attorney for Defendant
Jacquelyn Callanen and Bexar County Election
19 Administrator

20 -CERTIFICATE CONTINUED ON NEXT PAGE-

21
22

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

-----X

VOTE.ORG,

Plaintiff,

Case No.:

5:21-cv-649-JKP-HJB

v.

JACQUELYN CALLANEN, IN HER
OFFICIAL CAPACITY AS THE BEXAR
COUNTY ELECTIONS ADMINISTRATOR;
BRUCE ELFANT, IN HIS OFFICIAL
CAPACITY AS THE TRAVIS COUNTY
TAX ASSESSOR-COLLECTOR; REMI
GARZA, IN HIS OFFICIAL CAPACITY
AS THE CAMERON COUNTY ELECTIONS
ADMINISTRATOR; MICHAEL
SCARPELLO, IN HIS OFFICIAL
CAPACITY AS THE DALLAS COUNTY
ELECTIONS ADMINISTRATOR,

Defendants.

-----X

CAPTION CONTINUED ON NEXT PAGE

-----X

Deposition of the Office of the Medina County
Elections Administrators by and through its
Designated representative, LUPE TORRES
Conducted Virtually
Wednesday, February 23, 2022
10:06 a.m. Central Time

Reported by: Amanda Gorrone, CLR

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<p style="text-align: right;">Page 41</p> <p>1 Registration Card, it's turned in to us. And we</p> <p>2 currently use Team. We upload all of that</p> <p>3 information into Team and make them eligible. Of</p> <p>4 course, if they are eligible, make them eligible</p> <p>5 in Team so they can be put on our voter roll.</p> <p>6 Q. So suppose that I'm trying to</p> <p>7 register to vote for the first time in Medina</p> <p>8 County. I know it's a stretch, but pretend I</p> <p>9 just turned 18 years old and I'm trying to</p> <p>10 register to vote in Medina County. Walk me</p> <p>11 through the process of what I would need to do in</p> <p>12 order to register.</p> <p>13 A. Again, you would have to fill out</p> <p>14 the application form that's available here. Once</p> <p>15 you have completed it in full, then we take that</p> <p>16 and we update all of that information in our</p> <p>17 records, and -- so that we can make you an</p> <p>18 eligible voter.</p> <p>19 Q. Okay. And is that any different if</p> <p>20 I've moved to Medina County from somewhere else</p> <p>21 in Texas?</p> <p>22 A. No.</p>	<p style="text-align: right;">Page 43</p> <p>1 A. I don't have that information.</p> <p>2 Q. Okay. How do you process -- so</p> <p>3 you've talked to me a little bit about how you</p> <p>4 process the paper Voter Registration</p> <p>5 Applications. You said you upload them to Teams?</p> <p>6 A. Correct.</p> <p>7 Q. And how do you track them?</p> <p>8 A. What do you mean by "track them"?</p> <p>9 Q. Sure.</p> <p>10 How do you -- do you have a system</p> <p>11 for keeping them organized for being able to</p> <p>12 refer to them later?</p> <p>13 A. The application?</p> <p>14 Q. Yeah. If an application comes in,</p> <p>15 you know, if you need to refer to it later, how</p> <p>16 do you find it? Do you, so for example -- sorry.</p> <p>17 Go ahead.</p> <p>18 A. If I'm trying to find a particular</p> <p>19 voter, I look it up by name.</p> <p>20 Q. Okay. Do you use, for example, a</p> <p>21 time stamp or a date stamp?</p> <p>22 A. Yes.</p>
<p style="text-align: right;">Page 42</p> <p>1 Q. And is it any different if I've</p> <p>2 moved from somewhere outside of Texas?</p> <p>3 A. No.</p> <p>4 Q. And is it any different if I move</p> <p>5 within Medina County?</p> <p>6 A. No.</p> <p>7 Q. And that's true if I'm just updating</p> <p>8 my voter registration as opposed to registering</p> <p>9 for the first time?</p> <p>10 A. Yes, because on the application, it</p> <p>11 has whether it's a new registered voter or an</p> <p>12 update.</p> <p>13 Q. Got it.</p> <p>14 Earlier you said about 1,000 folks</p> <p>15 had registered to vote for the first time in</p> <p>16 Medina County over the past year; is that</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Would you say that's about average?</p> <p>20 A. Yes.</p> <p>21 Q. Is there a time of year in general</p> <p>22 when those applications spike?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Okay. And you stamp each Voter</p> <p>2 Registration Card as it comes in?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And do you use a barcode for</p> <p>5 Voter Registration Applications or forms?</p> <p>6 A. No.</p> <p>7 Q. Do you use a method of scanning</p> <p>8 them? Do you scan them into a system, a</p> <p>9 computer?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Do you use batch Voter</p> <p>12 Registration Cards?</p> <p>13 A. No.</p> <p>14 Q. Okay. And so you said you scan them</p> <p>15 into your system. Do you separately enter the</p> <p>16 voter registration information into the computer</p> <p>17 system?</p> <p>18 A. No.</p> <p>19 Q. Okay. Do you send anything to the</p> <p>20 Secretary of State?</p> <p>21 A. No.</p> <p>22 Q. Okay. So you don't send the</p>

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<p style="text-align: right;">Page 45</p> <p>1 physical Voter Registration Form?</p> <p>2 A. Correct.</p> <p>3 Q. And you don't send a scanned copy of</p> <p>4 the form?</p> <p>5 A. Correct.</p> <p>6 Q. You don't send any information from</p> <p>7 the form?</p> <p>8 A. From the what?</p> <p>9 Q. You don't send any information from</p> <p>10 the form, from the voter application?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And you don't send anything</p> <p>13 else to the Secretary of State's Office?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. So the Secretary of State</p> <p>16 receives zero information from any Voter</p> <p>17 Registration Form that's provided to your office?</p> <p>18 A. Well, it's -- it's Team. They have</p> <p>19 all the information in Team.</p> <p>20 Q. They have all the information in</p> <p>21 Teams. Can you explain to me what that means?</p> <p>22 A. Everything that comes from the Voter</p>	<p style="text-align: right;">Page 47</p> <p>1 Registration Cards?</p> <p>2 A. Shred.</p> <p>3 Q. You shred them?</p> <p>4 A. Yes.</p> <p>5 Q. So you don't keep them for later</p> <p>6 reference?</p> <p>7 A. No. We have a scanned copy of it.</p> <p>8 Q. Okay. What involvement does your</p> <p>9 office have in processing Voter Registration</p> <p>10 Applications that come through DPS?</p> <p>11 A. They come through the DPS portal, so</p> <p>12 any updates that need to be made, our voter</p> <p>13 registrar clerk goes through those DPS portal and</p> <p>14 updates all the information that needs to be</p> <p>15 updated.</p> <p>16 Q. So, again, let's suppose I'm</p> <p>17 registering to vote in Medina County. I had sent</p> <p>18 your office my Voter Registration Card. Your</p> <p>19 office has processed it. How long until I'm</p> <p>20 considered registered to vote?</p> <p>21 A. As soon as we get you in the system,</p> <p>22 so hopefully within that day. I mean, we'll send</p>
<p style="text-align: right;">Page 46</p> <p>1 Registration Card, it goes into Team. We upload</p> <p>2 all that information into it.</p> <p>3 Q. So the Secretary of State's Office</p> <p>4 has access to your Teams folders?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And so what you do with a</p> <p>7 Voter Registration Card when it comes in your</p> <p>8 office is you scan it into Teams?</p> <p>9 A. No, sir. We scan it into -- we have</p> <p>10 Vista software, Vista Solution.</p> <p>11 Q. Okay.</p> <p>12 A. It just maintains all of our</p> <p>13 records, our voter registration records. So all</p> <p>14 the cards are scanned into it and kept for -- if</p> <p>15 someone wants a copy later on down the road, we</p> <p>16 can always get one.</p> <p>17 Q. Okay. And how long do you maintain</p> <p>18 those records?</p> <p>19 A. They're in there indefinitely. The</p> <p>20 actual card gets disposed of as soon as we scan</p> <p>21 them.</p> <p>22 Q. And how do you dispose of the Voter</p>	<p style="text-align: right;">Page 48</p> <p>1 you a card. It's effective within -- we're</p> <p>2 required to send you a Voter Registration Card</p> <p>3 within 30 days when you register.</p> <p>4 Q. Okay. And does your office</p> <p>5 typically take that full time to send the card?</p> <p>6 A. No. She's pretty efficient. I</p> <p>7 would say within the week it's done.</p> <p>8 Q. Okay. And you said that the</p> <p>9 Secretary of State's Office has access to your</p> <p>10 Teams?</p> <p>11 A. Yes.</p> <p>12 Q. But does it have access to the --</p> <p>13 you said the use of Vista portal or a Vista</p> <p>14 program to scan things in?</p> <p>15 A. It's called Vista Solution. And to</p> <p>16 answer your question, it's no.</p> <p>17 Q. So the Secretary of State's Office</p> <p>18 does not have access to Vista?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So can you explain to me what</p> <p>21 the difference is between the information you</p> <p>22 maintain at Vista and the information you</p>

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<p>1 A. Yes.</p> <p>2 Q. Okay. How many people in your</p> <p>3 office speak languages other than Spanish or</p> <p>4 English?</p> <p>5 A. That I'm aware of, none.</p> <p>6 Q. Okay. Do you keep any records of</p> <p>7 who calls into the line?</p> <p>8 A. No.</p> <p>9 Q. How do you keep track of who has</p> <p>10 requested a Voter Registration Application to be</p> <p>11 mailed to them?</p> <p>12 A. We don't.</p> <p>13 Q. Okay. Who is responsible for</p> <p>14 sending a voter application once a voter has</p> <p>15 called in?</p> <p>16 A. Usually whoever takes the call.</p> <p>17 Q. Typically how long does it take your</p> <p>18 office to mail an application?</p> <p>19 A. A day. I mean that same day.</p> <p>20 Q. Okay --</p> <p>21 A. But of course --</p> <p>22 Q. Sorry. Go ahead.</p>	<p>1 A. I don't know.</p> <p>2 Q. You said earlier one of your</p> <p>3 goals -- one of the goals of your office is to</p> <p>4 make voting accessible, right?</p> <p>5 A. Yes.</p> <p>6 Q. And another goal is to ensure that</p> <p>7 as many eligible voters as possible are</p> <p>8 registered to vote?</p> <p>9 A. Correct.</p> <p>10 Q. Has your office ever received any</p> <p>11 complaints from residents of your county, Medina</p> <p>12 County, about the voter registration process?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. To the best of your knowledge, your</p> <p>15 office has never received a complaint from anyone</p> <p>16 in Medina County about the voter registration</p> <p>17 process?</p> <p>18 A. Not since I've been here.</p> <p>19 Q. Okay. You have no knowledge of what</p> <p>20 that might have been like prior to your time at</p> <p>21 their office?</p> <p>22 A. No, I don't.</p>
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<p>1 A. Also depending on the time of the</p> <p>2 day that we receive a call. If it's in the</p> <p>3 afternoon, later in the afternoon, it goes in the</p> <p>4 mail the next day.</p> <p>5 Q. Got it.</p> <p>6 Do you know how long it typically</p> <p>7 takes to reach someone who has requested an</p> <p>8 application?</p> <p>9 A. What do you mean "reach"?</p> <p>10 Q. Sure. Someone called in, you put in</p> <p>11 the mail the same day or the next day, how long</p> <p>12 until it takes to reach them, to arrive in their</p> <p>13 mailbox?</p> <p>14 MR. STONE: Objection; form.</p> <p>15 BY MR. BARON:</p> <p>16 Q. Please answer, if you know.</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. That's fine.</p> <p>19 Do you know typically how long it</p> <p>20 takes for you to receive an application back?</p> <p>21 MS. AL-FUHAID: Objection; form.</p> <p>22 You may answer.</p>	<p>1 Q. Is that because there is no --</p> <p>2 there's no method of maintaining records of</p> <p>3 those?</p> <p>4 A. I don't know.</p> <p>5 Q. Okay. So is there a way for your</p> <p>6 office -- so if someone calls into your office's</p> <p>7 general line, for example, is there any method</p> <p>8 that your office has to keep records of calls</p> <p>9 that come in?</p> <p>10 A. We don't have any.</p> <p>11 Q. No records?</p> <p>12 A. Correct.</p> <p>13 Q. And you only have one office?</p> <p>14 A. Yes.</p> <p>15 Q. And has your office ever had anyone</p> <p>16 come in to fill out a paper Voter Application</p> <p>17 Card or Form in person?</p> <p>18 A. Yes.</p> <p>19 Q. Approximately how many times?</p> <p>20 A. I don't have that number.</p> <p>21 Q. Okay. Can you give me a ballpark</p> <p>22 figure?</p>

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<p>1 A. That would be speculating.</p> <p>2 Q. Okay. That's fine.</p> <p>3 And voters have to sign their Voter</p> <p>4 Registration Applications, right?</p> <p>5 A. Yes.</p> <p>6 Q. And what is the purpose of requiring</p> <p>7 a signature on a Voter Registration Form?</p> <p>8 A. I guess to compare to whatever needs</p> <p>9 to be compared to another signature.</p> <p>10 Q. And do you do that in, when --</p> <p>11 MR. BARON: Strike that.</p> <p>12 BY MR. BARON:</p> <p>13 Q. When you are evaluating a Voter</p> <p>14 Registration Application to see if the person is</p> <p>15 eligible, do you use the signature to compare it</p> <p>16 to other signatures from that person?</p> <p>17 A. No.</p> <p>18 Q. Do you use the signature in any</p> <p>19 other manner when considering whether someone is</p> <p>20 eligible to vote when they submit a Voter</p> <p>21 Registration Application?</p> <p>22 A. No.</p>	<p>1 Applications due to a lack of wet signature</p> <p>2 during the referenced time period.</p> <p>3 THE TECH: Can you say that again?</p> <p>4 I'm lost. I can't find it.</p> <p>5 MR. BARON: Sorry. Yeah. I may</p> <p>6 have -- one moment. That should be</p> <p>7 Interrogatory No. 1. I apologize.</p> <p>8 THE TECH: Oh. No. 1.</p> <p>9 MR. BARON: It should be the last</p> <p>10 sentence of Interrogatory No. 1.</p> <p>11 (Tech complies.)</p> <p>12 BY MR. BARON:</p> <p>13 Q. Okay. And is that because your</p> <p>14 office has received no such applications?</p> <p>15 A. To my knowledge, yes.</p> <p>16 Q. And have you ever marked an</p> <p>17 application as incomplete due to a lack of a wet</p> <p>18 signature?</p> <p>19 A. To my knowledge, no.</p> <p>20 Q. Okay. And how does your office</p> <p>21 determine whether a registration application</p> <p>22 signature is a wet signature or not?</p>
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<p>1 MR. BARON: At this point I would</p> <p>2 like the court reporter to please mark what</p> <p>3 has been premarked as Exhibit C.</p> <p>4 (Whereupon, Exhibit C,</p> <p>5 Intervenor-Defendant Lupe Torres' Objections</p> <p>6 and Answers to Plaintiff's First Set of</p> <p>7 Interrogatories, was marked for</p> <p>8 identification.)</p> <p>9 BY MR. BARON:</p> <p>10 Q. Are you familiar with this document?</p> <p>11 A. I believe I've seen it before.</p> <p>12 Q. Okay. I'd like to direct your</p> <p>13 attention to Response to Interrogatory No. 4; and</p> <p>14 specifically, "Medina County has always required</p> <p>15 a wet signature from a voter registration</p> <p>16 Applicant"; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now I'd like to direct your</p> <p>19 attention to your Response to Interrogatory No.</p> <p>20 2.</p> <p>21 Your office says, quote, No record</p> <p>22 of any rejections of Voter Registration</p>	<p>1 A. I guess by reviewing the document</p> <p>2 itself.</p> <p>3 Q. Do you have any policies or</p> <p>4 procedures in place with regard to determining</p> <p>5 whether a signature is wet or not?</p> <p>6 A. No.</p> <p>7 Q. And have you or anyone in your</p> <p>8 office undergone any training in determining</p> <p>9 whether a signature is wet or not?</p> <p>10 A. Not to my knowledge, no.</p> <p>11 Q. Okay. And is it possible that your</p> <p>12 office has processed a Voter Registration</p> <p>13 Application that does not have a wet signature?</p> <p>14 MR. STONE: Objection to form.</p> <p>15 MS. AL-FUHAID: Objection;</p> <p>16 speculation.</p> <p>17 You may answer the question.</p> <p>18 A. Not to my knowledge.</p> <p>19 Q. Okay. And for what purpose does</p> <p>20 your office use a voter's original wet signature</p> <p>21 as part of the registration process?</p> <p>22 A. Can you repeat the question, please?</p>

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<p>1 Q. Sure.</p> <p>2 For what purpose or purposes, does</p> <p>3 your office use a voter's original wet signature</p> <p>4 as part of the voter registration process?</p> <p>5 A. First thing that comes to mind is</p> <p>6 when they are qualifying the absentee ballot by</p> <p>7 mail, how they sign their ballot by mail has to</p> <p>8 match the voter registration signature. So</p> <p>9 that's one that comes to mind.</p> <p>10 Q. But you don't use it for determining</p> <p>11 eligibility to vote?</p> <p>12 A. Correct.</p> <p>13 Q. And you don't use a voter's original</p> <p>14 wet signature to verify each registrants identity</p> <p>15 when you're registering them to vote?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Do you use a voter's original</p> <p>18 wet signature as part of the voter registration</p> <p>19 process, as opposed to anything else, for any</p> <p>20 other purposes?</p> <p>21 A. No.</p> <p>22 Q. Suppose a Voter Registration</p>	<p>1 A. Yes.</p> <p>2 Q. And that's the only thing that you</p> <p>3 do with the wet signature on the card?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. At this point I'd like to</p> <p>6 direct your attention to the Response to</p> <p>7 Interrogatory No. 4, in the same document.</p> <p>8 And I believe that's midway through</p> <p>9 the Response where it says, "Medina County first</p> <p>10 reviews the Voter Registration Application in</p> <p>11 accordance with Section 13.071 to determine</p> <p>12 whether it meets the criteria set forth in</p> <p>13 Section 13.002, including the requirement that it</p> <p>14 be signed by the Applicant."</p> <p>15 Are you referring to the wet</p> <p>16 signature requirement?</p> <p>17 A. Yes.</p> <p>18 Q. And it says that you review the</p> <p>19 application. Can you describe to me what is</p> <p>20 entailed in that review process?</p> <p>21 A. We make sure that all the required</p> <p>22 fields are filled in and to determine if they are</p>
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<p>1 Application has come into your -- has arrived at</p> <p>2 your office, it is properly executed and contains</p> <p>3 an original wet signature, please tell me what</p> <p>4 you do with that signature?</p> <p>5 A. Can you repeat the question, please?</p> <p>6 Q. Yes.</p> <p>7 Suppose that a Voter Registration</p> <p>8 Application arrives at your office, it is</p> <p>9 properly executed and it contains an original wet</p> <p>10 signature, can you tell me what you do with the</p> <p>11 signature?</p> <p>12 A. What we do? Other than scan the</p> <p>13 Voter Registration Card and store it.</p> <p>14 Q. So when a Voter Registration</p> <p>15 Application comes into your office, that's</p> <p>16 properly executed and contains an original wet</p> <p>17 signature, you scan the Voter Registration</p> <p>18 Application, including the signature, into Vista,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. And then you proceed to destroy the</p> <p>22 original voter application or the card?</p>	<p>1 eligible or not, to determine if they would be an</p> <p>2 eligible voter, registered voter.</p> <p>3 Q. And in terms of reviewing the</p> <p>4 signature, the review process is the person</p> <p>5 reviewing the application just looks at the</p> <p>6 signature to see if it's wet or not?</p> <p>7 A. Yes.</p> <p>8 Q. And checks to see if the signature</p> <p>9 is present?</p> <p>10 A. Correct.</p> <p>11 Q. And is there anything else you do or</p> <p>12 your office does to determine whether there is a</p> <p>13 wet signature present?</p> <p>14 A. No.</p> <p>15 Q. Okay. And as we discussed, you</p> <p>16 don't maintain any sort of file where you keep</p> <p>17 the original wet signature applications as</p> <p>18 originally provided to you?</p> <p>19 A. I'm sorry. I didn't hear that. I</p> <p>20 didn't understand that.</p> <p>21 Q. That's okay.</p> <p>22 So you don't maintain the original</p>

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<p>1 voter applications. You shred those?</p> <p>2 A. Yes.</p> <p>3 Q. And if someone were to execute a wet</p> <p>4 signature and then they scanned it into their</p> <p>5 computer and then they took the version of the</p> <p>6 signature that they scanned and put it onto their</p> <p>7 Voter Registration Application, would that be</p> <p>8 considered a wet signature for your purposes?</p> <p>9 A. Yes.</p> <p>10 Q. That would be considered a wet</p> <p>11 signature?</p> <p>12 A. Repeat the question again, please.</p> <p>13 I'm sorry.</p> <p>14 Q. Sure.</p> <p>15 So let's suppose I'm filling out a</p> <p>16 Voter Registration Application.</p> <p>17 A. Okay.</p> <p>18 Q. And I have, I use a pen and write my</p> <p>19 signature on a blank piece of paper. I then take</p> <p>20 that piece of paper, I scan it into my computer,</p> <p>21 and then I place the signature that I wrote on</p> <p>22 that piece of paper digitally onto my Voter</p>	<p>1 person and a similar signature to the same</p> <p>2 person, that's one way we use that signature for.</p> <p>3 Q. Okay. I'd like to direct your</p> <p>4 attention to Response to Interrogatory No. 3.</p> <p>5 A. Okay.</p> <p>6 Q. And specifically the line:</p> <p>7 "Signatures from Voter Registration Applications</p> <p>8 can be used by Medina County election officials</p> <p>9 to verify the identity of a voter"; is that</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Excuse me.</p> <p>13 Do you use the original wet</p> <p>14 signature from the voter's registration</p> <p>15 application to do this?</p> <p>16 A. I'm probably misunderstanding your</p> <p>17 question.</p> <p>18 Q. Would you like me to rephrase it?</p> <p>19 A. Please.</p> <p>20 Q. Okay. So you state that one of the</p> <p>21 uses for the signatures from a Voter Registration</p> <p>22 Application is to verify the identity of a voter,</p>
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<p>1 Registration Application. I print that out and I</p> <p>2 mail it in. Is that considered a wet signature</p> <p>3 for your office's purposes?</p> <p>4 A. Yeah, I would think so.</p> <p>5 Q. Do you send or provide the</p> <p>6 signatures on a Voter Registration Application</p> <p>7 required to the Secretary of State in any manner?</p> <p>8 A. No.</p> <p>9 Q. So to the best of your knowledge,</p> <p>10 the Secretary of State's Office never sees the</p> <p>11 signatures on a Voter Registration Application or</p> <p>12 card?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. And what do you use the Voter</p> <p>15 Registration Applications --</p> <p>16 MR. BARON: Sorry. Strike that.</p> <p>17 BY MR. BARON:</p> <p>18 Q. What do you use the signatures on</p> <p>19 the Voter Registration Applications for?</p> <p>20 A. Like I said before, when we're</p> <p>21 trying to compare signatures of a person that</p> <p>22 mails in a ballot to make sure that it's the same</p>	<p>1 right?</p> <p>2 A. Yes.</p> <p>3 Q. Do you verify the identity of a</p> <p>4 voter before you destroy the Voter Registration</p> <p>5 Card that you get in the mail?</p> <p>6 A. No.</p> <p>7 Q. So to verify the identity of a</p> <p>8 voter, what you do is you use the scanned version</p> <p>9 of the Voter Registration Card?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Have you ever used the</p> <p>12 original Voter Registration Card with the</p> <p>13 original signature to verify a voter's identity?</p> <p>14 A. Not to my knowledge, no.</p> <p>15 MR. BARON: Okay. How are you</p> <p>16 doing? We've been going for a little over an</p> <p>17 hour now. Do you need a break?</p> <p>18 THE WITNESS: I would like one, yes.</p> <p>19 MR. BARON: Okay. Why don't we take</p> <p>20 a five-minute break and then we'll reconvene</p> <p>21 at 12:21.</p> <p>22 THE WITNESS: Okay.</p>

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<p>1 MS. AL-FUHAID: 11:21 our time.</p> <p>2 MR. BARON: Sorry. 11:21 your time.</p> <p>3 THE WITNESS: Okay.</p> <p>4 THE TECH: The time is 11:16 a.m.,</p> <p>5 off the record.</p> <p>6 (Recess taken.)</p> <p>7 THE TECH: The time is 11:25 a.m.,</p> <p>8 back on the record.</p> <p>9 MR. BARON: Okay. And can we put</p> <p>10 back the Deposition Exhibit C, please.</p> <p>11 BY MR. BARON:</p> <p>12 Q. And you said: "Signatures from</p> <p>13 Voter Registration Applications can be used by</p> <p>14 Medina County election officials to verify the</p> <p>15 identity of a voter."</p> <p>16 You said that for the purposes of</p> <p>17 verifying the identity of a voter, you do not do</p> <p>18 that during the voter registration process,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And when you do verify the</p> <p>22 identity of a voter, that is at a point where</p>	<p>1 the same signature.</p> <p>2 Q. And when you say you compare it to</p> <p>3 the signature they submitted, that's the scanned</p> <p>4 version in Vista?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And can you just describe to</p> <p>7 me what the process is like for making that</p> <p>8 comparison?</p> <p>9 I'm not familiar with the way your</p> <p>10 office operates or what that process is, so if</p> <p>11 you could edify me?</p> <p>12 A. The only thing I can tell you is the</p> <p>13 Ballot Board looks at both the received ballot,</p> <p>14 at the carrier envelope that has the signature</p> <p>15 and they compare it to whatever the application</p> <p>16 has to make sure it's the same person.</p> <p>17 Q. So they look at a scanned version of</p> <p>18 the signature which is the one that you received</p> <p>19 on the Voter Registration Application --</p> <p>20 A. Correct.</p> <p>21 Q. -- correct?</p> <p>22 A. Correct.</p>
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<p>1 you're using the scanned version of the Voter</p> <p>2 Registration Application?</p> <p>3 A. Yes.</p> <p>4 Q. And is there any reason that --</p> <p>5 excuse me.</p> <p>6 Is there any reason that this could</p> <p>7 not be done with a imaged signature?</p> <p>8 A. With a what?</p> <p>9 Q. With an imaged signature?</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. Well, all right. Let's back</p> <p>12 up a little bit.</p> <p>13 Can you tell me all of the ways your</p> <p>14 office uses signatures from Voter Registration</p> <p>15 Applications to verify the identity of a voter?</p> <p>16 A. The one that comes to mind, again,</p> <p>17 it's when we're comparing the signatures for</p> <p>18 whenever they submit something -- a ballot by</p> <p>19 mail and it requires their signature and to make</p> <p>20 sure it's the same person, we check with the</p> <p>21 application, voter application they submitted and</p> <p>22 make sure it's the same signature or similar to</p>	<p>1 Q. And then they also, then they look</p> <p>2 at the version that came in on a ballot?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And is there any other way</p> <p>5 that you're -- let me back up.</p> <p>6 You said that this is done by the</p> <p>7 Ballot Board?</p> <p>8 A. Correct.</p> <p>9 Q. So it's not done by your office?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So is there any way that your</p> <p>12 office, as opposed to the Early Ballot Board,</p> <p>13 uses the signatures from a Voter Registration</p> <p>14 Application to verify the identity of a voter?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Okay. And is there any other way,</p> <p>17 to your knowledge, that a Medina County elections</p> <p>18 official uses the signatures from Voter</p> <p>19 Registration Applications to verify the identity</p> <p>20 of a voter?</p> <p>21 A. No.</p> <p>22 Q. And earlier you said you weren't</p>

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<p>1 sure whether --</p> <p>2 MR. BARON: Excuse me. Strike that.</p> <p>3 BY MR. BARON:</p> <p>4 Q. Earlier you said you weren't sure</p> <p>5 why the comparison of the scanned version of a</p> <p>6 signature by the Ballot Board and the ballot</p> <p>7 signature, you said you weren't sure why that</p> <p>8 could not be used using an imaged signature?</p> <p>9 A. I believe that's what I said.</p> <p>10 Q. Hello?</p> <p>11 A. I believe that's what I said.</p> <p>12 Q. Okay. Sorry, it looks like I'm</p> <p>13 having some internet trouble. So if I cut out,</p> <p>14 it's not because of anything you said.</p> <p>15 A. Okay.</p> <p>16 Q. So, but please let me know if I'm</p> <p>17 having issues or if you're having trouble hearing</p> <p>18 me.</p> <p>19 So why is it that you're not sure?</p> <p>20 MR. STONE: Objection; form.</p> <p>21 THE WITNESS: Am I supposed to</p> <p>22 answer or not?</p>	<p>1 Q. So there's no instance in which the</p> <p>2 Ballot Board might use the original Voter</p> <p>3 Registration Form as a comparator?</p> <p>4 MR. STONE: Objection; form.</p> <p>5 A. I don't -- I don't know.</p> <p>6 Q. Okay. So to clarify, you shred all</p> <p>7 Voter Registration Applications after scanning</p> <p>8 them into your systems; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. So would there be any reason that</p> <p>11 the Early -- the Ballot Board would have access</p> <p>12 to one of those cards?</p> <p>13 A. No. You mean the original?</p> <p>14 Q. The original card, yes.</p> <p>15 A. Yeah. No. My answer is still no.</p> <p>16 Q. Okay. Now, with regard to your</p> <p>17 Response to Interrogatory No. 3 -- sorry for</p> <p>18 jumping around so much. I'd specifically like to</p> <p>19 direct your attention to the sentence that says</p> <p>20 that it, "The signature on the application can be</p> <p>21 compared to the voter's signature on the voter</p> <p>22 list for in-person voting, and the signature on</p>
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<p>1 MR. BARON: Yes, please.</p> <p>2 MS. AL-FUHAID: You may answer.</p> <p>3 A. I guess I don't know.</p> <p>4 Q. Okay. And I'd like to direct your</p> <p>5 attention to Interrogatory No. 2, and,</p> <p>6 specifically, a portion that says that: "The</p> <p>7 signature on the Voter Registration Application</p> <p>8 required by the Texas Election Code Section</p> <p>9 13.0002(b) provides a model of the voter's</p> <p>10 signature that can be cross-referenced with other</p> <p>11 signatures submitted by the individual."</p> <p>12 And this is the process that you</p> <p>13 were describing earlier in relation to what the</p> <p>14 Ballot Board does?</p> <p>15 A. Yes.</p> <p>16 Q. So this is -- how is the --</p> <p>17 MR. BARON: Strike that.</p> <p>18 BY MR. BARON:</p> <p>19 Q. So the model signature reference</p> <p>20 there is the scanned version of the Voter</p> <p>21 Registration Card that's stored in Vista?</p> <p>22 A. Yes.</p>	<p>1 the application can be compared to the voter's</p> <p>2 signature" -- next page -- "on the carrier</p> <p>3 envelope used to send in a ballot by mail."</p> <p>4 A. Okay. And your question?</p> <p>5 Q. Yes. I just want to clarify.</p> <p>6 That's again in reference to the Ballot Board?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And then the next sentence,</p> <p>9 "The signature can also be used in situations in</p> <p>10 which a voter accidentally signs the voter list</p> <p>11 for in-person voting in the space for another</p> <p>12 voter's signature. If that occurs, the</p> <p>13 signatures can be compared to catch the mistake</p> <p>14 and ensure that the voter whose signature space</p> <p>15 was accidentally completed can submit a ballot."</p> <p>16 So who -- is that something that</p> <p>17 your office does?</p> <p>18 A. No. The signature comparison is</p> <p>19 done by the Ballot Board.</p> <p>20 Q. Okay. And so, again, that signature</p> <p>21 comparison is done using the scanned version of</p> <p>22 the signature in Vista?</p>

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<p>1 imaged signatures?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I'd like to direct your</p> <p>4 attention to Interrogatory No. 2, your Response.</p> <p>5 And specifically the sentence that says, "To the</p> <p>6 best of my knowledge a wet ink signature" -- it's</p> <p>7 the last sentence -- "To the best of my knowledge</p> <p>8 a wet ink signature is more easily verifiable</p> <p>9 than an electronic signature."</p> <p>10 What do you understand "electronic</p> <p>11 signature" to mean in this context?</p> <p>12 A. Kind of like the one you described</p> <p>13 earlier where you go to the bank or even to a</p> <p>14 store and you have to sign the little tablet on</p> <p>15 there, you sign your signature on there.</p> <p>16 Q. Okay.</p> <p>17 A. It would be like --</p> <p>18 (Simultaneous cross-talk.)</p> <p>19 Q. Sorry. Go ahead. I didn't mean to</p> <p>20 cut you off.</p> <p>21 A. That's what I see as an electronic</p> <p>22 signature.</p>	<p>1 What do you understand "more easily</p> <p>2 verifiable" to mean in this context?</p> <p>3 A. I guess you can -- I don't know. I</p> <p>4 can't describe the -- I'm not -- can you rephrase</p> <p>5 the question, please?</p> <p>6 Q. Sure.</p> <p>7 So in your Response to Interrogatory</p> <p>8 No. 2 you stated that, "To the best of your</p> <p>9 knowledge, a wet ink signature is more easily</p> <p>10 verifiable than an electronic signature."</p> <p>11 So my question to you is: What did</p> <p>12 you mean when you said "it's more easily</p> <p>13 verifiable"?</p> <p>14 MR. STONE: Objection; form.</p> <p>15 A. I'm trying to remember how -- in</p> <p>16 what context I used that.</p> <p>17 Q. If you'd like to take the time to</p> <p>18 review the full Response, you're welcome to do</p> <p>19 that.</p> <p>20 A. I guess just reading my Response,</p> <p>21 is, like you said earlier, electronic signatures</p> <p>22 can be manipulated, like you stated, you can copy</p>
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<p>1 Q. Okay. Would you say it's the same</p> <p>2 as or is it different from what you understand a</p> <p>3 imaged signature to be?</p> <p>4 A. The same.</p> <p>5 Q. Okay. Do you recall earlier when I</p> <p>6 described what an imaged signature is when I</p> <p>7 reference it?</p> <p>8 A. Yes.</p> <p>9 Q. Right. So to reiterate, when I</p> <p>10 reference a imaged signature, I'm referring to</p> <p>11 someone uses a wet ink signature on a piece of</p> <p>12 paper and then takes a picture of it and scans it</p> <p>13 into their computer.</p> <p>14 Does that make sense?</p> <p>15 A. Yes.</p> <p>16 Q. Does that change any of your prior</p> <p>17 answers in this deposition?</p> <p>18 A. No.</p> <p>19 Q. So to reiterate, we're looking at</p> <p>20 Response to Interrogatory No. 2, "To the best of</p> <p>21 my knowledge, a wet ink signature is more easily</p> <p>22 verifiable than an electronic signature."</p>	<p>1 and paste it to that. So the wet signature is</p> <p>2 probably the best way to verify that it is, I</p> <p>3 guess, the person that is filling out that</p> <p>4 document.</p> <p>5 Q. Okay. When a voter submits an</p> <p>6 application, your office isn't comparing the</p> <p>7 signature in the form, right?</p> <p>8 MS. AL-FUHAID: Objection; form.</p> <p>9 MR. STONE: Objection; form.</p> <p>10 A. Correct.</p> <p>11 Q. And your office doesn't function as</p> <p>12 the Early Ballot Board, right?</p> <p>13 A. Correct.</p> <p>14 Q. When you receive an application from</p> <p>15 DPS, you don't have any concerns about those</p> <p>16 signatures being unverifiable, right?</p> <p>17 MS. AL-FUHAID: Objection; form.</p> <p>18 MR. STONE: Objection; form.</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So can you state all the ways</p> <p>21 in which your office uses a wet ink signature and</p> <p>22 not a image version of a wet ink signature to</p>

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<p>1 verify or -- to verify a voter's identify?</p> <p>2 MS. AL-FUHAID: Objection; form.</p> <p>3 MR. STONE: Objection; form.</p> <p>4 A. I believe I stated before that the</p> <p>5 way we use it is through the Ballot Board, for</p> <p>6 them to compare the signatures.</p> <p>7 Q. But again the Ballot Board is not</p> <p>8 your office, right, that's a distinct office?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. And in the next clause of</p> <p>11 that sentence you stated, "...electronic</p> <p>12 signatures can be manipulated more easily."</p> <p>13 What is the basis for your assertion</p> <p>14 that "electronic signatures can be manipulated</p> <p>15 more easily"?</p> <p>16 A. Just like you stated before, you can</p> <p>17 get somebody to sign a paper and then paste it on</p> <p>18 to the computer and make it to be somebody</p> <p>19 else's.</p> <p>20 Q. And have you ever spoken with any</p> <p>21 experts on signatures about whether this is the</p> <p>22 case?</p>	<p>1 fraud from the use of that imaged signature; is</p> <p>2 that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And neither you nor your office</p> <p>5 experienced any other problems or issues arising</p> <p>6 from the use of an imaged signature; is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 MR. BARON: I'd like to ask the</p> <p>10 court reporter to mark what I premarked as</p> <p>11 Exhibit D, and specifically the Response to</p> <p>12 Request For Production.</p> <p>13 (Whereupon, Exhibit D,</p> <p>14 Intervenor-Defendant Lupe Torres' Objections</p> <p>15 and Responses to Plaintiff's First Set of</p> <p>16 Requests for Production, was marked for</p> <p>17 identification.)</p> <p>18 MR. STONE: Corey, I think you're</p> <p>19 unmuted.</p> <p>20 Could the court reporter mute Corey?</p> <p>21 (Discussion held off the record.)</p> <p>22 THE TECH: Did you ask for a</p>
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<p>1 A. No.</p> <p>2 Q. Have you done any research on</p> <p>3 signatures to determine whether this is true?</p> <p>4 A. No.</p> <p>5 Q. And have you had any experience or</p> <p>6 has anyone in your office had any experience</p> <p>7 where that would be the case?</p> <p>8 A. No.</p> <p>9 MS. AL-FUHAID: Objection; form.</p> <p>10 Q. So you're not aware of any instances</p> <p>11 where someone manipulated an electronic signature</p> <p>12 on a Voter Registration Application, correct?</p> <p>13 A. Not to my knowledge. No.</p> <p>14 Q. And I'd like to direct your</p> <p>15 attention to Interrogatory No. 5. Specifically</p> <p>16 your Response. And you stated that you're "not</p> <p>17 aware of any issues, difficulties, or problems</p> <p>18 related to Voter Registration Applications</p> <p>19 received by Medina County that did not contain a</p> <p>20 wet signature."</p> <p>21 So neither you nor your office have</p> <p>22 experienced or encountered any instance of voter</p>	<p>1 specific number because I didn't catch it.</p> <p>2 MR. BARON: Yes. Sorry. The</p> <p>3 Response to Request for Production No. 5.</p> <p>4 THE TECH: Thank you.</p> <p>5 MR. BARON: Thank you.</p> <p>6 BY MR. BARON:</p> <p>7 Q. So this Request sought any documents</p> <p>8 or communications regarding problems, issues, or</p> <p>9 difficulties that Medina County has encountered</p> <p>10 as a result of Voter Registration Applications</p> <p>11 submitted without a wet ink signature.</p> <p>12 And you stated that you were unaware</p> <p>13 of any documents that were responsive to that</p> <p>14 request.</p> <p>15 So the fact you haven't had any</p> <p>16 problems with voter fraud or any other issues</p> <p>17 relating to the use of imaged signatures, is that</p> <p>18 the reason you have no documents responsive to</p> <p>19 this request?</p> <p>20 A. Correct.</p> <p>21 Q. Okay.</p> <p>22 MR. BARON: You can take down that</p>

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,

Plaintiffs,

v.

JACUELYN CALLANEN, in her official
capacity as the Bexar County Elections
Administrator; BRUCE ELFANT, in his
official capacity as the Travis County Tax
Assessor-Collector; REMI GARZA, in his
official capacity as the Cameron County
Elections Administrator; MICHAEL
SCARPELLO, in his official capacity as the
Dallas County Elections Administrator,

Defendants.

5:21-cv-00649-JKP-HJB

**DEFENDANT BEXAR COUNTY ELECTION ADMINISTRATOR
JACQUELYN CALLANEN'S OBJECTIONS AND ANSWERS TO PLAINTIFF'S FIRST
SET OF INTERROGATORIES AND FIRST SET OF REQUESTS FOR ADMISSIONS**

To: Plaintiff Vote.org, by and through its attorney of record, Kathryn Yukevich, Elias Law Group,
10 G Street, NE Suite 600, Washington DC 20002, kyukevich@elias.law.

Pursuant to Federal Rules of Civil Procedure 33 and 36, Defendant Bexar County hereby
submits their responses and objections to Plaintiffs' First Set of Interrogatories and Requests for
Admissions.

Respectfully Submitted,

JOE GONZALES
Bexar County Criminal District Attorney

By: /s/ Robert Green
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CERTIFICATE OF SERVICE

I do hereby certify on the 5th day of November, 2021, I served the preceding document by email upon the following:

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/s/ Robert Green
ROBERT D. GREEN

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1. Identify all individuals in Bexar County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018 to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Bexar County.

OBJECTION: Defendant Callanen objects to this request to the extent that disclosure of the information requested may infringe upon the privacy rights of the individuals identified therein, such as dates of birth, social security and drivers license numbers, their signatures, and the addresses of individuals who have a statutory right under Texas law to prevent the public disclosure of their addresses. Defendant Callanen further objects that applications that lack a wet-ink signature are not immediately rejected, but are treated as incomplete. In accordance with Texas law, an applicant who submits such an application is provided an opportunity to submit the missing information and, in most cases, have their effective registration date relate back to their initial submission. Defendant Callanen will produce a supplement containing appropriately redacted documentation related to the 730 applicants whose registration applications were designated as incomplete during this period based on failure to provide the signature required by Texas Election Code § 13.002(b) as interpreted by the Secretary of State.

INTERROGATORY NO. 2. State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet-ink signatures and compared to electronic or imaged signatures.

RESPONSE: Defendant Callanen objects to this request to the extent that it seeks a statement of the policy objectives of provisions of the Texas Election Code that require the submission of a wet ink signature on a voter registration application. That information may be found in the legislative history materials or obtained through discovery requests to state officials involved in the enactment the statutes now codified at Texas Election Code §§ 13.002(b) and 13.072. Defendant Callanen does not set policy objectives relative to the processing of voter registration applications, but receives and processes those applications in the manner required by Chapter 13 of the Texas Election Code as interpreted by the Secretary of State. Subject to and without waiving these objections, voter signatures obtained from voter registration applications are sometimes used by County elections personnel to verify voter identity, such as by comparing that signature to the voter's signature as it appears on the carrier envelope used to submit a ballot by mail, or to the voter's signature on the roster for in-person voting. In some circumstances, where a voter mistakenly affixes their signature to a roster for in-person voting on the line for another voter's signature, a signature comparison can be used to identify the error so that the voter whose signature line was mistakenly filled may proceed to cast a ballot.

INTERROGATORY NO. 3. Identify and describe all of Bexar County's or the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

RESPONSE: Defendant Callanen objects to this request to the extent that it seeks a statement of the state's interests served by Section 14 of HB 3107. That information may be found in the legislative history documents for HB 3107, or obtained through discovery requests to state officials involved in the enactment of HB 3107 and the state intervenors in this case. Subject to and without waiving these objections, voter signatures obtained from voter registration applications are sometimes used by County elections personnel to verify voter identity, such as by comparing that signature to the voter's signature as it appears on the carrier envelope used to submit a ballot by mail, or to the voter's signature on the roster for in-person voting. In some circumstances, where a voter mistakenly affixes their signature to a roster for in-person voting on the line for another voter's signature, a signature comparison can be used to identify the error so that the voter whose signature line was mistakenly filled may proceed to cast a ballot.

INTERROGATORY NO. 4. State and describe Bexar County's policy and procedure for processing voter registration applications submitted using Plaintiff's web application in the fall of 2018.

RESPONSE: The Bexar County Elections Department has not established or maintained any policy specific to Vote.org or to voter registration applications submitted through Vote.org's web application. The policy and procedure of the Bexar County Elections Department is to process voter registration applications in accordance with the requirements of Chapter 13 of the Texas Elections Code as interpreted in the guidance provided by the Secretary of State. *See* Texas Election Code §§ 31.001, 31.003. In accordance with Section 13.071, the registrar reviews each application to determine whether it satisfies each requirement of Section 13.002—including that the application be "in writing and signed by the applicant." Texas Election Code 13.002(b). If the application does not meet these requirements, the registrar rejects the application in accordance with Section 13.072(c), and issues a Notice of Rejection to the extent required by Section 13.073. The applicant is then provided an opportunity to cure the deficiency identified in the Notice of Rejection.

INTERROGATORY NO. 5. State and describe Bexar County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107.

RESPONSE: Prior to the effective date of HB 3107, voter registration applications submitted with electronic or imaged signatures that were not accompanied by a copy of the registration application bearing a signature that satisfied the requirements of Section 13.002(b) were rejected in accordance with the requirements of Section 13.143(d-2) in effect at that time as they had been interpreted in the guidance provided by the Secretary of State. This practice did not change following the effective date of HB 3107.

INTERROGATORY NO. 6. State and describe any issues, difficulties, or problems related to voter registration applications received by Bexar County that did not contain a wet-ink signature.

RESPONSE: Defendant Callanen objects to this request because the phrase “issues, difficulties, or problems” is vague and undefined. Subject to and without waiving this objection, voter registration applications that do not include a signature that meets the requirements of Section 13.002(b) as interpreted in the guidance provided by the Secretary of State are rejected in accordance with Section 13.072(c). This process does not disrupt the normal operations of the Bexar County Elections Department. Defendant Callanen objects to this interrogatory to the extent that it asks her to speculate about hypothetical scenarios in which the Secretary of State determines that digital signatures were sufficient to satisfy the signature requirement set out in Section 13.002(b), and applications containing such signatures were received by the Bexar County Elections Department.

INTERROGATORY NO. 7. State the number of voter registration applications Bexar County received from the Department of Public Safety each year, between the years 2016 and 2021.

RESPONSE:

- 2016: 54,561
- 2017: 51,922
- 2018: 51,581
- 2019: 54,345
- 2020: 33,995
- 2021: 59,083

INTERROGATORY NO. 8. State and describe any issues, difficulties, or problems related to voter registration applications received by Bexar County from the Department of Public Safety, related to the registrant’s signature.

RESPONSE: Defendant Callanen objects to this request because the phrase “issues, difficulties, or problems” is vague and undefined. Subject to and without waiving this objection, the Bexar County Elections Department receives and processes applications received from the Texas Department of Public Safety in the manner prescribed by Subchapter C of Chapter 20 of the Texas Election Code. This process does not disrupt the normal operations of the Bexar County Elections Department.

VERIFICATION

STATE OF TEXAS

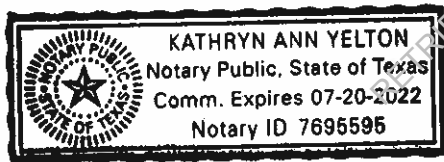
www.ck12.org

COUNTY OF BEXAR

BEFORE ME, the undersigned authority, on this day personally appeared JACQUELYN F. CALLANEN, the person whose name is subscribed to the foregoing Answers to Interrogatories and, who, being by me duly sworn upon oath, verified reading the above and foregoing Answers to Interrogatories stated that the foregoing Answers are true and correct.

Jacquelyn F. Callanew
AFFIANT

SWORN AND SUBSCRIBED TO BEFORE ME on this 5 day of November, 2021.



**NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS**

RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 2: Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 3: Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 4: Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

RESPONSE: Deny.

REQUEST FOR ADMISSION NO. 5: Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

RESPONSE: Deny.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,
Plaintiff,

v.

JACQUELYN CALLANEN, in her official
Capacity as the Bexar County Elections
Administrator, et al.
Defendants.

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Civil Action No. 5:21-cv-00649-JKP

**DEFENDANT BRUCE ELFANT'S OBJECTIONS AND ANSWERS TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Comes now Defendant Bruce Elfant, ("Defendant"), and hereby serves his Objections and
Answers to Plaintiff's First Set of Interrogatories as set forth herein below.

Respectfully submitted,

DELIA GARZA
County Attorney, Travis County
P. O. Box 1748
Austin, TX 78767
Telephone: (512) 854-9415
Facsimile: (512) 854-4808

By: /s/ Cynthia W. Veidt
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ATTORNEYS FOR DEFENDANT
BRUCE ELFANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Bruce Elfant's Objections and Responses to Plaintiff's First Set of Interrogatories was sent via electronic mail on the 29th day of October, 2021, to the following:

Graham White gwhite@elias.law Joseph N. Posimato jposimato@elias.law Kathryn E. Yukevich kyukevich@elias.law Meaghan E. Mixon mmixon@elias.law Uzoma N. Nkwonta unkwonta@elias.law Elias Law Group 10 G Street NE Washington, DC 20002 <i>Attorneys for Plaintiff Vote.org</i>	Jonathan Patrick Hawley jhawley@elias.law Elias Law Group LLP 1700 Seventh Avenue, Suite 2100 Seattle, WA 98101 <i>Attorneys for Plaintiff Vote.org</i>
John Russell Hardin johnhardin@perkinscoie.com Perkins Coie, LLP 500 N. Akard Street, Suite 3300 Dallas, TX 75201 <i>Attorneys for Plaintiff Vote.org</i>	Robert D. Green robert.green@bexar.org Bexar County District Attorney Civil Division 101 W. Nueva, 7th Floor San Antonio, TX 78205 <i>Attorney for Jacquelyn Callanen</i>
Daniel Nemecio Lopez daniel.n.lopez@co.cameron.tx.us Cameron County 1100 E. Monroe Street Brownsville, TX 78520 <i>Attorney for Defendant Remi Garza</i>	Earl S. Nesbitt earl.nesbitt@dallascounty.org Assistant District Attorney - Civil Division 500 Elm Street, Suite 6300 Dallas, TX 75202 <i>Attorney for Defendant Michael Scarpello</i>

///

<p>Cory A. Scanlon cory.scanlon@oag.texas.gov Kathleen Hunker Kathleen.Hunker@oag.texas.gov Michael Abrams michael.abrams@oag.texas.gov Office of the Attorney General P.O. Box 12548, Capitol Station Austin, TX 78711-2548 <i>Attorneys for Intervenor Defendant Ken Paxton</i></p>	<p>Chad Ennis cennis@texaspolicy.com Chance D. Weldon cweldon@texaspolicy.com Robert E Henneke rhenneke@texaspolicy.com Texas Public Policy Foundation 901 Congress Avenue Austin, TX 78701 <i>Attorneys for Intervenors Lupe C. Torres and Terrie Pendley</i></p>
---	--

/s/ Cynthia W. Veidt _____
SHERINE E. THOMAS
LESLIE W. DIPPEL
CYNTHIA W. VEIDT
Assistant County Attorneys

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GENERAL OBJECTIONS

Defendant Elfant hereby lodges the following general objections which apply to Plaintiff's First Set of Interrogatories to Defendant Bruce Elfant" ("Discovery Requests"). These general objections are made in addition to and without waiving, the specific objections to the individually labeled interrogatories. The following general objections apply to Plaintiffs' Discovery Requests in its entirety and to individually labeled interrogatories.

OBJECTIONS

1. Defendant Elfant objects to Plaintiffs' definition of the term "document" and "documents" to the extent that said definition could be construed to require the disclosure of information concerning matters made exempt from discovery under Fed. R. Civ. P. 26(b)(1) including but not limited to attorney work product, party communications, witness statements, consulting experts, and matters protected by the attorney-client privilege.
2. Defendant Elfant objects to Plaintiffs' definition of the term "you" and "your" to the extent that said definition could be construed to require the disclosure of information concerning matters made exempt from discovery under Fed. R. Civ. P. 26(b)(1) including but not limited to attorney work product, party communications, witness statements, consulting experts, and matters protected by the attorney-client privilege.
3. Defendant Elfant objects that it would be unduly burdensome to comply with Plaintiffs' instructions related to the method of producing and labeling electronically stored information ("ESI"). Defendant Elfant will produce responsive ESI in its native format, including, but not limited to, .csv and .xls files.
4. Defendant Elfant objects to Plaintiffs' instructions to the extent that they seek to impose requirements, obligations and duties that are not prescribed by the Federal Rules of Civil Procedure or this Court's local rules regarding discovery. Defendant shall comply with the Federal Rules of Civil Procedures and this Court's local rules with regard to responding and objecting to Plaintiffs' Discovery Requests, as well as asserting privilege in response to Plaintiffs' Discovery Requests.

STATEMENTS

5. Pursuant to Fed. R. Civ. P. 26(e), Defendant Elfant reserves the right to supplement these responses should it become necessary to do so and in accordance with the Federal Rules of Civil Procedure.
6. Defendant Elfant shall comply with the Court's Amended Privacy Policy and Public Access to Electronic Files policy dated October 29, 2004, as it pertains to disclosure and/or use of sensitive information, including social security numbers, dates of birth, and driver's license numbers. Defendant Elfant considers the image of a person's signature to be sensitive information in that disclosure or use of the image of a person's signature in a court documents would be likely to lead to increased risk of identity theft. Defendant Elfant will produce unredacted copies of sensitive

information pursuant to any Protective Order entered by this Court or similar agreement with Plaintiff concerning the use or disclosure of documents containing sensitive information in connection with these proceedings.

Subject to and without waiving any of the foregoing General Objections, Defendant specifically objects and answers to the individually labeled Plaintiff's First Set of Interrogatories as follows:

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ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1:

Identify all individuals in Travis County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018 to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Travis County.

OBJECTIONS:

Defendant Elfant objects to this interrogatory to the extent that disclosure of the information requested may infringe upon the privacy rights of the individuals identified therein, including, but not limited to, individuals who have a statutory right under Texas law to prevent public disclosure of their addresses, and to the extent that it would disclose sensitive information, such as dates of birth, social security numbers, driver's license numbers, and signatures of the applicants. Defendant Elfant further objects to the extent that this interrogatory is overly broad and unduly burdensome, as it requests information that can be more readily determined by examining Defendant's Elfant's business records, and/or voter registration records obtainable from the Texas Secretary of State's Office, and deriving the answer will be substantially the same for either party. Subject to, and without waiving, the foregoing objections, Defendant answers as follows:

ANSWER:

Pursuant to Defendant's procedures, no application is "rejected" due to the lack of a "wet ink" signature. All applications lacking a signature are treated as "incomplete" and the applicant is provided with multiple opportunities to provide the missing signature to Defendant in order to complete their application. The voters' corrected application containing their signature is treated as if it was received on the date that Defendant received the original incomplete application, for purposes of registration for a particular election.

Incomplete applications are not sent to the Texas Secretary of State's office for processing through their verification procedures.

Once the applicant has supplied the missing signature (and any other missing information) to complete their voter registration form, Defendant Elfant's office submits the completed application to the Texas Secretary of State's Office. Only the Texas Secretary of State's Office can verify an applicant's information and issue a unique voter identification number (their VUID) to certify that the applicant is registered to vote in a particular county. After completion of their own procedures, the Texas Secretary of State's Office updates their list of

certified voters for an upcoming election (including their VUID) in their TEAM system. Defendant Elfant then generates a list of eligible voters for the Travis County Clerk's Elections Division, which administers elections in Travis County.

A comparison of the list of registered voters for Travis County in the Texas Secretary of State's Office TEAM system can then be matched against Defendant Elfant's list of all applicants, to determine which applicants were ultimately certified by the Texas Secretary of State's Office as being eligible to vote in Travis County. Please see the records produced by Defendant Elfant identifying persons whose application was incomplete due to the lack of a signature (original or copy), as well as a copy of the form letter and voter registration application form that was mailed by Defendant Elfant's office, with a postage prepaid envelope, to each such applicant to request that they provide the missing signature (and any other missing information) needed to complete their application. The file named "ISIGTOCANCEL-Final" contains a list of applicants who received an incomplete notice from Defendant Elfant's office due to lack of any type of signature on their application but did not respond, resulting in a cancellation of their voter registration application. The file named "ISIGTORESP-Final" contains a list of applicants who received an incomplete notice from Defendant Elfant's office for lack of any type of signature on their application and did respond to the letter with the necessary signature, making their registration active.

INTERROGATORY NO. 2:

State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet- ink signatures and compared to electronic or imaged signatures.

OBJECTIONS:

Defendant Elfant objects to this interrogatory to the extent that it calls for him to speculate as to the legislative intent and/or legal interpretation of certain provisions of the Texas Election Code. Defendant Elfant also objects to this interrogatory to the extent that it calls for an expert legal opinion that Defendant Elfant is not qualified to provide. Subject to, and without waiving, the foregoing objections, Defendant Elfant answers as follows:

ANSWER:

To the best of Defendant Elfant's understanding, the primary purpose of an applicant's signature on their voter registration application form is to provide an "exemplar" signature that can be used for comparison purposes by a Ballot Board when processing ballots received via mail. Signatures on a voter registration application form may also be used for comparison purposes against "in-person" voter sign in sheets in connection with an election contest, however, Defendant Elfant is not personally aware of any such occurrences.

Defendant Elfant is not aware of any difference in purpose or function between a "wet ink" signature and an electronic or imaged signature.

INTERROGATORY NO. 3:

Identify and describe all of Travis County's or the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

OBJECTIONS:

Defendant Elfant objects to this interrogatory to the extent that it calls for him to speculate as to the legislative intent and/or legal interpretation of certain provisions of the Texas Election Code and HB 3107. Defendant Elfant also objects to this interrogatory to the extent that it calls for an expert legal opinion that Defendant Elfant is not qualified to provide. Subject to, and without waiving, the foregoing objections, Defendant Elfant answers as follows:

ANSWER:

To the best of Defendant's knowledge, Section 14 of HB 3107 does not serve any of his office's interests, it merely provides a specific procedure for processing voter registration application forms received by facsimile that is required by the State.. Defendant Elfant is prepared and willing to treat facsimile signatures in the same manner as electronic or "wet ink" signatures.

INTERROGATORY NO. 4:

State and describe Travis County's policy and procedure for processing voter registration applications submitted using Plaintiff's web application in the fall of 2018.

OBJECTIONS:

Defendant objects to this interrogatory because it is overly broad to the extent that it seeks documents that are otherwise privileged from discovery under the attorney-client privilege, litigation privilege, and/or deliberative process privilege. Subject to, and without waiving, the foregoing objections, Defendant answers as follows:

ANSWER:

In 2018, Defendant Elfant processed voter registration applications submitted through Plaintiff's web application in the same manner as an application received by any other means of transmission. Generally, the procedures for processing a completed voter registration application are:

1. Receive the application form (whether through mail, hand delivery, electronic submission or facsimile transmission);
2. Scan the application form;
3. Enter data from the application form into appropriate corresponding fields in the voter registration software system (manually);

4. Transfer the application information to the Texas Secretary of State;
5. The Texas Secretary of State goes through their process of certifying voters;
6. If the Texas Secretary of State is unable to certify an applicant, the Secretary's Office submits a list to Defendant's office identifying the reason(s) (e.g., SSN or name mismatch);
7. Defendant's office checks the database against the application form to ensure there was no data entry error; if so, Defendant's office resubmits the corrected information to the Secretary of State;
8. If there was no data entry error, Defendant's office sends a letter setting forth the reason(s) identified by the Secretary of State, along with a postage prepaid voter registration application form with a red-stamped date reflecting the date of receipt of the original application, to each person who was not certified by the Secretary of State's office, so that each applicant has an opportunity to provide information that addresses the issue(s). Since Defendant Elfant's implementation of a new software system in January 2021, the red-stamped date application has been substituted with a pre-filled application with the voter's information with the date printed on the application—serving the same purpose as before. These forms are sent to the applicant with a postage paid return envelope to help simplify the process;
8. Defendant's office processes the re-submitted application in the same manner as an original application by manually entering data from the application into the proper fields, but using the date of receipt of the original application, and then submits the application to the Texas Secretary of State's office for processing through their verification procedures.

Incomplete applications (those forms missing any of the required information, including, but not limited to, date of birth, driver's license number or other form of identification, social security number, address, or signature) are not submitted to the Secretary of State's Office. They are handled in the manner described in Defendant's answer to Interrogatory No. 1, above.

INTERROGATORY NO. 5:

State and describe Travis County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107.

OBJECTIONS:

Defendant objects to this interrogatory because it is overly broad to the extent that it seeks documents that are otherwise privileged from discovery under the attorney-client privilege, litigation privilege, and/or deliberative process privilege. Subject to, and without waiving, the foregoing objections, Defendant answers as follows:

ANSWER:

Prior to the effective date of Section 14 of HB 3107, Defendant Elfant processed all applications in the manner described in his answers to Interrogatory No. 1 and Interrogatory No. 4, above. Specifically, Defendant Elfant did not treat applications with an electronic or imaged signature any differently than an application with a “wet ink” signature.

Under Section 14 of HB 3107, Defendant Elfant will process an application received by facsimile in the same manner as any another electronic or “wet ink” signature (Steps 1 through 3 above), but is required to hold the application for a period of up to four business days pending receipt of an original application form with a “wet ink” signature either by hand delivery or in the mail. If the application with a “wet ink” signature is not received by the fourth business day, then Defendant Elfant will treat the facsimile application form as an incomplete application that lacks a signature, and will send a letter to the applicant to identify the missing information/signature, along with a pre-filled application with the applicant’s information and a postage paid return envelope. The applicant will then need to resubmit their voter registration application form with a “wet ink” signature. The postage prepaid envelope and prefilled form are provided to make the process of completing the voter registration process easier for the applicant and so that the cost of postage is not a barrier to completing the registration process.

INTERROGATORY NO. 6:

State and describe any issues, difficulties, or problems related to voter registration applications received by Travis County that did not contain a wet-ink signature.

OBJECTIONS:

Defendant objects to this interrogatory because it is overly broad to the extent that it seeks information that is otherwise privileged from discovery under the attorney-client privilege, litigation privilege, and/or deliberative process privilege. Defendant further objects to the terms “issues”, “difficulties”, and “problems” to the extent that they are overly broad and vague, and Defendant will use the commonly understood meaning of such terms in making his response. Subject to, and without waiving, the foregoing objections, Defendant answers as follows:

ANSWER:

Prior to the passage of Section 14 of HB 3107, none. Defendant Elfant processed forms received with an electronic or facsimile signature in the same manner as forms with a “wet ink” signature.

Since the passage of Section 14 of HB 3107, there has been an increase in resources from Defendant Elfant’s office associated with processing applications received via facsimile as if they were incomplete if an original “wet ink” signature is not received by the fourth business day, as described above. Defendant Elfant has not been able to quantify any such increase in resources at this time.

INTERROGATORY NO. 7:

State the number of voter registration applications Travis County received from the Department of Public Safety each year, between the years 2016 and 2021.

ANSWER:

In 2016, 78,058 applications.

In 2017, 81,946 applications.

In 2018, 82,186 applications.

In 2019, 82,751 applications.

In 2020, 67,091 applications.

In 2021 (for January 1 through September 30), 101,333 applications.

INTERROGATORY NO. 8:

State and describe any issues, difficulties, or problems related to voter registration applications received by Travis County from the Department of Public Safety, related to the registrant's signature.

OBJECTIONS:

Defendant objects to this interrogatory because it is overly broad to the extent that it seeks information that is otherwise privileged from discovery under the attorney-client privilege, litigation privilege, and/or deliberative process privilege. Defendant further objects to the terms "issues", "difficulties", and "problems" to the extent that they are overly broad and vague, and Defendant will use the commonly understood meaning of such terms in making his response. Subject to, and without waiving, the foregoing objections, Defendant answers as follows:


ANSWER:

None that Defendant can recall. Application forms received from the Texas Department of Public Safety contain electronic signatures and other necessary information, so they are not processed as incomplete applications, but can be submitted to the Texas Secretary of State's Office as completed applications for processing through the Secretary of State's verification procedures. Defendant Elfant does not keep a separate record of application forms received from the Texas Department of Public Safety that may be included on the Texas Secretary of State's list of applicants whose forms contained some error that prevented verification (such as mismatched names or identification numbers).

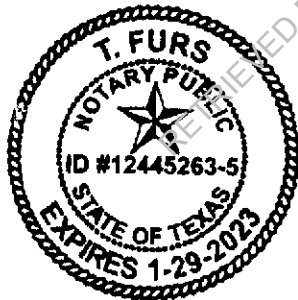
VERIFICATION


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Voter Registration Director Gretchen Nagy, known to me to be the person whose name is subscribed below, and upon first being duly sworn, on her oath deposed and stated that she has read the above and foregoing Objections and Answers to Plaintiff's First Set of Interrogatories, and that each and every statement contained therein is within her knowledge and is true and correct.

By: 
Gretchen Nagy, Voter Registration Director
Travis County Tax Office

SUBSCRIBED AND SWORN TO BEFORE ME on this 29th day of October, 2021, to certify which witness my hand and official seal.




Notary Public in and for the
State of T E X A S

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,
Plaintiff,

v.

JACQUELYN CALLANEN, in her official
Capacity as the Bexar County Elections
Administrator, et al.
Defendants.

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Civil Action No. 5:21-cv-00649-JKP

**DEFENDANT BRUCE ELFANT OBJECTIONS AND RESPONSES TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION**

Comes now Defendant Bruce Elfant in his official capacity as Travis County Tax Assessor-Collector ("Defendant"), and hereby serves his Objections and Responses to Plaintiff's First Set of Requests for Admission as set forth below.

Respectfully submitted,

DELIA GARZA
County Attorney, Travis County
P. O. Box 1748
Austin, TX 78767
Telephone: (512) 854-9415
Facsimile: (512) 854-4808

By: /s/ Cynthia W. Veidt
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ATTORNEYS FOR DEFENDANT
BRUCE ELFANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Bruce Elfant's Objections and Responses to Plaintiff's First Set of Requests for Admission was sent via electronic mail on the 18th day of November, 2021, to the following:

Graham White gwhite@elias.law Joseph N. Posimato jposimato@elias.law Kathryn E. Yukevich kyukevich@elias.law Meaghan E. Mixon mmixon@elias.law Uzoma N. Nkwonta unkwonta@elias.law Elias Law Group 10 G Street NE Washington, DC 20002 <i>Attorneys for Plaintiff Vote.org</i>	Jonathan Patrick Hawley jhawley@elias.law Elias Law Group LLP 1700 Seventh Avenue, Suite 2100 Seattle, WA 98101 <i>Attorneys for Plaintiff Vote.org</i>
John Russell Hardin johnhardin@perkinscoie.com Perkins Coie, LLP 500 N. Akard Street, Suite 3300 Dallas, TX 75201 <i>Attorneys for Plaintiff Vote.org</i>	Robert D. Green robert.green@bexar.org Bexar County District Attorney Civil Division 101 W. Nueva, 7th Floor San Antonio, TX 78205 <i>Attorney for Jacquelyn Callanen</i>
Daniel Nemecio Lopez daniel.n.lopez@co.cameron.tx.us Cameron County 1100 E. Monroe Street Brownsville, TX 78520 <i>Attorney for Defendant Remi Garza</i>	Earl S. Nesbitt earl.nesbitt@dallascounty.org Assistant District Attorney - Civil Division 500 Elm Street, Suite 6300 Dallas, TX 75202 <i>Attorney for Defendant Michael Scarpello</i>

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<p>Cory A. Scanlon cory.scanlon@oag.texas.gov Kathleen Hunker Kathleen.Hunker@oag.texas.gov Michael Abrams michael.abrams@oag.texas.gov Office of the Attorney General P.O. Box 12548, Capitol Station Austin, TX 78711-2548 <i>Attorneys for Intervenor Defendant Ken Paxton</i></p>	<p>Chad Ennis cennis@texaspolicy.com Chance D. Weldon cweldon@texaspolicy.com Robert E Henneke rhenneke@texaspolicy.com Texas Public Policy Foundation 901 Congress Avenue Austin, TX 78701 <i>Attorneys for Intervenors Lupe C. Torres and Terrie Pendley</i></p>
---	--

/s/ Cynthia W. Veidt
SHERINE E. THOMAS
LESLIE W. DIPPEL
CYNTHIA W. VEIDT
Assistant County Attorneys

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GENERAL OBJECTIONS

Defendant Elfant hereby lodges the following general objections which apply to Plaintiff's First Set of Requests for Admission to Defendant Bruce Elfant" ("Discovery Requests"). These general objections are made in addition to and without waiving, the specific objections to the individually labeled requests for admission. The following general objections apply to Plaintiff's Discovery Requests in its entirety and to individually labeled interrogatories.

OBJECTIONS

1. Defendant Elfant objects to Plaintiffs' definition of the term "you" and "your" to the extent that said definition could be construed to require the disclosure of information concerning matters made exempt from discovery under Fed. R. Civ. P. 26(b)(1) including but not limited to attorney work product, party communications, witness statements, consulting experts, and matters protected by the attorney-client privilege.
2. Defendant Elfant objects to Plaintiffs' instructions to the extent that they seek to impose requirements, obligations and duties that are not prescribed by the Federal Rules of Civil Procedure or this Court's local rules regarding discovery. Defendant shall comply with the Federal Rules of Civil Procedures and this Court's local rules with regard to responding and objecting to Plaintiffs' Discovery Requests, as well as asserting privilege in response to Plaintiffs' Discovery Requests.

STATEMENTS

3. Pursuant to Fed. R. Civ. P. 26(e), Defendant Elfant reserves the right to supplement these responses should it become necessary to do so and in accordance with the Federal Rules of Civil Procedure.

Subject to and without waiving any of the foregoing General Objections, Defendant specifically objects and answers to the individually labeled Plaintiff's First Set of Requests for Admission as follows:

**DEFENDANT BRUCE ELFANT'S OBJECTIONS AND RESPONSES TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION**

REQUEST FOR ADMISSION NO. 1:

Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

RESPONSE:

Denied because any applications that do not contain a signature required under the Texas Election Code are considered to be incomplete and are processed in the manner described in Defendant Elfant's response to Plaintiff's Interrogatory Nos. 1, 4 and 5.

REQUEST FOR ADMISSION NO. 2:

Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

RESPONSE:

Denied because any applications that do not contain a signature required under the Texas Election Code are considered to be incomplete and are processed in the manner described in Defendant Elfant's responses to Plaintiff's Interrogatory Nos. 1, 4 and 5.

REQUEST FOR ADMISSION NO. 3:

Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

RESPONSE:

Admit that Defendant Elfant accepts such applications for processing and submission to the Texas Secretary of State's Office in the manner described in Defendant Elfant's responses to Plaintiff's Interrogatory Nos. 1 and 4.

REQUEST FOR ADMISSION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

OBJECTIONS:

Defendant Elfant objects to this request for admission because it would require speculation as to an election administrator's or other election official's use of any signatures on a voter's registration application. Subject to and without waiving the foregoing objections, Defendant Elfant responds as follows:

RESPONSE:

Defendant Elfant cannot admit or deny this request for admission after a reasonable inquiry because Defendant Elfant is not an Elections Administrator for Travis County or any political subdivisions located within Travis County. Defendant Elfant's role is limited to those powers and duties of a voter registrar under the Texas Election Code.

REQUEST FOR ADMISSION NO. 5:

Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

OBJECTIONS:

Defendant Elfant objects to this request for admission because the terms "material" and "relevant" are not defined and are therefore vague and ambiguous. Defendant Elfant will use the commonly understood meaning of "material" and "relevant" in responding to this request for admission. Subject to and without waiving the foregoing objections, Defendant Elfant responds as follows:

RESPONSE:

Admitted that there was no statutory distinction between different formats for an applicant's signature for purposes of completing and processing a voter registration application form as to the period of time prior to September 1, 2021. Denied as to the period of time after September 1, 2021, because the Texas Legislature has enacted Section 13.143(d-2) of the Texas Election Code which requires that Defendant Elfant also obtain a "wet ink" signature, in addition to an imaged or electronic signature, if the registration application is submitted to Defendant Elfant by a telephonic facsimile machine, before the registration application may be considered "complete" for purposes of processing and submission to the Texas Secretary of State's Office.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,	§	
Plaintiff,	§	CIVIL ACTION NO.
	§	5:21-cv-00649-JKP-HJB
v.	§	
	§	
JACQUELYN CALLANEN,	§	
in her Official Capacity as the Bexar	§	
County Elections Administrator, et.	§	
al.	§	
Defendants.	§	

**DEFENDANT REMI GARZA'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

To: Plaintiff through their attorneys of record:

Kathryn E. Yukevich, ELIAS LAW GROUP LLP
Uzoma N. Nkwonta
Joseph N. Posimato
Meaghan E. Mixon
Jonathan P. Hawley
John R. Hardin, PERKINS COIE LLP

In accordance with the Federal Rules of Civil Procedure, Defendant Remi Garza serves the following responses and objections to Plaintiff's First Set of Interrogatories.

Respectfully submitted,

COMMISSIONERS COURT-
CIVIL LEGAL DIVISION
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CERTIFICATE OF SERVICE

I, Daniel N. Lopez, do hereby certify that a true and correct copy of the foregoing document has been electronically delivered to the following on this 5th day of November, 2021:

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/s/ Daniel N. Lopez
Daniel N. Lopez

**DEFENDANT REMI GARZA'S RESPONSES TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

INTERROGATORY NO. 1:

Identify all individuals in Cameron County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018 to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Cameron County.

RESPONSE:

Please see attached bates stamped nos. 408-409.

Further, discovery is ongoing and in the event additional responsive information is located, Defendant will supplement.

INTERROGATORY NO. 2:

State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet-ink signatures and compared to electronic or imaged signatures.

RESPONSE:

The purpose and function of the signature on a voter registration application is to comply with Texas Election Code Section 13.002.

Texas Election Code Section 13.002(a) requires that an application must be submitted to the registrar of the county in which the person resides. It continues in Section 13.002(b) that: A registration application must be in writing and signed by the applicant. Section 13.002 also provides certain statements that the applicant must include in the application. It is my understanding that the signature confirms the applicant's acknowledgment that the required statements, as a condition of registration, are true and correct. Further it confirms the applicants understanding that giving false information to procure a voter registration is perjury, and a crime under state and federal law, pursuant to Section 13.007 of the Texas Election Code.

The signature, either by the applicant or their agent, is an immediate connection between the contents of the application and the applicant. This "wet-signature" (statute requires an original signature, not a "wet-signature") is also an original signature and singular to the event of the application submitted and its contents and creates a unique instance of the document. An electronic signature, or imaged signature would not create a unique document that could be distinguishable from an original application submitted by an applicant.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

INTERROGATORY NO. 3:

Identify and describe all of Cameron County's or the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

RESPONSE:

The Texas Election Code Section 2.001 requires a plurality vote to be elected to public office and that a candidate must receive more votes than any other candidate for the office. Section 11.001 defines eligibility to vote, specifically in Section 11.001(a) and (a)(1) that a person must: be a qualified voter as defined by Section 11.002 on the day the person offers to vote. Among other requirements, Section 11.002(6) requires that the individual is a registered voter. Section 12.001 of the Election Code designates a Voter Registrar for the County. Chapter 13 of the Election Code addresses in part the Application for Registration and the Initial Registration. Therefore, in order to have duly elected public officers in the State of Texas, it is in Cameron County's interest that the requirements listed in the Texas Election Code are met.

Texas Election Code 13.143 establishes the effective date of an applicant's registration. The effective date of an applicant's approved application is the 30th day after the application is submitted to the registrar. Section 13.143(d-2) provides for applicants to submit their registration applications by telephonic facsimile machines. In order for it to be effective as of that date, a copy of the original application must be submitted by personal delivery or mail and be received by the registrar not later than four business days after the transmission by telephonic facsimile is received. Section 14 of HB 3107 provided an alternative to mailing in an application that was initially submitted by telephonic facsimile machine. It allowed applicants to deliver a copy of their original applications by personal delivery. Cameron County's interest are served by Section 14 of HB 3107 in that it provides applicants with an additional method of submitting their applications to register to vote and establish an effective date of registration that may determine if they are qualified to vote in a particular election.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

INTERROGATORY NO. 4:

State and describe Cameron County's policy and procedure for processing voter registration applications submitted using Plaintiff's web application in the fall of 2018.

RESPONSE:

Cameron County follows the Texas Election Code in reviewing submitted Voter Registration Applications. Applications that we receive through fax are reviewed for completeness. If there are no issues regarding the contents of the application, they are left pending until we receive the original application within four business days of receipt of the fax. If there is a problem with the application, we immediately send out a notice that there is a problem with the application and give the registrant an opportunity to correct it.

The applications submitted by the service provided by Vote.org were reviewed, and we were able to determine that the signatures did not appear to be original signatures. We determined that even if we received the original within the four business days the application would be deemed to be incomplete and we would reject the application and ask for them to be corrected and returned within ten days to perfect the registration. In order to give these applicants an opportunity to correct the application and not have to wait the additional four business days to act, we issued the letter of rejection. The applications that included a phone number were called and the applicants were told of the situation with their application. They were told that they could come by the office and sign the application, or that they could receive their applications in the mail, sign them, and return them within ten days to complete the application, or that they could submit a new application before the 30-registration day deadline.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

INTERROGATORY NO. 5:

State and describe Cameron County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107.

RESPONSE:

Cameron County follows the Texas Election Code in reviewing submitted Voter Registration Applications. Applications that we receive through fax are reviewed for completeness. If there are no issues regarding the contents of the application, they are left pending until we receive the original application within four business days of receipt of the fax. If there is a problem with the application, we immediately send out a notice that there is a problem with the application and give the applicant an opportunity to correct it.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

INTERROGATORY NO. 6:

State and describe any issues, difficulties, or problems related to voter registration applications received by Cameron County that did not contain a wet-ink signature.

RESPONSE:

The registration applications received by Cameron County that did not contain an original signature did not present any issues, difficulties, or problems. Cameron County routinely processes incomplete applications, even though the applicants are not registered until they have corrected their applications.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

INTERROGATORY NO. 7:

State the number of voter registration applications Cameron County received from the Department of Public Safety each year, between the years 2016 and 2021.

RESPONSE:

To the best of my knowledge and based on information obtained through the Cameron County Voter Registration Software “NVRA Quarterly Totals by Agency Report” run from January 1 to December 31 for each year, the following totals are coded 64-64 DPS (originating through DPS):

2016: 16,982

2017: 20,803

2018: 24,571

2019: 27,309

2020: 18,294

2021: 27,262 (as of January 1, 2021 to November 4, 2021: 10:40 am)

Further, discovery is ongoing and in the event additional responsive information is located Defendant will supplement.

INTERROGATORY NO. 8:

State and describe any issues, difficulties, or problems related to voter registration applications received by Cameron County from the Department of Public Safety, related to the registrant's signature.

RESPONSE:

The voter registration applications received by Cameron County that are submitted via the Department of Public Safety have not presented any issues, difficulties, or problems related to the registrant's signature.

Further, discovery is ongoing and in the event additional responsive information is necessary to adequately respond to this interrogatory, Defendant will supplement.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VOTE.ORG,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 5:21-cv-00649-JKP-HJB
	§	
JACQUELYN CALLANEN,	§	
in her Official Capacity as the Bexar	§	
County Elections Administrator, et.	§	
al.	§	
Defendants.	§	

**DEFENDANT REMI GARZA'S ANSWERS TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS**

To: Plaintiff through their attorneys of record:

Kathryn E. Yukevich, ELIAS LAW GROUP LLP
Uzoma N. Nkwonta
Joseph N. Posimato
Meaghan E. Mixon
Jonathan P. Hawley
John R. Hardin, PERKINS COIE LLP

In accordance with the Federal Rules of Civil Procedure, Defendant Remi Garza serves the following Answers to Plaintiff's First Set of Requests for Admissions.

Respectfully submitted,

COMMISSIONERS COURT-
CIVIL LEGAL DIVISION
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Juan A. Gonzalez
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CERTIFICATE OF SERVICE

I, Daniel N. Lopez, do hereby certify that a true and correct copy of the foregoing document has been electronically delivered to the following on this 8th day of February, 2022:

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/s/ Daniel N. Lopez
Daniel N. Lopez

**DEFENDANT REMI GARZA'S ANSWERS TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 1:

Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

RESPONSE:

I admit that I have rejected voter registration applications that were signed using imaged, rather than original (wet) signatures.

REQUEST FOR PRODUCTION NO. 2:

Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

RESPONSE:

I admit that I would reject a voter registration application that was signed using an electronic or imaged signature, rather than an original (wet) signature, unless that voter registration application was sent through the Texas Department of Public Safety or through the Federal Post Card Application process, unless it was submitted by fax.

REQUEST FOR PRODUCTION NO. 3:

Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

RESPONSE:

I can neither admit nor deny as I do not know how the signature is captured at the Texas Department of Public Safety. The Texas Election Code allows voters to submit voter registration applications through the Texas Department of Public Safety and we process them based on the information received.

REQUEST FOR PRODUCTION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

RESPONSE:

Deny. Voter registration applications are utilized by the Early Voting Ballot Board to compare signatures that are in question by the Board.

REQUEST FOR PRODUCTION NO. 5:

Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

RESPONSE:

I can neither admit nor deny. Texas Election Code Section 13.002(a) requires that an application must be submitted and pursuant to 13.002(b) a registration application must be in writing and signed by the applicant. The Secretary of State's Office provides guidance that the signature must be an original signature. The Texas Legislature determines the relevance or material nature of that requirement upon passage of the Election Code. It further authorizes the Secretary of State to provide guidance to Election Officials on implementation of the Code.

Dated: February 8, 2022

Respectfully submitted,

COMMISSIONERS COURT-
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CERTIFICATE OF SERVICE

I, Daniel N. Lopez, do hereby certify that a true and correct copy of the foregoing document has been electronically delivered to the following on this 8th day of February, 2022:

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/s/ Daniel N. Lopez

Daniel N. Lopez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,

Plaintiff

v.

JACQUELYN CALLANEN, in her official
capacity as the Bexar County Elections
Administrator; BRUCE ELFANT, in his
official capacity as the Travis County Tax
Assessor-Collector; REMI GARZA, in his
official capacity as the Cameron County
Elections Administrator; MICHAEL
SCARPELLO, in his official capacity as the
Dallas County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity
as Attorney General of Texas, LUPE
TORRES in their official capacity as Medina
County Elections Administrator; TERRIE
Pendley, in her official capacity as Real County
Tax Assessor-Collector

Intervenor-Defendants.

Civil Action No. 5:21-cv-649

**INTERVENOR-DEFENDANT KEN PAXTON'S
RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Attached are Intervenor-Defendant Ken Paxton's (OAG) objections, privilege assertion, and
answers to **Plaintiff's First Set of Interrogatories**.

Date: March 4, 2022

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN COWLES
Deputy Attorney General for Civil Litigation

RAYMOND CHARLES WINTER
Chief for Civil Medicaid Fraud

/s/ Johnathan Stone

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*Counsel for Intervenor-Defendant Ken Paxton, in
his official capacity as Attorney General of Texas*

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2022, a true and correct copy of the foregoing document has been sent by email to all counsel of record.

/s/ Johnathan Stone

CORY SCANLON

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RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet ink signatures and compared to electronic or imaged signatures.

OBJECTIONS

The interrogatory, as written, is vague, ambiguous, and confusing. There are multiple methods of registering to vote, including personal delivery, through a deputy voter registrar, facsimile, mail, and through the Department of Protective Services (DPS). This case involves voter registration by facsimile. Yet, it is unclear if this interrogatory is asking about a particular method of voter registration or every method of voter registration. It is also unclear if the interrogatory is asking about the purpose and function of the wet ink signature before or after the enactment of HB 3107.

The OAG is construing this interrogatory as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED INTERROGATORY NO. 1:

~~State and describe~~ Describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet ink signatures ~~and compared to electronic or imaged signatures~~ on voter registration applications submitted via facsimile after the enactment of HB 3107.

ANSWER

The purpose and function of a wet ink signature on a voter registration application submitted via facsimile after the enactment of HB 3107 is to comply with the requirements of HB 3107. Section 14 of HB 3107 requires a wet ink signature on applications submitted via facsimile.

INTERROGATORY NO. 2:

Identify and describe all of the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The interrogatory is also overbroad. It is impossible for the OAG intervenor to know every state interest that could conceivably be served by HB 3107.

The OAG is construing this interrogatory as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED INTERROGATORY NO. 2:

~~Identify and describe all of the State's election-related interests that the OAG contends are served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.~~

ANSWER

Prior to SB 910 (2013), Texans could only register to vote by personal delivery, through a deputy registrar, mail, or through DPS. SB 910 expanded voter registration options by adding facsimile as an option. The Secretary of State and all 254 counties in Texas interpreted the language in SB 910 as requiring a wet ink signature on voter registration applications submitted via facsimile. The issue was not controversial. Voters were happy with the expanded access to voter registration.

In 2018, Plaintiff, a tech company called Vote.org, attempted to "disrupt" the comity and uniformity of the Texas voter registration process. Representatives of the company visited six large, Democratic, counties and spoke with the county election administrators. Vote.org pitched the county election administrators on a loophole they purportedly found in the law that allowed them to disrupt the voter registration process by registering voters via facsimile without a wet ink signature. This aberrant interpretation of the law was almost uniformly rejected. Only one election administrator briefly agreed with their interpretation of the wet signature requirement—Defendant Bruce Elfant (Travis County).

Section 14 of HB 3107, which passed with unanimous consent, simply clarified already existing law following the disruption caused by Vote.org during the 2018 election.

The wet signature rule is critical to protecting election integrity and ensuring eligible voters can register to vote.

Voter registration by facsimile is uniquely susceptible to technological and human error. Facsimiles can experience file conversion issues, negotiation failures, communication errors, or any number of other errors that can cause the facsimile to fail entirely or result in only part of the image being transmitted. Sometimes only part of a facsimile arrives, with the rest of the page or pages cut off. For example, in 2018, some of the voter registration applications submitted by Vote.org to county election officials experienced technical issues that rendered them illegible.

Facsimiles are also subject to human error. If the paper is loaded improperly, the facsimile machine is out of ink, the facsimile is sent to a regular telephone line, or the facsimile line is busy or disconnected during transmission, it can cause the facsimile to fail entirely, or result in a partial or unreadable image. Facsimiles can also simply be lost or damaged due to human error.

Facsimiles can also have to image quality issues. A poor-quality facsimile image may be unreadable.

Vote.org is not challenging the wet ink signature requirement on mailed voter registration application. Yet, this is the voter registration process that is used when a voter registration application sent via facsimile fails due to technological or human error.

The mailed copy of the facsimile with a wet signature allows the voter to be properly registered in the event of a failed, incomplete, or unreadable facsimile. There is nothing on the face of a voter registration application where a registrant can indicate what method of registration they are using. If an election administrator did not receive, or was unable to tell, that a voter registration application was submitted via facsimile due to technological or human error, or because of the poor image quality, then it treats the copy of the application it receives in the mail as a mailed voter registration application. All mailed voter registration applications require a wet signature. Thus, the wet ink signature rule ensures the voter is registered, even if their attempt to register via facsimile fails due to technological or human error.

The discovery produced in this case shows that many of the voter registration applications submitted by Vote.org via facsimile in 2018 experienced technological and human errors. For example, the number of voter registration applications Vote.org contemporaneously represented they sent to local county election officials is different from the number the election officials reported receiving. It is unknowable how many of these voters were disenfranchised in the 2018 election by Vote.org's "disruption" of the Texas voter registration process. It is similarly unknowable how many Mississippi voters were disenfranchised in 2019 when Vote.org had six billboards put up that encouraged voters to vote, but gave the voters the wrong election date.

The wet signature requirement for voter registration applications submitted via facsimile promotes uniformity among the counties. One of the goals of the Texas Election Code is to create uniformity, not disruption, among the 254 Texas counties. If every county had different requirements for voter registration, it could cause chaos and confusion among registrations. When Travis County, but none of the other 253 counties, accepted voter registration applications submitted via facsimile without a wet ink signature in 2018, it disrupted the uniformity of the electoral process. Registrants were confused about what the requirements

were and whether the applications they submitted using the app would be accepted in their respective counties.

A registrant's electronic signature, depending on the method and manner with which it is collected, cannot be reliably compared to the registrant's imaged wet ink signature. Often, a person's wet ink signature can look entirely different than when they sign using a computer mouse or their finger on a digital pad or touchscreen. The wet-ink signature requirement for voter registration applications submitted via facsimile provides a signature that can be compared to images of the registrant's other wet ink signatures, if necessary, by a county election administrator, early voting ballot board, or a signature verification committee.

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INTERROGATORY NO. 3:

State and describe policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The OAG does not have policies or procedures for reviewing and processing voter registration applications. This interrogatory appears to be written for county election administrators or the Secretary of State. The interrogatory is seemingly seeking to determine if the OAG contends that the wet ink signature requirement existed before HB 3107.

The OAG is construing this interrogatory as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED INTERROGATORY NO. 3:

~~State and describe policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures~~ Does the OAG contend were the wet signature requirements for voter registration applications submitted via facsimile were the same both before and after the enactment of Section 14 of HB 3107.

ANSWER

Yes. The OAG contends that both SB 910 and HB 3107 required a wet ink signature for voter registration applications submitted via facsimile. HB 3107 merely provided additional clarification to clean up the disruption to the voter registration process caused by Vote.org's actions in 2018.

INTERROGATORY NO. 4:

State and describe any election-related problems in the State involving voter registration applications that were signed with an imaged or electronic—as opposed to a wet-ink—signature.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The interrogatory, as written, is vague, ambiguous, and confusing. It is not limited in scope or time. It asks for information from everywhere in the state, at any point in history. It is also unclear if the interrogatory is asking about voter registration applications submitted via facsimile, or by some other method.

This interrogatory appears to be written for county election administrators or the Secretary of State. The OAG cannot answer the question as written because it is seemingly inapplicable to the OAG. The interrogatory is seemingly seeking to determine it is harder for Texans to register to vote because of the wet signature requirement.

The OAG is construing this interrogatory as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED INTERROGATORY NO. 4:

~~State and describe any election-related problems in the State involving voter registration applications that were signed with an imaged or electronic—as opposed to a wet-ink—signature~~ Does the OAG contend that the wet signature requirement for voter registration applications submitted via facsimile contained in SB 910 and HB 3107 made it more difficult to register to vote.

ANSWER

No. The OAG contends that the adding the option to register to vote by facsimile expanded access to voter registration. The wet signature rule was, and has always been, a requirement for register to vote via facsimile.

INTERROGATORY NO. 5:

State and describe your efforts to combat any problems caused by or related to voter registration applications that were signed with an imaged or electronic—as opposed to a wet-ink—signature.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The interrogatory, as written, is vague, ambiguous, and confusing. It is unclear what is meant by “combat” in the context of “problems caused by or related to voter registration applications.” It is not limited in scope or time. It asks for information from everywhere in the state, at any point in history. It is also unclear if the interrogatory is asking about voter registration applications submitted via facsimile, or by some other method.

This interrogatory appears to be written for county election administrators or the Secretary of State. The OAG prosecutes voter fraud. It issues OAG opinions on legal matters. This interrogatory fundamentally misunderstands the role of the OAG in the election process.

The OAG has tried, and failed, to construe this interrogatory in a manner it can answer.

However, the OAG is aware that the Secretary of State issued guidance in 2018 to clarify the wet signature requirement due to the disruption to the voter registration process caused by Vote.org’s actions.

NO ANSWER PROVIDED.

INTERROGATORY NO. 6:

State the total number of voter registration applications processed by the Department of Public Safety each year, between the years 2016 and 2021.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The OAG has tried, and failed, to construe this interrogatory in a manner it can answer. Unfortunately, the OAG lacks the personal knowledge to provide any response.

The OAG suggests that Vote.org submit a Public Information Act (PIA) request to DPS or send them third-party discovery to obtain this information.

NO ANSWER PROVIDED.

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INTERROGATORY NO. 7:

Identify and describe all communications between county election officials—including their counsel—and the Secretary of State regarding the use of (or preference for) wet ink signatures on voter registration applications as opposed to electronic or imaged signatures, Plaintiff's web application, and any other instances in which individuals registered to vote without a wet ink signature.

OBJECTIONS

This interrogatory asks for information from third parties and for information that is not in the possession, custody, control, or personal knowledge of the OAG. The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The OAG has tried, and failed, to construe this interrogatory in a manner it can answer. Unfortunately, the OAG lacks the personal knowledge to provide any response.

The OAG suggests that Vote.org submit a PIA request to the Secretary of State or send them third-party discovery to obtain this information.

NO ANSWER PROVIDED.

RETRIEVED FROM DEMOCRACYDOCKET.COM

INTERROGATORY NO. 8:

Identify and describe all communications between county election officials—including their counsel—and the Attorney General regarding the use of (or preference for) wet ink signatures on voter registration applications as opposed to electronic or imaged signatures, Plaintiff's web application, and any other instances in which individuals registered to vote without a wet ink signature.

PRIVILEGE

Communications, other than those in which Vote.org is carbon copied, among and between the defendants in this case are subject to the common-interest doctrine, attorney-client privilege, and work product privilege. Responsive materials are being withheld pursuant to the privilege. The OAG will not produce a privilege log for these communications, unless ordered to do so by the Court.

OBJECTIONS

The interrogatory, as written, is vague, ambiguous, and confusing. It is unclear if this interrogatory is asking about a particular method of voter registration or every method of voter registration.

It is also overbroad, unduly burdensome, and not limited in time, such that it is also abusive. It provides no search terms or limiting instructions. The OAG has thousands of employees in dozens of divisions and departments across the state. The interrogatory would require every employee, who has ever worked at the OAG, to review every case they've ever worked on, and every email, call, facsimile, or mailed correspondence they've ever sent or received at the OAG, to determine if there are responsive materials. As originally written, this would have applied to the entire State, including every agency and employee.

The interrogatory, as written, is impossible to answer and fundamentally misunderstands the role of the OAG in the election process. While no responsive communications have been located, if communications were located, they would likely be subject to the government investigations and/or attorney-client privileges.

The OAG has tried, and failed, to construe this interrogatory in a manner it can answer.

The OAG suggests that Vote.org search the online repository of OAG opinions, which dates from 1939 through the present and is equally available to all sides at www.texasattorneygeneral.gov/opinions.

NO ANSWER PROVIDED.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

VOTE.ORG,
Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00649

JACUELYN CALLANEN, in her official
capacity as the Bexar County Elections
Administrator; BRUCE ELFANT, in his
official capacity as the Travis County Tax
Assessor-Collector; REMI GARZA, in his
official capacity as the Cameron County
Elections Administrator; MICHAEL
SCARPELLO, in his official capacity as the
Dallas County Elections Administrator,
Defendants,

And

KEN PAXTON, in his official capacity as
the Attorney General of Texas, LUPE C.
TORRES, in his official capacity as Medina
County Elections Administrator, and
TERRIE PENDLEY, in her official
capacity as Real County Tax Assessor-
Collector,
Intervenor-Defendants.

INTERVENOR-DEFENDANTS' RESPONSE TO PLAINTIFF'S
FIRST SET OF REQUESTS FOR ADMISSIONS

Attached are Intervenor-Defendants Ken Paxton's (OAG) objections and answers to
Plaintiff's First Set of Request for Admissions.

Date: March 4, 2022

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN COWLES
Deputy Attorney General for Civil Litigation

RAYMOND CHARLES WINTER
Chief for Civil Medicaid Fraud

/s/ Johnathan Stone

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*Counsel for Intervenor-Defendant Ken Paxton, in
his official capacity as Attorney General of Texas*

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2022, a true and correct copy of the foregoing document has been sent by email to all counsel of record.

/s/ Johnathan Stone

CORY SCANLON

State Bar No. 24104599

Assistant Attorney General

ATTORNEY-IN-CHARGE

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RESPONSE TO FIRST SET OF REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1:

Admit that the Secretary of State has instructed county election officials to reject voter registration applications that were signed using imaged, rather than wet-ink, signatures.

OBJECTIONS

The request is vague, ambiguous, and confusing. There are multiple methods of registering to vote, including personal delivery, through a deputy registrar, facsimile, mail, and DPS. The question is also not limited in time.

OAG is construing this request as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED REQUEST FOR ADMISSION NO. 1:

Admit that from the passage of SB 910 through the present, the Secretary of State has instructed county election officials to reject voter registration applications submitted via facsimile or mail that were signed using an electronic, digital, or imaged, rather than wet-ink, signatures.

ANSWER

Admit.

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REQUEST FOR ADMISSION NO. 2:

Admit that the Secretary of State would instruct a county election official to reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

OBJECTIONS

The request for admission is not limited in time.

OAG is construing this request as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCELED REQUEST FOR ADMISSION NO. 2:

Admit that the Secretary of State, from the passage of SB 910 through the present, would instruct a county election official to reject a voter registration application that was signed using an electronic, digital, or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

ANSWER

Admit.

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REQUEST FOR ADMISSION NO. 3:

Admit that county election officials in the State of Texas accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet ink, signatures.

OBJECTIONS

The request for admission is not limited in time.

OAG is construing this request as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED REQUEST FOR ADMISSION NO. 3:

Admit that county election officials in the State of Texas currently accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet ink, signatures.

ANSWER

Admit.

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REQUEST FOR ADMISSION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications to determine whether an individual is eligible to vote in Texas.

OBJECTIONS

The request for admissions definition of “you” is “the State of Texas, including all executive branch officials, and their offices, including employees, staff, agents, and representatives.” The OAG is an independent agency. It does not represent the Legislature, the State of Texas, nor any other state agency in this matter.

The question is also vague, ambiguous, and confusing because the OAG is not the entity that determines whether an individual is eligible to vote in Texas. The request for admission is not limited in time.

The OAG is construing this request as follows, and responding below, solely in its capacity as the OAG and not on behalf of the State of Texas or any other state agency.

BLUE PENCILED REQUEST FOR ADMISSION NO. 4:

Admit that in the past five years you do the OAG has not used the wet-ink signatures on voter registration applications to determine whether an individual is eligible to vote in Texas.

ANSWER

Admit.

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2021 a true and correct copy of the foregoing Intervenor-Defendant Terrie Pendley's Objections and Answers to Plaintiff's First Set of Interrogatories was served via electronic mail upon all counsel of record.

/s/Chad Ennis

CHAD ENNIS

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GENERAL OBJECTIONS

Intervenor-Defendant Pendley objects to Plaintiff's definitions and instructions as vague and overbroad to the extent they exceed the requirements of the Federal Rules of Civil Procedure, this Court's Local Rules, and to the extent that they could be interpreted to require the disclosure of information that is exempt from discovery or privileged. Intervenor-Defendant responds to these Interrogatories pursuant to their meaning as written, subject to and without waiving any of the foregoing general objections, and as required by the Federal Rules of Civil Procedure.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1. Identify all individuals in Real County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018 to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Real County.

RESPONSE: Intervenor-Defendant Pendley objects to this interrogatory to the extent that it requests information that is statutorily protected from disclosure. Subject to and without waiving the foregoing objection, Real County follows the procedures set forth in the Texas Election Code as further described by applicable guidance from the Texas Secretary of State. Intervenor-Defendant's office has no record of any rejections of voter registration applications due to a lack of a wet signature during the referenced time period.

INTERROGATORY NO. 2. State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet-ink signatures and compared to electronic or imaged signatures.

RESPONSE: Intervenor-Defendant Pendley objects to this interrogatory to the extent that it requires her to speculate as to legislative intent or provide an expert opinion. Subject to and without waiving the foregoing objection, Intervenor-Defendant responds: To the best of Intervenor-Defendant's knowledge, the signature on the voter registration application required by Texas Election Code Section 13.002(b) provides a model of the voter's signature that can be cross-referenced with other signatures submitted by the individual. For example, if a voter casts a vote utilizing a mail-in ballot, the signature on the ballot can be verified by the reviewing official by comparing the signature on the ballot application and the carrier envelope certificate to the signatures on file with the county clerk or voter registrar. To the best of my knowledge, a wet ink signature is more easily verifiable than an electronic signature; electronic signatures can be manipulated more easily.

INTERROGATORY NO. 3. Identify and describe all of Real County's or the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

RESPONSE: Intervenor-Defendant objects to the interrogatory in that it calls for knowledge beyond Real County's in that it asks for the State's interests. Intervenor-Defendant is unaware of the knowledge of the State and cannot speculate as to its interests. Subject to the foregoing objection, Intervenor-Defendant responds that: Signatures from voter registration applications can be used by Real County elections officials to verify the identity of a voter. For example, the signature on the application can be compared to the voter's signature on the voter list for in-person voting, and the signature on the application can be compared to the voter's signature

on the carrier envelope used to send in a ballot by mail. The signature can also be used in situations in which a voter accidentally signs the voter list for in-person voting in the space for another voter's signature. If that occurs, the signatures can be compared to catch the mistake and ensure that the voter whose signature space was accidentally completed can submit a ballot.

INTERROGATORY NO. 4. State and describe Real County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107, including an estimate for the number of staff hours that the implementation of those policies and procedures required.

RESPONSE: Real County has always required a wet signature from a voter registration applicant. Our office will not make changes to our policies or procedures concerning the review and processing of voter registration applications due to HB 3107 because we have required voters to register using a wet signature all along in accordance with Texas Election Code Section 13.143(d-2) in effect before the passage of HB 3107. Additionally, our office does not have a telephonic facsimile machine, so does not receive voter registration applications via that method. Real County takes action on voter registration applications in accordance with Texas Election Code Section 13.072 and processes applications as required by Chapter 13 of the Texas Election Code and applicable guidance from the Texas Secretary of State. Real County first reviews the voter registration application in accordance with Section 13.071 to determine whether it meets the criteria set forth in Section 13.002, including the requirement that it be signed by the applicant. Texas Election Code § 13.002(b). After the review of the application, the voter registrar will use matching criteria to process the application as either a new voter, a change to an existing voter, or a transfer voter from another county. Next the voter registrar processes the complete application by registering the voter (adding a new voter to the system, updating an existing voter record, or

transferring a voter into the county). If it is incomplete, the voter registrar indicates incompleteness during the processing of the application in accordance with Section 13.073 of the Texas Election Code. The voter registrar sends an Incomplete Notice and a new application form to the applicant. If the applicant fails to respond within 10 days from the date the notice and application are sent out, the procedure is to reject the application due to incompleteness in accordance with the requirements of Section 13.073.

INTERROGATORY NO. 5. State and describe any issues, difficulties, or problems related to voter registration applications received by Real County that did not contain a wet-ink signature.

RESPONSE: Intervenor-Defendant objects to the interrogatory to the extent that it seeks information protected by attorney-client privilege and because it is vague as to what is meant by “issues,” “difficulties” or “problems.” Subject to the foregoing objections and to the extent the interrogatory is understood, Intervenor-Defendant responds that: Intervenor-Defendant is not aware of any issues, difficulties, or problems related to voter registration applications received by Real County that did not contain a wet ink signature.

INTERROGATORY NO. 6. State the number of voter registration applications Real County received from the Department of Public Safety each year, between the years 2016 and 2021.

RESPONSE: Intervenor-Defendant does not have this information and will supplement this response if responsive information becomes available.

INTERROGATORY NO. 7. State and describe any issues, difficulties, or problems related to voter registration applications received by Real County from the Department of Public Safety, concerning or related to the registrant’s signature.

RESPONSE: Intervenor-Defendant objects to the interrogatory to the extent that it seeks information protected by attorney-client privilege and because it is vague as to what is meant by “issues,” “difficulties” or “problems.” Subject to the foregoing objections and to the extent the interrogatory is understood, Intervenor-Defendant responds that: Intervenor-Defendant is not aware of any issues, difficulties, or problems related to voter registration applications received by Real County from the Department of Public Safety concerning the registrant’s signature.

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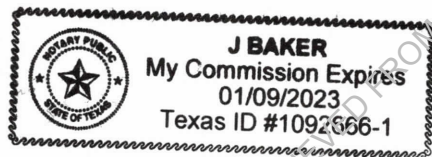
STATE OF TEXAS §
 §
COUNTY OF Real §

VERIFICATION

BEFORE ME, the undersigned authority, on this day personally appeared Terrie Pendley, who being by me duly sworn upon her oath depose and said she has read the foregoing interrogatories objections and answers and that the statements contained therein are within her personal knowledge are true and correct.

Terrie Pendley
TERRIE PENDLEY

SUBSCRIBED AND SWORN TO BEFORE ME, *J Baker* this 29
day of November, 2021, to certify which, witness my hand and seal of office.



J Baker
NOTARY PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2021 a true and correct copy of the foregoing Intervenor-Defendant Terrie Pendley's Objections and Answers to Plaintiff's First Set of Requests for Admission was served via electronic mail upon all counsel of record.

/s/Chad Ennis
CHAD ENNIS

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RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 2:

Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Department of Public Safety.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 3:

Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 5:

Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

RESPONSE: Intervenor-Defendant objects to the request as vague and to the extent that it requires a legal conclusion regarding materiality and relevance. Subject to and without waiving the foregoing objections, Intervenor-Defendant responds: Denied.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,
Plaintiff,

v.

JACQUELYN CALLANEN, in her official
capacity as the Bexar County Elections
Administrator, et al.,
Defendants.

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§

CIVIL ACTION NO.

5:21-CV-000649-JKP-HJB

**DEFENDANT MICHAEL SCARPELLO'S RESPONSES TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: Plaintiff, through its attorneys of record, Kathryn E. Yukevich, Elias Law Group, LLP,
10 G Street NE, Suite 600, Washington, DC 20002

COMES NOW, Defendant Michael Scarpello, pursuant to Federal Rule of Civil Procedure
26 and 33, and submits his responses to Plaintiff's First Set of Interrogatories.

JOHN CREUZOT
CRIMINAL DISTRICT ATTORNEY
DALLAS COUNTY, TEXAS

/s/ Earl S. Nesbitt
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Attorneys for Defendant Michael Scarpello

CERTIFICATE OF SERVICE

I certify that on November 8, 2021, Defendant Michael Scarpello's Responses to Plaintiff's First Interrogatories was served through Serv-U File Share to the following attorneys of record.

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/s/ Earl S. Nesbitt
Assistant District Attorney

INTERROGATORY NO. 1. Identify all individuals in Dallas County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018, to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Dallas County.

RESPONSE: In accordance with Fed. R. P. 33(d), see attached spreadsheet.

INTERROGATORY NO. 2. State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet-ink signatures and compared to electronic or imaged signatures.

RESPONSE:

Defendant Scarpello objects to this interrogatory because it is vague and ambiguous and, to some extent, attempts to require Defendant Scarpello to speculate as to what the Texas Legislature and/or the Texas Secretary of State (or others) might believe is the purpose and function of requiring signatures and/or wet-ink signatures on voter registration applications. Defendant Scarpello objects to this interrogatory because it purports to seek a global response about the "purpose and function" of signatures on voter registration applications. Defendant Scarpello further objects to the use of the term "electronic or imaged signatures" as being vague and ambiguous. Defendant Scarpello assumes that "imaged" signatures are, in fact, electronic images of the actual hand-written signature of an individual; while an "electronic" signature might just be a typed, or computer generated signature or an electronic signature might refer to a signature generated via a software application such as DocuSign.

Subject to and without waiver of said objection, it is the view of Defendant Scarpello that the signature requirement on voter registration applications is to have the individual completing said application attest or confirm that the information included in said application is accurate, true, and correct. From the perspective of Defendant Scarpello as the Dallas County Election Administrator there is no practical purpose for requiring a wet-ink signatures as opposed to an electronic or imaged signature on voter registration applications, for purposes of registering an individual to vote, which is the role that the Dallas County Elections Administrator plays in connection with processing voter registration applications.

INTERROGATORY NO. 3. Identify and describe all of Dallas County's or the State's

interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

RESPONSE:

Defendant Scarpello objects to this interrogatory because it is vague, ambiguous, overbroad and confusing and burdensome and harassing because it purports to impose upon Defendant Scarpello the obligation to speculate, and identify and describe the interests of Dallas County and/or the State of Texas that are purportedly served by Section 14 of HB 3107. Defendant Scarpello cannot speak for all of Dallas County or the State of Texas and objects to the request to the extent that it calls for speculation as to all of Dallas County and/or the State of Texas.

Defendant Scarpello can only answer this interrogatory from his standpoint as Dallas County Elections Administrator.

Subject to and without waiver of these objections, upon information and belief at this time, Defendant Scarpello, in his official capacity as Dallas County Election Administrator, sees no practical interests, of the Dallas County Elections Department, served by Section 14 of HB 3107. From the perspective of Defendant Scarpello as Dallas County Election Administrator, there really is no practical reason as to whether voter registration applications include wet-ink signatures versus imaged signatures. As to whether the interests of others, such as the Early Voting Ballot Board, might or might not be served by the signature requirement on voter registration applications (whether wet-ink, electronic, or imaged), Defendant Scarpello cannot speak to that issue.

INTERROGATORY NO. 4. State and describe Dallas County's policy and procedure for processing voter registration applications submitted using Plaintiff's web application in the fall of 2018.

RESPONSE:

Vote.org faxed voter registration applications to the Dallas County Elections Department (@ 214.819.6307) from applicants who had submitted their voter registration applications through the Vote.org web application. The voter registration department would then enter all of the applications received by fax into the voter registration database using a pending status code. This code would allow these voter registration applications to be held for four (4) business days. If no original application was received by the Elections Department, with an original wet-ink signature, during that time period, the applications were rejected.

INTERROGATORY NO. 5. State and describe Dallas County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107.

RESPONSE:

Defendant Scarpello assumes that this interrogatory is directed to Defendant Scarpello, in his capacity as Dallas County Elections Administrator, and this interrogatory does not seek to have Defendant Scarpello answer this interrogatory for all of Dallas County. Therefore, Defendant Scarpello objects to this interrogatory, as posed, as being vague, ambiguous, overbroad and confusing and burdensome and harassing and calls for Defendant Scarpello to speculate.

Defendant Scarpello can only answer this interrogatory from his standpoint as Dallas County Elections Administrator.

Subject to and without waiver of these objections, the policies and procedures concerning the review and processing of voter registration applications with electronic or imaged signatures has been the same, both before and after the enactment of Section 14 of HB 3107. Dallas County Elections Department has not accepted voter registration applications with electronic or imaged signatures based on the directions and guidance provided by the Texas Secretary of State. Generally, the process is that all voter registration applications containing electronic or imaged signatures are provided to the county election official, here Dallas County Elections Department, via the Texas Secretary of State's Texas Election Administration Management System (TEAMS). It comes as a compressed xml file. The voter registration department exports the file from TEAMS and imports the file into the voter registration database. This process has remained the same before and after the enactment and effective date of HB 3107.

INTERROGATORY NO. 6. State and describe any issues, difficulties, or problems related to voter registration applications received by Dallas County that did not contain a wet-ink signature.

RESPONSE:

Defendant Scarpello assumes that this interrogatory is directed to Defendant Scarpello, in his capacity as Dallas County Elections Administrator, and this interrogatory does not seek to have Defendant Scarpello answer this interrogatory for all of Dallas County. Therefore, Defendant Scarpello objects to this interrogatory, as posed, as being vague, ambiguous, overbroad and confusing and burdensome and harassing and to the extent it calls for Defendant Scarpello to speculate.

Defendant Scarpello can only answer this interrogatory from his standpoint as Dallas County Elections Administrator.

Subject to and without waiver of these objections, based on the guidance and directions of the Texas Secretary of State, the voter registration application of approximately 1300 people were rejected in 2018 because they did not include wet-ink signatures. It should be noted that those voter registration applications that came from the Texas Department of Public Safety, and did not include wet-ink signatures, were processed. There were no issues, difficulties, or problems with the voter registration applications received from DPS.

INTERROGATORY NO. 7. State the number of voter registration applications Dallas County received from the Department of Public Safety each year, between the years 2016 and 2021.

RESPONSE:

Defendant Scarpello assumes that this interrogatory is directed to Defendant Scarpello, in his capacity as Dallas County Elections Administrator, and this interrogatory does not seek to have Defendant Scarpello answer this interrogatory for all of Dallas County. Therefore, Defendant Scarpello objects to this interrogatory, as posed, as being vague, ambiguous, overbroad and confusing and burdensome and harassing and to the extent it calls for Defendant Scarpello to speculate.

Defendant Scarpello can only answer this interrogatory from his standpoint as Dallas County Elections Administrator.

Subject to and without waiver of these objections, Defendant Scarpello refers Plaintiff to the documents included with these interrogatory responses, in accordance with Fed. R. Civ. P. 33(d).

INTERROGATORY NO. 8. State and describe any issues, difficulties, or problems related to voter registration applications received by Dallas County from the Department of Public Safety, related to the registrant's signature.

RESPONSE:

Defendant Scarpello assumes that this interrogatory is directed to Defendant Scarpello, in his capacity as Dallas County Elections Administrator, and this interrogatory does not seek to have Defendant Scarpello answer this interrogatory for all of Dallas County. Therefore, Defendant Scarpello objects to this interrogatory, as posed, as being vague, ambiguous, overbroad and confusing and burdensome and harassing and to the extent it calls for Defendant Scarpello to speculate. Defendant Scarpello further objects to this request because it fails to relate to a specific time period and is therefore overbroad, unduly burdensome and harassing, and confusing.

Defendant Scarpello can only answer this interrogatory from his standpoint as Dallas County Elections Administrator.

Subject to and without waiver of these objections, Dallas County Elections Department is not aware of any issues, difficulties, or problems relative to voter registration applications received from the Department of Public Safety, relative to signatures. Generally, upon information and belief it is the understanding and belief of Dallas County Elections Department that there may have been some voter registration applications that were submitted to DPS but were not forwarded to Dallas County Elections Department.

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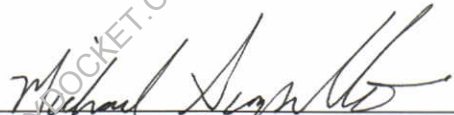
VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared MICHAEL SCARPELLO, who, being by me first duly sworn, deposed and stated as follows:

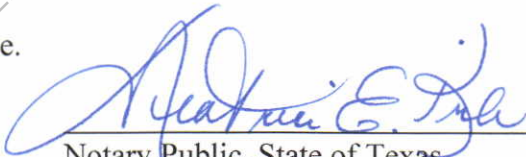
My name is Michael Scarpello. I am over 21 years of age and have never been convicted of any felony or crime of moral turpitude. I have reviewed the foregoing answers to the foregoing interrogatories propounded to me in Civil Action No. 5:21-CV-649-JKP-HJB, which is pending in the United States District Court for the Western District of Texas, Dallas Division. Except where I have stated that my answer is based upon information and belief, the assertions of fact contained in my answers are within my personal knowledge and are true and correct.

Further Affiant sayeth not.


Michael Scarpello

SUBSCRIBED AND SWORN TO BEFORE ME on the 8th day of November, 2021, to certify which witness my hand and seal of office.




Notary Public, State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VOTE.ORG,
Plaintiff,

v.

JACQUELYN CALLANEN, et al.,
Defendants.

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CIVIL ACTION NO.

5:21-CV-00649-JKP-HJB

**DEFENDANT MICHAEL SCARPELLO'S OBJECTIONS AND ANSWERS TO
PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS TO
DEFENDANT MICHAEL SCARPELLO**

TO: Plaintiff, VOTE.ORG, through its attorneys of record, Kathryn E. Yukevich, Elias Law Group LLP, 10 G Street NE, Suite 600, Washington, D.C. 20002

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Defendant Michael Scarpello, through his undersigned counsel, serves his objections and answers to Plaintiff's First Request for Admissions to Defendant Michael Scarpello, received via electronic mail on October 19, 2021 ("the Discovery").

I. DEFINITIONS

The objections and answers to the Discovery that follow adopt the Definitions Plaintiff used in its Discovery. Accordingly, "Web application" refers to Plaintiff Vote.org's web application that allowed voters to submit registration application to Dallas County using an imaged signature in the fall of 2018.

II. OBJECTIONS AND ANSWERS TO THE DISCOVERY

Michael Scarpello's objections to the Discovery are set forth in Exhibit "A," attached.

JOHN CREUZOT
CRIMINAL DISTRICT ATTORNEY
DALLAS COUNTY, TEXAS

/s/ Earl S. Nesbitt

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Attorneys for Defendant Michael Scarpello, in his
Official Capacity as Dallas County Elections
Administrator

CERTIFICATE OF SERVICE

I certify that on November 8, 2021, Defendant Michael Scarpello's Objections and Responses to Plaintiff's First Request for Admissions was served through Serv-U File Share to the following attorneys of record:

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Earl S. Nesbitt

Assistant District Attorney

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EXHIBIT A

REQUEST FOR ADMISSION NO. 1:

Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 2:

Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Texas Department of Public Safety.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 3:

Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

ANSWER:

Admitted.

REQUEST FOR ADMISSION NO. 5:

Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

ANSWER:

Defendant Scarpello objects to this request as being vague, ambiguous, and confusing, as it is unclear what Plaintiff considers to be an “electronic” versus an “imaged” signature and whether

Plaintiff presumes or assumes in this interrogatory that there is a difference between an “electronic” and an “imaged” signature on a voter registration application. Defendant Scarpello further objects to this request to the extent that it purports to compel Defendant Scarpello to make a legal conclusion or determination (without limited context), in terms of admitting or denying whether a fact is “material” or “relevant.” Further, Defendant Scarpello can only address this request in his official capacity as Dallas County Election Administrator, in the context of processing voter registration applications. Defendant Scarpello does not have sufficient information or knowledge to be able to admit or deny whether the use of a wet-ink signature on a voter registration application might be a relevant or material factor for other persons or entities who might have occasion or the need to review a voter registration application in determining whether an individual is eligible to vote.

Subject to and without waiver of said objections, from the perspective of the Dallas County Elections Administrator and Dallas County Elections Department, Defendant Scarpello admits that the presence or absence of a wet-ink signature on a voter registration application is not generally or necessarily determinative of whether the person submitting the application is eligible to vote or not in Texas. Defendant Scarpello further admits that, in light of the new legislation (HB 3107), if an individual submits a voter registration application that does not contain a wet-ink signature, and does not subsequently submit a wet-ink signature in support of the application, then that individual cannot be registered to vote.

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2021 a true and correct copy of the foregoing Intervenor-Defendant Lupe Torres' Objections and Answers to Plaintiff's First Set of Interrogatories was served via electronic mail upon all counsel of record.

/s/Chad Ennis

CHAD ENNIS

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GENERAL OBJECTIONS

Intervenor-Defendant Torres object to Plaintiff's definitions and instructions as vague and overbroad to the extent they exceed the requirements of the Federal Rules of Civil Procedure, this Court's Local Rules, and to the extent that they could be interpreted to require the disclosure of information that is exempt from discovery or privileged. Intervenor-Defendant responds to these Interrogatories pursuant to their meaning as written, subject to and without waiving any of the foregoing general objections, and as required by the Federal Rules of Civil Procedure.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1. Identify all individuals in Medina County whose voter registration applications were rejected due to lack of a wet-ink signature from September 1, 2018 to the present. This list should include the following information for each individual:

- a. Full name;
- b. Registration address;
- c. Mailing address;
- d. All available demographic data;
- e. The date the individual's application was rejected; and
- f. The date, if any, the individual successfully registered to vote in Medina County.

RESPONSE: Intervenor-Defendant Torres objects to this interrogatory to the extent that it requests information that is statutorily protected from disclosure. Subject to and without waiving the foregoing objection, Medina County follows the procedures set forth in the Texas Election Code as further described by applicable guidance from the Texas Secretary of State. Intervenor-Defendant's office has no record of any rejections of voter registration applications due to a lack of a wet signature during the referenced time period.

INTERROGATORY NO. 2. State and describe the purpose and function of a signature on voter registration applications, including any differences in the purpose and function of wet-ink signatures and compared to electronic or imaged signatures.

RESPONSE: Intervenor-Defendant Torres objects to this interrogatory to the extent that it requires him to speculate as to legislative intent or provide an expert opinion. Subject to and without waiving the foregoing objection, Intervenor-Defendant responds: To the best of Intervenor-Defendant's knowledge, the signature on the voter registration application required by Texas Election Code Section 13.002(b) provides a model of the voter's signature that can be cross-referenced with other signatures submitted by the individual. For example, if a voter casts a vote utilizing a mail-in ballot, the signature on the ballot can be verified by the reviewing official by comparing the signature on the ballot application and the carrier envelope certificate to the signatures on file with the county clerk or voter registrar. To the best of my knowledge, a wet ink signature is more easily verifiable than an electronic signature; electronic signatures can be manipulated more easily.

INTERROGATORY NO. 3. Identify and describe all of Medina County's or the State's interests served by Section 14 of HB 3107 and how Section 14 of HB 3107 serves each interest.

RESPONSE: Intervenor-Defendant objects to the interrogatory in that it calls for knowledge beyond Medina County's in that it asks for the State's interests. Intervenor-Defendant is unaware of the knowledge of the State and cannot speculate as to its interests. Subject to the foregoing objection, Intervenor-Defendant responds that: Signatures from voter registration applications can be used by Medina County elections officials to verify the identity of a voter. For example, the signature on the application can be compared to the voter's signature on the voter list for in-person voting, and the signature on the application can be compared to the voter's signature

on the carrier envelope used to send in a ballot by mail. The signature can also be used in situations in which a voter accidentally signs the voter list for in-person voting in the space for another voter's signature. If that occurs, the signatures can be compared to catch the mistake and ensure that the voter whose signature space was accidentally completed can submit a ballot.

INTERROGATORY NO. 4. State and describe Medina County's policies or procedures concerning the review and processing of voter registration applications with electronic or imaged signatures both before and after the enactment of Section 14 of HB 3107, including an estimate for the number of staff hours that the implementation of those policies and procedures required.

RESPONSE: Medina County has always required a wet signature from a voter registration applicant. Our office will not make changes to our policies or procedures concerning the review and processing of voter registration applications due to HB 3107 because we have required voters to register using a wet signature all along in accordance with Texas Election Code Section 13.143(d-2) in effect before the passage of HB 3107. Medina County takes action on voter registration applications in accordance with Texas Election Code Section 13.072 and processes applications as required by Chapter 13 of the Texas Election Code and applicable guidance from the Texas Secretary of State. Medina County first reviews the voter registration application in accordance with Section 13.071 to determine whether it meets the criteria set forth in Section 13.002, including the requirement that it be signed by the applicant. Texas Election Code § 13.002(b). After the review of the application, the voter registrar will use matching criteria to process the application as either a new voter, a change to an existing voter, or a transfer voter from another county. Next the voter registrar processes the complete application by registering the voter (adding a new voter to the system, updating an existing voter record, or transferring a voter into the county). If it is incomplete, the voter registrar indicates incompleteness during the processing

of the application in accordance with Section 13.073 of the Texas Election Code. The voter registrar sends an Incomplete Notice and a new application form to the applicant. If the applicant fails to respond within 10 days from the date the notice and application are sent out, the procedure is to reject the application due to incompleteness in accordance with the requirements of Section 13.073.

INTERROGATORY NO. 5. State and describe any issues, difficulties, or problems related to voter registration applications received by Medina County that did not contain a wet-ink signature.

RESPONSE: Intervenor-Defendant objects to the interrogatory to the extent that it seeks information protected by attorney-client privilege and because it is vague as to what is meant by “issues,” “difficulties” or “problems.” Subject to the foregoing objections and to the extent the interrogatory is understood, Intervenor-Defendant responds that: Intervenor-Defendant is not aware of any issues, difficulties, or problems related to voter registration applications received by Medina County that did not contain a wet ink signature.

INTERROGATORY NO. 6. State the number of voter registration applications Medina County received from the Department of Public Safety each year, between the years 2016 and 2021.

RESPONSE: In 2016, 5054 applications. In 2017, 3363 applications. In 2018, 4533 applications. In 2019, 3578 applications. In 2020, 6103 applications. In 2021, 3605 applications.

INTERROGATORY NO. 7. State and describe any issues, difficulties, or problems related to voter registration applications received by Medina County from the Department of Public Safety, concerning or related to the registrant’s signature.

RESPONSE: Intervenor-Defendant objects to the interrogatory to the extent that it seeks information protected by attorney-client privilege and because it is vague as to what is meant by “issues,” “difficulties” or “problems.” Subject to the foregoing objections and to the extent the interrogatory is understood, Intervenor-Defendant responds that: Intervenor-Defendant is not aware of any issues, difficulties, or problems related to voter registration applications received by Medina County from the Department of Public Safety concerning the registrant’s signature.

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STATE OF TEXAS §
 §
COUNTY OF MEDINA §

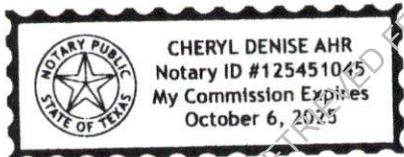
VERIFICATION

BEFORE ME, the undersigned authority, on this day personally appeared Lupe Torres, who being by me duly sworn upon his oath deposed and said he has read the foregoing interrogatories objections and answers and that the statements contained therein are within his personal knowledge are true and correct.



LUPE TORRES

SUBSCRIBED AND SWORN TO BEFORE ME Lupe Torres this 29
day of November, 2021, to certify which, witness my hand and seal of office.





NOTARY PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2021 a true and correct copy of the foregoing Intervenor-Defendant Lupe Torres' Objections and Answers to Plaintiff's First Set of Requests for Admission was served via electronic mail upon all counsel of record.

/s/Chad Ennis

CHAD ENNIS

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RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that you have rejected voter registration applications that were signed using imaged, rather than wet-ink, signatures.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 2:

Admit that you would reject a voter registration application that was signed using an electronic or imaged signature, rather than a wet-ink signature, unless that voter registration application was sent by the Department of Public Safety.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 3:

Admit that you accept voter registration applications transmitted from the Department of Public Safety, which are signed using imaged, rather than wet-ink, signatures.

RESPONSE: Admitted.

REQUEST FOR ADMISSION NO. 4:

Admit that you do not use the wet-ink signatures on voter registration applications for any election administration purposes after the voter registration applications have been accepted.

RESPONSE: Denied.

REQUEST FOR ADMISSION NO. 5:

Admit that the use of a wet-ink signature, as opposed to an imaged or electronic signature, on an application is not a material or relevant factor in determining whether an individual is eligible to vote in Texas.

RESPONSE: Intervenor-Defendant objects to the request as vague and to the extent that it requires a legal conclusion regarding materiality and relevance. Subject to and without waiving the foregoing objections, Intervenor-Defendant responds: Denied.

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