

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official capacity as Attorney General of Texas, KIM OGG, in her official capacity as Harris County District Attorney, SHAWN DICK, in his official capacity as Williamson County District Attorney, and JOSÉ GARZA, in his official capacity as Travis County District Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

**APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON’S
RESPONSE TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

Exhibit	Description
A	Isabel Longoria’s Deposition Transcript
B	Cathy Morgan’s Deposition Transcript
C	Declaration of Brian Keith Ingram
D	Declaration of Lupe Torres
E	Declaration of Jenise “Crickett” Miller
F	Voter Information Booth Statistical Chart
G	Updated Voter Information Booth Statistical Chart
H	Texas Volunteer Deputy Registrar Guide

I	Texas Impact Guide for Congregational Voter Information Booths
J	Commission on Federal Election Reform: Building Confidence in U.S. Elections (Sept. 2005)

Date: February 8, 2022

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2022, I electronically filed the foregoing document through the Court's ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ William T. Thompson
WILLIAM T. THOMPSON

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APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Exhibit A

Deposition Transcript of Isabel Longoria

February 4, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ISABEL LONGORIA and CATHY
MORGAN,

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v.

WARREN K. PAXTON, in his
official capacity as the
Attorney General of Texas,
et al.,

Defendants.

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Case No. 5:21-cv-1223-XR

VIDEOTAPED ORAL DEPOSITION OF
ISABEL LONGORIA
Friday, February 4, 2022
(REMOTELY REPORTED)

VIDEOTAPED ORAL DEPOSITION OF ISABEL LONGORIA,
produced as a witness at the instance of the Defendants,
and duly sworn, was taken in the above-styled and
numbered cause on Friday, February 4, 2022, from
1:34 p.m. to 4:38 p.m., before Debbie D. Cunningham,
CSR, in and for the State of Texas, remotely reported
via Machine Shorthand pursuant to the Federal Rules of
Civil Procedure.

--ooOoo--

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<p style="text-align: right;">6</p> <p>1 (Friday, February 4, 2022, 1:34 p.m.)</p> <p>2 P R O C E E D I N G S</p> <p>3 THE REPORTER: Today's date in</p> <p>4 February 4, 2022. The time is 1:34 p.m. Central</p> <p>5 Standard Time. This is the videotaped oral deposition</p> <p>6 of Isabel Longoria, and it is being conducted remotely.</p> <p>7 The witness is located in Houston, Texas.</p> <p>8 My name is Debbie Cunningham, CSR</p> <p>9 Number 2065. I am administering the oath and reporting</p> <p>10 the deposition remotely by stenographic means from</p> <p>11 Austin, Texas.</p> <p>12 Would Counsel please state their</p> <p>13 appearances and locations for the record, beginning with</p> <p>14 Plaintiffs' Counsel?</p> <p>15 MR. FOMBONNE: This is Jonathan Fombonne</p> <p>16 from the Harris County Attorney's Office. I'm located</p> <p>17 in Houston, Texas, representing the Defendant, Isabel</p> <p>18 Longoria -- the Plaintiff, Isabel Longoria. I'm sorry.</p> <p>19 MR. LEAVITT: And I'm Randy Leavitt,</p> <p>20 representing Williamson County District Attorney, Shawn</p> <p>21 Dick.</p> <p>22 MR. HUDSON: This is Eric Hudson on</p> <p>23 behalf of Ken Paxton, in his capacity as the Attorney</p> <p>24 General of Texas. I believe that my colleague, Will</p> <p>25 Thompson, is also on here, although not on video or on</p>	<p style="text-align: right;">8</p> <p>1 before we get going. So the first thing I want to talk</p> <p>2 to you about today is we are on Zoom. Have you used the</p> <p>3 Zoom application before?</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar with how to pull documents</p> <p>6 off of the chat function?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Well, before we get too far down the</p> <p>9 road, I'm going to go ahead and drop out of here; and</p> <p>10 let me see if I can put the depo notice on because I</p> <p>11 want to make sure we're on the same page about gathering</p> <p>12 documents.</p> <p>13 Let's see. Let me drop this in there.</p> <p>14 I'm dropping in what I'm marking as State Defendant --</p> <p>15 or -- well, we'll call it OAG Exhibit 1. It's a copy of</p> <p>16 the Deposition Notice.</p> <p>17 (Exhibit 1 marked.)</p> <p>18 Q. (BY MR. HUDSON) Are you able to open that up?</p> <p>19 A. Give me one second here.</p> <p>20 I've got it.</p> <p>21 Q. All right. So you're able to use that. So if</p> <p>22 I give you any exhibits today, it will be through the</p> <p>23 chat function. I believe that also goes out to all</p> <p>24 counsel who are on the record here with us today. So</p> <p>25 they should be able to pull that off as well.</p>
<p>1 speaker.</p> <p>2 THE REPORTER: Are those all the</p> <p>3 announcements?</p> <p>4 MR. MORALES-DOYLE: For purposes of the</p> <p>5 record, I'll say I'm Sean Morales-Doyle from the Brennan</p> <p>6 Center for Justice, along with my colleague, Ethan</p> <p>7 Herenstein, representing the Plaintiff; and I believe</p> <p>8 Megan Cloud is on from Weil, Gotshal, as well; but none</p> <p>9 of us will be speaking or appearing in the deposition in</p> <p>10 any way other than our presence on the Zoom.</p> <p>11 MR. FOMBONNE: And just for full</p> <p>12 completeness, I'm joined by my colleagues from the</p> <p>13 Harris County Attorney's Office Tiffany Bingham,</p> <p>14 Christina Beeler, Susannah Mitcham.</p> <p>15 ISABEL LONGORIA,</p> <p>16 having been duly sworn, testified as follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. Good afternoon, Ms. Longoria. My name's Eric</p> <p>20 Hudson. I'm with the Office of the Attorney General.</p> <p>21 Have we ever met before?</p> <p>22 A. No.</p> <p>23 Q. Have you ever been deposed before?</p> <p>24 A. No.</p> <p>25 Q. Okay. Well, let's go over a few ground rules</p>	<p style="text-align: right;">9</p> <p>1 MR. HUDSON: I'll just state for the</p> <p>2 record right now: Any counsel having any difficulty</p> <p>3 pulling down exhibits from the chat function, just let</p> <p>4 me know; and we'll see if we can't find an alternative</p> <p>5 means to get the exhibits to you.</p> <p>6 Q. (BY MR. HUDSON) If any of your counsel need a</p> <p>7 moment to take a look at an exhibit before I start</p> <p>8 asking you questions, please let me know; and I'll slow</p> <p>9 down and let that happen as well.</p> <p>10 All right. So are you able to hear me</p> <p>11 clearly?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have enough equipment so that you can</p> <p>14 see me and hear me and you're not concerned about not</p> <p>15 being able to do that today?</p> <p>16 A. I'm not concerned.</p> <p>17 Q. All right. So if at any time during the</p> <p>18 deposition today you're unable to hear me or if there's</p> <p>19 any issue with being able the hear me, I need you to let</p> <p>20 me know because I need you to be able to understand the</p> <p>21 questions that I'm asking. Can you agree to do that</p> <p>22 today?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Let's see. Now, during the course</p> <p>25 of the deposition, I'll be asking you a series of</p>

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1 questions. When I'm asking you a question, I'll ask
 2 that you allow me to complete the question; and I'll
 3 extend you the same courtesy when you're answering. Can
 4 we agree to do that today?
 5 A. Yes.
 6 Q. All right. And, now, you've been doing a fine
 7 job of this so far; but I want to remind you, even
 8 though we're on Zoom and this is being -- a video is
 9 being recorded, our court reporter can't annotate head
 10 nods, shakes, physical gestures, and so forth. So
 11 during the course of the deposition today, can you agree
 12 that you'll answer verbally each one of my questions?
 13 A. Yes.
 14 Q. Now, you've already been sworn in. Would you
 15 mind introducing yourself to the judge?
 16 A. Isabel Longoria, Harris County Elections
 17 Administrator.
 18 Q. How long have you held that position?
 19 A. Since November 2020 -- November 2020.
 20 Q. How did you come about that position?
 21 A. I was appointed by the Harris County
 22 Commissioners Court.
 23 Q. Tell me what that process is like.
 24 A. The Harris County Commissioners Court created
 25 the office in 2020. The Elections Commission, I believe

11

1 it's called, interviewed me and made a recommendation to
 2 Commissioners Court; and then Commissioners Court
 3 appointed me to the position.
 4 Q. Who held your position before you held it?
 5 A. No one. I am the first Harris County
 6 Elections Administrator.
 7 Q. So prior to your tenure in office, there was
 8 never a Harris County Elections Administrator?
 9 A. No.
 10 Q. How long did the interview process take?
 11 A. I believe it happened over the course of
 12 several weeks.
 13 Q. Take me through your background just with
 14 regard to elections. So prior to becoming the elections
 15 administrator for Harris County, did you hold any other
 16 positions that involved conducting elections?
 17 A. Yes. Prior to becoming the Harris County
 18 Elections Administrator, I was a special adviser under
 19 the county clerk's office.
 20 Q. Which county is that?
 21 A. Sorry. Special Adviser for Voting Rights and
 22 Access under the Harris County Clerk's Office.
 23 Q. And I presume that the Harris County Clerk's
 24 Office is the office for Harris County that operated
 25 elections prior to the creation of your current position

12

1 of Elections Administrator; is that right?
 2 A. Yes.
 3 Q. What does a special adviser do for Harris
 4 County?
 5 A. Advises. My duties were to advise on projects
 6 related to voting and voting rights in Harris County.
 7 Q. Let me see if I can ask it a different way.
 8 What were your day-to-day duties when you held the role
 9 of Special Adviser for Voting Rights for Harris County?
 10 A. My duties, I can't remember how they were
 11 specifically outlined in the job description; but more
 12 or less project management related to different
 13 functions of the elections in 2020.
 14 Q. How long did you hold the position of Special
 15 Adviser for Voting Rights?
 16 A. I believe I started that position in June of
 17 2020.
 18 Q. Prior to holding the position of special
 19 adviser, where did you work?
 20 A. Can you specify the timeframe prior to that?
 21 Q. Sure. Immediately preceding your time as
 22 special adviser, where were you employed?
 23 A. I was unemployed immediately preceding that.
 24 My previous position to that, I guess, AARP.
 25 Q. What did you do for AARP?

13

1 A. I believe my title at AARP was Associate State
 2 Director of Outreach and Advocacy.
 3 Q. How long did you hold that position?
 4 A. I think close to four years.
 5 Q. Prior to June of 2020, how long were you
 6 unemployed after you departed from AARP?
 7 A. One year.
 8 Q. Why did you leave AARP?
 9 A. I left AARP to run for Houston City Council
 10 District H.
 11 Q. Did you, in fact, run?
 12 A. Yes.
 13 Q. Is that a partisan election?
 14 A. No.
 15 Q. I presume you didn't win, which is why you're
 16 currently holding the position of Elections
 17 Administrator, right?
 18 A. Well, I didn't win, unrelated to me holding
 19 this position; but yes.
 20 Q. Sure. Let me see if I can clarify my
 21 question. You ran for the position of Houston City
 22 Council District H, but you were not successful in that
 23 election; is that right?
 24 A. Yes.
 25 Q. All right. So I'm trying to get my timing

14

1 right here. So prior to June of 2020, you were
 2 unemployed; but you were running for a city council
 3 position, right?
 4 A. Yes.
 5 Q. And did that election take you from June of
 6 '19 through June of 2020?
 7 MR. FOMBONNE: Objection.
 8 You can answer, Isabel.
 9 THE WITNESS: Okay. Sorry.
 10 A. I was -- I ran for office, and my campaign
 11 lasted from July 2019 through December 2019.
 12 Q. (BY MR. HUDSON) So June '19, going back four
 13 years, that would be June of '15, right?
 14 A. Yeah, I can't remember the exact start time of
 15 that job.
 16 Q. Sure. I'm just trying to get a rough outline
 17 here. So my real question is: I understood you to
 18 testify that you worked for AARP for roughly four years;
 19 is that right?
 20 A. Yes.
 21 Q. And having worked for them for roughly four
 22 years, if I'm understanding the timeline correctly, it
 23 was sometime from the summer of '15 through at least
 24 June of '19, right?
 25 MR. FOMBONNE: Objection.

15

1 A. Again, I can't remember the exact dates; but
 2 that is the general timeline.
 3 Q. (BY MR. HUDSON) Now, when you worked for AARP
 4 as the Associate State Director, did you hold any other
 5 titles at the AARP?
 6 A. No.
 7 Q. So you were hired in as the Associate State
 8 Director?
 9 A. Yes.
 10 Q. And preceding your employment with AARP, where
 11 did you work?
 12 A. Before that I was employed by -- in the Office
 13 of Senator Sylvia R. Garcia.
 14 Q. What did you do for Senator Garcia?
 15 A. I was a policy analyst for Senator Garcia.
 16 Q. Could you explain to the judge what that
 17 means?
 18 A. My duties were related to providing inside
 19 analysis to different legislative policies and district
 20 community work to -- you know, as a representative of
 21 the Office of Sylvia R. Garcia.
 22 Q. How long did you hold that position?
 23 A. Ooh, we're starting to dig really far in the
 24 past. I can't remember the exact timeline, two and a
 25 half years.

16

1 Q. Do you know what party Sylvia Garcia
 2 represents?
 3 A. At that time she represented herself as a
 4 Democrat.
 5 Q. To your knowledge, has Senator Sylvia Garcia
 6 ever presented herself as anything other than a
 7 Democrat?
 8 A. Not to my knowledge.
 9 Q. All right. I think that takes us back far
 10 enough. Let me ask you: Have you worked for any other
 11 politicians in any capacity during your adult work life?
 12 A. Yes.
 13 Q. Which other politicians?
 14 A. Can you define "politician" in this respect?
 15 Q. Sure. Anyone who has held an elected office
 16 while you were working for them?
 17 A. Understood.
 18 MR. FOMBONNE: Objection.
 19 Go ahead.
 20 A. In their capacity as an election official --
 21 or elected official, I've worked for Representative
 22 Jessica Farrar.
 23 Q. (BY MR. HUDSON) I'm sorry. I didn't catch
 24 that last name.
 25 A. Representative Jessica Farrar, F-A-R-R-A-R.

17

1 Q. What party does Ms. Farrar represent?
 2 A. Representative Farrar was a Democrat.
 3 Q. Is she still?
 4 A. Is she still a Representative or a Democrat?
 5 Q. A Democrat.
 6 A. Yes.
 7 Q. Let me go briefly through your educational
 8 background. I presume you've -- I'm not going to go
 9 through high school, but where did you matriculate for
 10 college?
 11 A. So which degree?
 12 Q. Well, let's start with the first one.
 13 A. A bachelor's from Trinity University.
 14 Q. That's in San Antonio?
 15 A. Correct.
 16 Q. And after -- you graduated with a, I presume,
 17 bachelor's degree?
 18 A. Correct.
 19 Q. Okay. What was your bachelor's degree in?
 20 A. Sociology.
 21 Q. Where did you attend after you graduated from
 22 Trinity?
 23 A. The University of Texas in Austin LBJ School
 24 of Public Affairs.
 25 Q. And what degree did you study for at UT?

18

1 A. A Master's in Public Affairs.
 2 Q. And did you, in fact, graduate with a Master's
 3 in Public Affairs?
 4 A. I did.
 5 Q. What year was that?
 6 A. 2012.
 7 Q. After you graduated, did you attend any other
 8 higher education?
 9 A. No.
 10 Q. When did you first learn about Senate Bill 1,
 11 the law that you're challenging?
 12 A. Over the summer of 2021.
 13 Q. And during the course of the deposition today,
 14 I'm going to be referring to Senate Bill 1. Now, having
 15 worked in the legislature as an analyst for a senator
 16 and also for a representative, I presume you know that
 17 there are probably more than one Senate Bill 1 that I
 18 could be referring to; but I want to clarify for the
 19 record and get your agreement that when I refer to
 20 Senate Bill 1, the bill that I'm referring to is the
 21 bill that contained the provision of Chapter 276 that
 22 you are challenging through your lawsuit. Can we agree
 23 that that's what I'm referring to today?
 24 MR. FOMBONNE: Object to the form.
 25 MR. HUDSON: Sure. I guess before we go

19

1 on then, what's the objection, Counsel? I want to make
 2 sure that we're all clear on the terminology.
 3 MR. FOMBONNE: Yeah, I was kind of not
 4 following your train of thought, also. If you could,
 5 just make it a little clearer.
 6 MR. HUDSON: Sure. I guess I don't
 7 understand the objection, but let me see if I can go
 8 back at it.
 9 MR. FOMBONNE: You don't have to speak
 10 about the objections. I'll just say, "Objection."
 11 MR. HUDSON: Well, under Federal Rules,
 12 you've got to let me know what the objection is and that
 13 you didn't follow my train of thought is not an
 14 objection.
 15 MR. FOMBONNE: It was vague to me,
 16 Counsel.
 17 MR. HUDSON: Okay.
 18 Q. (BY MR. HUDSON) All right. Well, let's see
 19 if we can make it a little bit more clear. So we're
 20 talking about the Senate Bill 1. Senate Bill 1 contains
 21 the provision of 276 that you're challenging in your
 22 lawsuit; is that right?
 23 A. If you could, clarify which legislative
 24 session for the senate bill you are referring to that
 25 you'd like us to agree on.

20

1 Q. Sure, the 87th Legislature.
 2 A. I believe the one that I am challenging was
 3 part of the Third Special Session of the Legislative
 4 87th Session.
 5 Q. That's my understanding as well --
 6 A. Okay.
 7 Q. -- and I just want to make sure you understand
 8 when I'm referring to Senate Bill 1, I'm referring to
 9 the Senate Bill 1 that you're challenging. Can we agree
 10 that we're both talking about the Senate Bill 1 from the
 11 Third Special Legislative Session passed during the 87th
 12 Legislature and signed by the governor in 2022 -- 2021?
 13 A. On that, we can agree, yes.
 14 Q. Gotcha. Okay.
 15 All right. So when did you first hear
 16 about Senate Bill 1?
 17 A. Sometime the summer of 2021.
 18 Q. When did you first hear about the provision
 19 that you're challenging?
 20 A. Frankly, I don't remember the exact date; but
 21 the summer of 2021.
 22 Q. Did you reach out to anybody in the
 23 legislature to discuss the senate bill provision that
 24 you're challenging in this lawsuit while the legislation
 25 was pending?

21

1 A. Yes.
 2 Q. Who did you talk to?
 3 A. I can't remember every single conversation
 4 with each representative; but in the course of my work,
 5 it's my duty on behalf of Harris County to inform and
 6 educate representatives as to the bills that might
 7 affect Harris County and the elections department.
 8 Q. So when you say it's your job to inform and
 9 educate, how did you go about informing and educating
 10 legislators during the Third Special Session of the 87th
 11 Legislature about the provision of Senate Bill 1 that
 12 you're currently challenging?
 13 A. My office drafted a letter that we sent to all
 14 representatives in the Harris County region detailing
 15 the provisions of the law that we thought would
 16 negatively impact voters and the conduct of elections in
 17 Harris County.
 18 Q. And did the draft letter that you're referring
 19 to also include Chapter 276.016(a)(1)?
 20 A. I can't remember if it was specifically
 21 referenced in that manner.
 22 Q. Aside from sending a letter, what else did you
 23 do to inform and education legislators about your
 24 concerns over Senate Bill 1?
 25 A. I visited Austin to speak to different

22

1 legislators, and I testified in front of both the House
 2 and Senate committees that this bill was referred to.
 3 Q. When did you visit Austin?
 4 A. I can't remember the exact dates right now.
 5 Q. Was it in the summer?
 6 A. Yes, it was over the summer of 2021.
 7 Q. Was it during the Third Special Session?
 8 A. Yes.
 9 Q. You'd agree with me the Third Special Session
 10 ran from, I believe, September 20 through October 20?
 11 A. I don't remember the exact dates. To that
 12 point, I visited the legislature multiple times that
 13 summer of multiple special sessions.
 14 Q. Did you talk to any legislators specifically
 15 about your concerns with 276.016(a)(1), the provision
 16 you're challenging for this lawsuit?
 17 A. Yes. Among other topics, I would have covered
 18 the solicitation provision regarding mail ballots.
 19 Q. All right. So who do you specifically recall
 20 talking to about Chapter 276.016(a)(1)?
 21 A. I can't remember right now everyone who I
 22 spoke to specifically.
 23 Q. Can you remember anybody?
 24 A. Vice Chair Jessica Gonzales, representatives
 25 of the Mexican American Legislative Caucus,

23

1 Senator Carol Alvarado.
 2 Q. Anyone else?
 3 A. Representative Chris Turner. What's his name,
 4 starts with P?
 5 Representative Jarvis Johnson. Those are
 6 the top names coming to my head.
 7 Q. You mentioned the Mexican American Legislative
 8 Caucus. Is that a group also known by the acronym MALC?
 9 A. Yes.
 10 Q. Do you recall whom from MALC you spoke with?
 11 A. I briefed members of the Mexican American
 12 Legislative Caucus several times, and so there were a
 13 number of people who would have been in that briefing.
 14 Q. You said you briefed MALC. What does that
 15 mean?
 16 A. I was invited by the staff of MALC to brief
 17 their members on the impacts that Senate Bill 1 and
 18 related election bills would have on the conduct of
 19 elections in Texas.
 20 Q. Which staff members?
 21 A. Jaclyn Uresti. I'm blanking on the names.
 22 Jaclyn Uresti's the main staffer.
 23 Q. Do you recall any specific members of MALC
 24 that you briefed upon invitation by Jaclyn Uresti?
 25 A. Representative Armando Walle,

24

1 Representative Rafael Anchía are the two top names that
 2 come to mind.
 3 Q. And I'm looking at my notes here. I know we
 4 talked a moment ago about when SB 1 was passed, the SB 1
 5 we're referring to. Going back over my notes, it
 6 appears to me that the SB 1 we're referring to was
 7 passed in the Second Special Session. Is that accurate
 8 based on your understanding?
 9 A. Yes.
 10 Q. Okay. I know we talked about the Third
 11 Special Session; but you would agree with me that we're
 12 talking about the SB 1 from the Second Special Session,
 13 right?
 14 A. Yes.
 15 Q. Does that change any of your -- any of the
 16 answers that you've given since we first tried to
 17 establish that a few minutes ago?
 18 A. No.
 19 Q. When did you first consider filing a lawsuit
 20 in this case?
 21 A. Over the summer of 2021.
 22 Q. Why didn't you?
 23 A. Why didn't I --
 24 Q. In the summer of 2021?
 25 MR. FOMBONNE: Objection. I'll instruct

25

1 the witness not to answer to the extent her response
 2 would reveal any privileged communications with her
 3 counsel.
 4 MR. HUDSON: Sure.
 5 Q. (BY MR. HUDSON) Do you understand your
 6 attorney's advice?
 7 A. Yes.
 8 Q. Are you going to follow that advice?
 9 A. Yes.
 10 Q. Is there anything you can tell me about the
 11 decision not to file a lawsuit sooner that is outside
 12 the attorney-client relationship?
 13 A. No.
 14 Q. Have you talked to anybody other than your
 15 attorneys about your decision on the timing of your
 16 lawsuit?
 17 A. No.
 18 Q. Now, I believe you prepared a Declaration with
 19 regard to your testimony in this litigation; is that
 20 right?
 21 A. Yes.
 22 Q. I'll put this up for you.
 23 All right. I dropped into the chat
 24 function what I'm going to mark as OAG 2. Go ahead and
 25 pull that up and take a look at it, and let me know

26

1 after you've finished.
 2 (Exhibit 2 marked.)
 3 THE WITNESS: Just confirming I've
 4 successfully downloaded the document, and I'm reading it
 5 now.
 6 MR. HUDSON: Okay.
 7 THE WITNESS: I'm ready for your
 8 questions.
 9 Q. (BY MR. HUDSON) Well, let me go ahead and
 10 throw this up on the screen here. Do you see my screen?
 11 A. Yes.
 12 Q. Do you see where it says Exhibit A there?
 13 A. Yes.
 14 Q. So I'll represent to you that this was filed
 15 along with Preliminary Injunction Motion as Exhibit A.
 16 For purposes of identification, this is OAG 2; but it's
 17 also Document Number 7-1, filed in 21-cv-1223. Down
 18 here on the first page, do you see there at the top it
 19 says In the United States District Court for the Western
 20 District of Texas, San Antonio Division?
 21 A. Yes.
 22 Q. And in the middle of the page it says
 23 Declaration of Harris County Elections Administrator
 24 Isabel Longoria in Support of Motion for Preliminary
 25 Injunction. Did I read that correctly?

27

1 A. Yes.
 2 Q. Having had a chance to review this document,
 3 did you prepare this Declaration yourself?
 4 A. No.
 5 Q. Who prepared it for you?
 6 A. The County Attorney's Office, my counsel
 7 prepared it.
 8 Q. Did you have any hand in writing it?
 9 A. Yes, I reviewed drafts and made edits.
 10 Q. Down at the bottom of the page -- or the last
 11 page -- this is page 8 of 8 of that same document -- do
 12 you see where I'm highlighting here? It says,
 13 "Respectfully submitted," and underneath that there's a
 14 line. It says, "Declarant - Isabel Longoria." Did I
 15 read that correctly?
 16 A. Yes.
 17 Q. And is that your signature?
 18 A. Yes.
 19 Q. All right. So this is effectively your
 20 testimony; is that right?
 21 A. Yes.
 22 MR. FOMBONNE: Objection.
 23 Q. (BY MR. HUDSON) So let's go ahead and talk
 24 about this. Paragraph 5, follow along with me. It
 25 says, "I am a strong proponent of encouraging and

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1 enabling all registered voters in Harris County to
 2 exercise their rights to cast a lawful ballot." Did I
 3 read that correctly?
 4 A. Give me one second here.
 5 My bad. Can you read that again?
 6 Q. Sure. "I am a strong proponent of encouraging
 7 and enabling all registered voters in Harris County to
 8 exercise their rights to cast a lawful ballot." Did I
 9 read that correctly?
 10 A. Yes.
 11 Q. The next sentence reads, "In particular, I
 12 encourage eligible voters to request mail-in voting
 13 applications so that they can lawfully vote by mail and
 14 educate them about the mail-in voting process." Did I
 15 read that correctly?
 16 A. Yes.
 17 Q. In regard to encouraging eligible voters, let
 18 me ask you: As the Elections Administrator for Harris
 19 County, you don't offer money in exchange for someone
 20 voting by mail, do you?
 21 A. No.
 22 Q. And you don't accept money in exchange for
 23 encouraging someone to vote by mail, do you?
 24 A. No.
 25 Q. The next line on your Declaration reads,

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1 "Although many voters in Harris County are eligible to
 2 vote by mail, they are not all aware of the process
 3 required to obtain and submit a mail-in ballot, which is
 4 cumbersome and not immediately obvious." Did I read
 5 that correctly?
 6 A. Yes.
 7 Q. Let's talk about that for a moment. So can
 8 you tell me what the process is for obtaining and
 9 submitting a mail-in ballot?
 10 A. An individual submits an application to my
 11 office to vote by mail. My office reviews that
 12 application to determine their eligibility. If
 13 accepted, we send them a mail ballot for the election
 14 that they selected. If flagged for rejection, we notify
 15 the voter that their mail ballot application was flagged
 16 for rejection, so forth and so on. The voter votes by
 17 mail, returns it to us. The Signature Verification
 18 Committee accepts it. Then it is tallied appropriately
 19 by my office, and that result is conveyed to the
 20 canvassing entities.
 21 Q. Is that the complete process?
 22 A. That's a good summation of the process.
 23 Q. What steps of the process are missing from
 24 your summation?
 25 A. I could provide more detail into the actual

<p style="text-align: right;">30</p> <p>1 verification process within my office in more detail if 2 you'd like.</p> <p>3 Q. Well, I just want to make sure that there's 4 not a step of the process that I'm missing. So you said 5 it was a summation. I'm just asking: With regard to 6 all of the steps you just outlined, are there any steps 7 that you've left out?</p> <p>8 A. No.</p> <p>9 Q. Are any of the steps that you just identified, 10 in your mind, solicitation of mail-in ballots?</p> <p>11 A. What I described for you was the process of 12 processing a mail ballot application. If you could, 13 clarify the question.</p> <p>14 Q. Sure. You've identified steps in processing a 15 mail ballot application. My question is: To your mind, 16 are any of those steps in that process that you just 17 outlined solicitation?</p> <p>18 A. No.</p> <p>19 Q. So it would be fair to say that you can 20 perform all of those steps without soliciting a mail-in 21 ballot. Is that fair?</p> <p>22 A. Yes.</p> <p>23 Q. Are there any other considerations that a 24 person seeking to vote by mail in Harris County -- well, 25 let me rephrase that.</p>	<p style="text-align: right;">32</p> <p>1 Q. Does responding to any of those methods from a 2 voter, to your mind, amount to solicitation of a vote- 3 by-mail ballot?</p> <p>4 A. No.</p> <p>5 Q. Give me one second. I need to turn off Teams 6 because apparently people can't stop.</p> <p>7 All right. I'm going to take you back to 8 the top of 5. You mentioned in your Declaration in 9 Paragraph 5, "I am a strong proponent of encouraging and 10 enabling all registered voters in Harris County to 11 exercise their rights." What do you do to encourage 12 voters in Harris County to vote by mail?</p> <p>13 A. Can you clarify if that question is post SB 1?</p> <p>14 Q. Sure. Let's actually start before SB 1. So 15 prior to the passage and enactment of Senate Bill 1, 16 what did you do to encourage and enable all registered 17 voters in Harris County to vote by mail?</p> <p>18 A. I sent mail ballot applications to eligible 19 voters over 65. I ran social media campaigns to 20 encourage and recommend that voters vote by mail in a 21 pandemic if there were health concerns and, again, if 22 they were eligible. I met with nonprofit organizations 23 locally to confer on the best ways to educate, 24 recommend, and encourage people in Harris County who 25 were eligible to vote by mail. And I attended, you</p>
<p style="text-align: right;">31</p> <p>1 Are there any other steps other than the 2 steps that you've just described to the Court that a 3 person seeking to vote by mail would need to take to 4 vote by mail in Harris County?</p> <p>5 A. Yes.</p> <p>6 Q. What other steps would a voter need to take 7 that you haven't outlined in your process?</p> <p>8 A. They would have to acquire the mail ballot 9 application itself.</p> <p>10 Q. How would a voter go about doing that?</p> <p>11 A. Currently in Texas with the SB 1 implemented, 12 they can download the form from harrisvotes.com -- 13 sorry. They can download the mail ballot application 14 from harrisvotes.com, print it out, and mail it to our 15 office; or they can call our office or fax our office, I 16 believe even e-mail our office, to request a mail ballot 17 application.</p> <p>18 Q. Of those four ways I've understood you to say 19 they can be downloaded by the applicant. An applicant 20 can e-mail. An applicant can fax. An applicant can 21 call. Is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Can an applicant also send a letter to request 24 a mail-in ballot?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">33</p> <p>1 know, public events or spoke at public events and in 2 those comments, among other things, encouraged people to 3 vote by mail if they were eligible to do so.</p> <p>4 Q. Since Senate Bill 1 was enacted, what do you 5 do to encourage Harris County voters to vote by mail?</p> <p>6 A. Since the enactment of Senate Bill 1, I'm by 7 law not allowed to encourage anyone to vote by mail any 8 longer.</p> <p>9 Q. Understood. My question is: What have you 10 done to encourage people to vote by mail in Harris 11 County since the enactment of Senate Bill 1?</p> <p>12 A. Since the enactment of Senate Bill 1, I have 13 not done anything to encourage anyone to vote by mail.</p> <p>14 Q. Have you read Senate Bill 1?</p> <p>15 A. Yes.</p> <p>16 Q. In particular, have you read the provision 17 that you're challenging through your lawsuit?</p> <p>18 A. Yes.</p> <p>19 Q. See my screen?</p> <p>20 A. Yes.</p> <p>21 Q. So this is Section 276.016 of the Texas 22 Election Code. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. It says Unlawful Soliciting and Distribution 25 of Application to Vote By Mail. Did I read that</p>

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1 correctly?
 2 A. Yes.
 3 Q. "(a) A public official or election official
 4 commits an offense if the official, while acting in an
 5 official capacity, knowingly: (1) solicits the
 6 submission of an application to vote by mail from a
 7 person who did not request an application." Did I read
 8 that correctly?
 9 A. Yes.
 10 Q. Now, that's the provision you're challenging
 11 through you lawsuit, isn't it?
 12 A. I don't know specifically what was cited. I
 13 can't remember specifically what was cited in the
 14 lawsuit.
 15 Q. Okay. So do you think that there are other
 16 provisions of the Texas Election Code that you're
 17 challenging in your lawsuit?
 18 A. To clarify, I do believe I am challenging this
 19 solicitation of mail ballot applications. I don't know
 20 if any other Texas Election Code provisions are
 21 specifically cited in my lawsuit.
 22 Q. Okay. In the highlighted portion, which is
 23 276.016(a)(1), do you see the word "encourage" in there
 24 anywhere?
 25 A. I do not.

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1 Q. Do you see any affirmative prohibition against
 2 encouraging vote by mail?
 3 A. I don't see the word "encourage" in what
 4 you've highlighted on the screen.
 5 Q. Okay. But, to your mind, do you think the
 6 word "solicit" incorporates the word "encourage"?
 7 A. Yes.
 8 Q. Okay. Why do you think that?
 9 A. I understand the words "solicit" and
 10 "encourage" to be synonyms in taking an active role in
 11 doing just that, in eliciting, soliciting someone's mail
 12 ballot application.
 13 Q. So is that the only basis for your belief that
 14 encouragement is banned by Section 276.016(a)1?
 15 A. Can you clarify the question?
 16 Q. Sure. I understood you to just say that the
 17 reason you think you're not allowed to encourage
 18 vote-by-mail applications is because you believe that
 19 the word "solicit" is synonymous with the word
 20 "encourage." Is that right?
 21 A. I think it's more accurate to say that you
 22 asked me if I encouraged mail ballot applications since
 23 SB 1; and I consider, yes, "encourage" and "solicit" to
 24 be synonymous enough that I have solicited mail ballot
 25 applications since the implication of -- or since the

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1 enactment of Senate Bill 1.
 2 Q. Okay. That wasn't my question.
 3 MR. HUDSON: So I'm going to object to
 4 nonresponsive.
 5 Q (BY MR. HUDSON) My question is simply: Is
 6 there any basis other than your interpretation that
 7 Chapter 276.016(a)1 makes the word "solicit" synonymous
 8 with the word "encourage" as the basis for your belief
 9 that you're not allowed to encourage vote by mail?
 10 MR. FOMBONNE: And I'm just going to
 11 object and instruct the witness not to answer the
 12 question to the extent it would reveal any privileged
 13 conversation with counsel.
 14 Q. (BY MR. HUDSON) Okay. And to be clear on the
 15 record, I'm not asking for conversations with your
 16 counsel. I'm just asking you: What is your basis for
 17 determining that Chapter 276.016(a)1, which you've
 18 testified does not include the word "encourage,"
 19 incorporates encouragement as part of solicitation?
 20 (Simultaneous speakers.)
 21 THE WITNESS: I'm going to have to take a
 22 break and confer with my counsel --
 23 MR. HUDSON: Sure.
 24 THE WITNESS: -- on what would be
 25 considered privileged information.

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1 MR. HUDSON: Sure. We can go off the
 2 record.
 3 THE REPORTER: We're going off the record
 4 at 2:20 p.m.
 5 (Off the record from 2:20 to 2:35 p.m.)
 6 THE REPORTER: We're back on the record
 7 at 2:35 p.m.
 8 Q (BY MR. HUDSON) We took a break there for a
 9 little over ten minutes, Ms. Longoria. Were you able to
 10 confer with your counsel?
 11 A. Yes.
 12 Q. Okay. After having conferred with them, are
 13 you able to answer my question?
 14 A. Would you do me the grace of repeating it,
 15 please?
 16 Q. Certainly. So my question is: Aside from, I
 17 believe your testimony was the fact that you believe the
 18 word "solicit" and "encourage" are synonymous, are there
 19 any other reasons why you think you're not allowed to
 20 encourage vote by mail for Harris County voters?
 21 A. Outside of conversations with my counsel, just
 22 my general understanding of those words, that's what I
 23 was basing it off of.
 24 Q. All right. So the record's clear: So there's
 25 nothing outside of conversations with counsel, your

<p style="text-align: right;">38</p> <p>1 general understanding of the terms "solicit" and 2 "encourage" and your understanding of what you believe 3 is the synonymous relationship between "solicit" and 4 "encourage." Is that right? 5 A. Yes. 6 Q. Let's talk a little bit about the, I believe, 7 four things that you identified that you did before 8 Senate Bill 1 was enacted. I believe the first was you 9 ran campaigns about vote by mail; is that right? 10 A. I believe I said I ran social media campaigns 11 related to voting by mail. 12 Q. Right, and I agree with that clarification. I 13 was just saying "campaigns" in a loose sense; but to be 14 clear, are you referring to social media campaigns? 15 A. Yes. 16 Q. Can you describe for the judge what a social 17 media campaign encouraging, in your words, vote by mail 18 looked like? 19 A. Information and messaging in the form of 20 Facebook, Twitter, and in some instances Instagram 21 relating to, you know, advising, encouraging eligible 22 voters to vote by mail because of the pandemic or 23 because of other extenuating circumstances they might 24 have. 25 Q. So I'm going to drop in what I'm going to mark</p>	<p style="text-align: right;">40</p> <p>1 tweet. 2 Q. Well, let's take a look at the top left-hand 3 corner. Do you see where it says Harris County 4 Elections? 5 A. Yes. 6 Q. And right next to Harris County Elections, 7 there's a blue checkmark. Do you see that? 8 A. Yes. 9 Q. First off, do you -- are you aware of whether 10 Harris County has a Harris County Elections Twitter 11 feed? 12 A. Yes. 13 Q. Can you describe to the Court what a Twitter 14 feed is? 15 A. A Twitter feed is a collection of tweets from 16 a Twitter account. 17 Q. Are you familiar with who at Harris County 18 operates the Harris County Elections Twitter feed? 19 A. Yes. 20 Q. Who is that? 21 A. Can you specify the timeframe? 22 Q. Sure. Do you see on the tweet where it says 23 March 5 of 2021? 24 A. Yes. 25 Q. On March 5, 2021 are you familiar with who</p>
<p style="text-align: right;">39</p> <p>1 as OAG 3. Pull that document up when you get a chance. 2 (Exhibit 3 marked.) 3 A. I have pulled up the document. 4 Q. (BY MR. HUDSON) Now, I'm showing you on my 5 share screen what's been marked as OAG 3. Do you see 6 that document? 7 A. Yes. 8 Q. And for identification purposes, you can 9 look in the bottom right-hand corner. It reads 10 Longoria_000002. Do you see that? 11 A. Yes. 12 Q. And I'll represent to you that this is a 13 document that was produced by your counsel in response 14 to a discovery request that I sent in advance of this 15 deposition. Do you understand that? 16 A. Yes. 17 Q. Have you ever seen this document before? 18 A. Can you clarify what you mean by "document" in 19 this sense? 20 Q. Sure. What I'm trying to get at is: You 21 would agree with me that this is a tweet, right? 22 A. Yes. 23 Q. Have you ever seen a -- have you ever seen 24 this particular tweet before? 25 A. I can't remember if I've seen this particular</p>	<p style="text-align: right;">41</p> <p>1 operated the Harris County Elections Twitter feed? 2 A. On that exact date, I don't remember. 3 Q. Is the Harris County -- who operates the 4 Harris County Elections Twitter feed right now? 5 A. A Mr. Joseph Brown. 6 Q. Does Mr. Joseph Brown work for you? 7 A. Yes. 8 Q. Did the person who sent the tweet on March 5, 9 2021 under the Harris County Elections Twitter feed also 10 work for you? 11 A. Yes. 12 Q. Has there ever been a time when the Harris 13 County Elections Twitter feed was operated by somebody 14 who did not report to you, either directly or in your 15 chain of command? 16 A. No. 17 Q. Are you familiar with what the blue checkmark 18 means? 19 A. Yes. 20 Q. Can you explain to the Court what the blue 21 checkmark means? 22 A. I understand the blue checkmark on a Twitter 23 account to mean that it is a certified Twitter account. 24 Q. What does that mean? 25 A. I believe it means that Twitter has gone</p>

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1 through steps to verify that that account is exactly who
 2 that account says they are or represents to be.
 3 Q. Do you know if there's a difference between
 4 accounts with blue checkmarks and accounts without blue
 5 checkmarks?
 6 A. Yes.
 7 Q. What's your understanding of the difference?
 8 A. A blue checkmark means that Twitter has
 9 verified that the account is who they say they are, who
 10 they represent; and a Twitter account without a blue
 11 checkmark could mean that Twitter has not verified who
 12 runs that account or who they speak.
 13 Q. With regard to the Harris County Elections
 14 Twitter feed, were you involved in the process to verify
 15 the account to get a blue checkmark?
 16 A. No.
 17 Q. Who at Harris County operated or coordinated
 18 with Twitter to complete the verification to get the
 19 blue checkmark?
 20 A. I don't know who would have done that.
 21 Q. Would you agree with me that the Harris County
 22 Elections Twitter feed is a verified account that is
 23 operated solely by the Harris County Elections section?
 24 A. Yes.
 25 Q. All right. Let's look at the tweet itself.

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1 Do you see where it says, "Do you qualify to vote by
 2 mail"?
 3 A. Yes.
 4 Q. Now, I presume that this is a picture of some
 5 flyer that was issued by the Harris County Elections
 6 section. Is that a fair -- is that fair to say?
 7 A. No.
 8 Q. Okay. Have you ever seen the Do You Qualify
 9 to Vote by Mail picture that's represented here in the
 10 tweet?
 11 A. Yes.
 12 Q. When did you see it?
 13 A. To clarify, I believe that this is a picture
 14 of an application to vote by mail and not a flyer
 15 regarding voting by mail.
 16 Q. Okay. So it's a terminology issue.
 17 So you would agree that this is a picture
 18 of an application to vote by mail?
 19 A. Yes.
 20 Q. And so you've seen this, an application to
 21 vote by mail, before, right?
 22 A. Yes.
 23 Q. And is this a true and accurate depiction of
 24 an application to vote by mail as of March 5, 2021?
 25 A. I assume so.

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1 Q. Well, you see here in the top left-hand corner
 2 this seal next to Harris County Elections?
 3 A. Yes.
 4 Q. What is that seal?
 5 A. It is the current seal of the Harris County
 6 Elections Administration Office.
 7 Q. It's attached to the verified --
 8 A. I apologize. Sorry, Counsel. If you wouldn't
 9 mind me clarifying, it is the logo of the Harris County
 10 Elections Administration Department.
 11 Q. And that logo's next to the Harris County
 12 Elections verified Twitter handle, right?
 13 A. Yes.
 14 Q. Now, if we go down to the application for
 15 ballot by mail, we see the same symbol, right?
 16 A. Yes.
 17 Q. Do you know who would have printed an
 18 application to vote by mail with the Harris County
 19 Elections logo on it?
 20 A. Would you mind clarifying the question,
 21 please?
 22 Q. Sure. Were you the Elections Administrator in
 23 March of 2021?
 24 A. Yes.
 25 Q. Did you direct the production of vote-by-mail

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1 applications bearing the logo of the Harris County
 2 Elections division?
 3 A. Yes.
 4 Q. So would it be fair to say that you're the one
 5 who organized the production of these applications as
 6 depicted in this tweet?
 7 A. Yes.
 8 Q. Is this a true and accurate copy of what you
 9 directed to be created and delivered to voters as vote-
 10 by-mail applications?
 11 A. Yes.
 12 Q. Now, underneath that picture of an application
 13 for ballot by mail, there's a U.S. Postal Service tweet;
 14 and it reads, "Tell us you love mail without telling us
 15 you love mail." Did I read that correctly?
 16 A. Yes.
 17 Q. And right above that sentence, it's a symbol
 18 of the U.S. Postal Service, the word "U.S. Postal
 19 Service," and then another blue verification checkmark;
 20 is that right?
 21 A. Yes.
 22 Q. Now, do you understand that blue verification
 23 checkmark to mean that that tweet was sent by the
 24 United States Postal Service?
 25 A. Yes.

<p style="text-align: right;">46</p> <p>1 Q. And in response to U.S. Postal Service's 2 tweet, someone from Harris County Elections tweeted out 3 a copy of your vote-by-mail application; is that right? 4 A. It would appear so. 5 Q. Based on your read and understanding of the 6 provisions of SB 1 that you are challenging in this 7 lawsuit, do you think this tweet qualifies as 8 solicitation? 9 A. Can you scroll up on that tweet, please -- no, 10 sorry. Scroll down. 11 (Witness silently reading on-screen 12 exhibit.) 13 A. Yes. 14 Q. How does this qualify as solicitation, in your 15 mind? 16 A. Can you scroll -- the beginning paragraphs 17 educate voters on who is available [sic] and then 18 contains the comments regarding COVID-19. 19 I'm going -- this is a technical 20 question: Am I allowed to pull this up on my own 21 screen, since it's really blurry, to see if I can read 22 that better? 23 Q. Sure. 24 A. To put me back on the map, would you mind 25 repeating that last question?</p>	<p style="text-align: right;">48</p> <p>1 A. I can't remember what the specific terms or 2 words used on that application we have now are. 3 Q. Would it be fair to say that, as you sit here, 4 you have not sent out an application similar to the 5 application in this March 5, 2021 tweet in 2022? 6 A. Correct. 7 Q. Well, I mean, let me ask you: Part of your 8 lawsuit is premised on your allegation that you are 9 chilled in your activities by SB 1; is that right? 10 A. Yes. 11 Q. But your testimony today is that you don't 12 know whether you sit here -- as you sit here, whether 13 the current application to vote by mail contains 14 language that you believe is a solicitation akin to one 15 that was sent out in March of 2021? 16 A. Can you repeat the question, please? 17 Q. Sure. Your testimony today is that you don't 18 know whether the applications that you've sent out for 19 vote by mail match the instructions from the application 20 that is included in this March 5, 2021 tweet? 21 A. I cannot remember without looking at the 22 specific application that we have today what the exact 23 wording is on it, but I know that we are not soliciting 24 applications from voters post SB 1. 25 Q. So your testimony is, as you sit here, there's</p>
<p style="text-align: right;">47</p> <p>1 Q. Sure. Do you think that this tweet qualifies 2 as solicitation in violation of the Texas Election Code 3 provision that you are challenging in your lawsuit? 4 A. Yes. 5 Q. Why? 6 A. This tweet contains an application but also 7 the information in the description here that we sent to 8 voters over 65. So this was, I believe, a copy of the 9 application we sent to voters over 65; and it gets into 10 these provisions, "Please complete the attached 11 application and return it to the Harris County Elections 12 Office." That, to me, signifies an action that I am 13 requesting a voter take; therefore, I would consider 14 that solicitation. 15 Q. Have you created applications to vote by mail 16 for the upcoming March primary in 2022? 17 A. Yes. 18 Q. Did they include a similar instruction on the 19 application to vote by mail? 20 A. I can't remember. We'd have to pull up the 21 application itself. 22 Q. Okay. So as you sit here right now, you don't 23 know whether there's an instruction to fill out and 24 return the application by mail on the application by 25 mail?</p>	<p style="text-align: right;">49</p> <p>1 no instruction in the application to vote by mail that 2 directs applicants to fill out the application and 3 return it to you? 4 A. I can't remember the specific wording on the 5 application right now. 6 Q. So I'll get the PDF document with this web 7 address on here; but for purposes of this conversation 8 and for the record, I'm dropping in a link to the Harris 9 County website that contains the application to vote by 10 mail; and I'm going to mark this as OAG 4. 11 (Exhibit 4 marked.) 12 Q (BY MR. HUDSON) Go ahead and click on that 13 link, if you would, and take a look at that document. 14 A. Sure. 15 Q. Have you ever seen that document before? 16 A. Yes. 17 Q. What is that document? 18 A. I believe it to be the most current mail 19 ballot application offered on our website, the Harris 20 County Elections website. 21 Q. Is it a true and accurate copy of the 22 application? 23 A. Yes. 24 Q. And do you see up at the top here -- this may 25 be difficult because you might see a black bar at the</p>

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1 top. Do you see the web address at the top?
 2 A. Yes.
 3 Q. All right. Is that an accurate representation
 4 of the website where I can find the application that's
 5 currently on your screen?
 6 A. Yes.
 7 Q. Let's scroll down to the bottom. I'm going to
 8 highlight How to Return. Do you see that?
 9 A. Yes.
 10 Q. Follow along with me. It says, "Return this
 11 application by mail or drop off in person at any Harris
 12 County Elections branch location." Did I read that
 13 correctly?
 14 A. Yes.
 15 Q. And, to your mind, the language requiring the
 16 return of the application is not the same as the
 17 language requiring the return in the tweet that was sent
 18 in March of 2021?
 19 A. It is not the exact same wording.
 20 Q. What's different about those two directions
 21 that you believe changes one from solicitation to not
 22 solicitation?
 23 A. The difference is not the wording itself but
 24 the form that it is in. This is an application that
 25 voters must know about and seek on their own to

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1 recommending, and soliciting mail ballot applications
 2 from voters.
 3 Q. And, again, you would agree with me, the word
 4 "encourage" doesn't appear in the provision of SB 1 that
 5 you're challenging, right?
 6 A. The word itself does not appear.
 7 Q. The word "recommending" also does not appear;
 8 isn't that true?
 9 A. We'd have to go back and look at it again.
 10 Q. Go ahead and take a look at the language from
 11 276.016 that I've currently shared on your screen. Let
 12 me know if you see the word "recommend" in there.
 13 A. I do not see the word "recommend."
 14 Q. Okay. So you would agree with me that the law
 15 that you're challenging doesn't include the word
 16 "recommend," right?
 17 A. This provision you have highlighted does not
 18 include the word "recommend."
 19 Q. Well, is there another provision that I'm
 20 missing that you're also challenging that includes the
 21 word "recommend"?
 22 A. I apologize. When you said that "the law," I
 23 didn't know if that was a global term or a specific
 24 term, so making sure, to be specific, that what you have
 25 highlighted here doesn't have the word "recommend." But

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1 download. The other was a copy of the actual
 2 application in, essentially, a letter or notice that we
 3 sent to voters soliciting their mail ballot application.
 4 So an -- essentially, an active or passive way of
 5 receiving this application.
 6 Q. Okay. So if I understand your testimony
 7 correctly, the problem that you have is you would like
 8 to send out applications akin to the ones you sent out
 9 via Twitter; but under current law, you have to just
 10 simply put up the application and allow the voter to
 11 find it. Is that right?
 12 A. That is one of the -- one of the methods that
 13 I would otherwise like access to in soliciting mail
 14 ballot applications from voters.
 15 Q. Okay. So your testimony is that you believe
 16 you are prevented from sending out unsolicited
 17 applications for people to vote by mail; is that right?
 18 A. No.
 19 Q. Okay. Can you explain to me, then, what you
 20 mean because I don't think I follow when you say that's
 21 one of the ways you'd like to access vote by mail?
 22 A. Soliciting can happen in multiple ways, like,
 23 speech happens in multiple ways, which is the core of
 24 this case. It can be sending letters, sending
 25 applications, going to events, and others encouraging,

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1 outside of what you have highlighted here...
 2 Q. Well, for the benefit of the record, I've
 3 highlighted Chapter 276.016(a)(1), which I understand to
 4 be the provision that you're challenging in this
 5 preliminary injunction; is that right?
 6 A. Understood. Yes.
 7 Q. And in that section, the word "recommend"
 8 doesn't appear; is that right?
 9 A. Correct.
 10 Q. Nor does the word "encourage," right?
 11 A. Correct.
 12 Q. In fact, the only word that appears is the
 13 word "solicits," right?
 14 A. Not to be obtuse, multiple words appear; but
 15 the one you had the cursor over was the word "solicits."
 16 Q. All right. So the tweet that you -- that your
 17 Section sent out on March 5, 2021, you say you'd like to
 18 be able to use that now; but you're not allowed to, all
 19 because of 276.016(a)(1). Is that right?
 20 A. Yes.
 21 Q. And you're concerned that you're going to get
 22 prosecuted if you send out an application that looks
 23 like the one that your Section sent out on March 5 of
 24 2021; is that right?
 25 A. Yes.

54	<p>1 Q. Do you know who Kim Ogg is?</p> <p>2 A. Yes.</p> <p>3 Q. Who is Kim Ogg?</p> <p>4 A. The District Attorney of Harris County.</p> <p>5 Q. Are you friends with Kim Ogg?</p> <p>6 A. No.</p> <p>7 Q. Have you ever met her before?</p> <p>8 A. Yes.</p> <p>9 Q. Have you met her since SB 1 has gone into</p> <p>10 effect?</p> <p>11 A. I met her before SB 1 went into effect.</p> <p>12 Q. All right. Let me ask it a different way</p> <p>13 because that was kind of clunky. So have you talked to</p> <p>14 Kim Ogg about SB 1 since SB 1 has gone into effect?</p> <p>15 A. No.</p> <p>16 Q. Did you talk to Kim Ogg before SB 1 went into</p> <p>17 effect about SB 1?</p> <p>18 A. No.</p> <p>19 Q. Have you talked to anybody at the Harris</p> <p>20 County Attorney's Office -- actually, let me clarify.</p> <p>21 Have you talked to anybody at the Harris County District</p> <p>22 Attorney's Office about SB 1 since SB 1 has gone into</p> <p>23 effect?</p> <p>24 A. No.</p> <p>25 Q. Have you talked to anyone at the Harris County</p>	56	<p>1 Secretary of State's Office about SB 1, either before or</p> <p>2 after it's gone into effect?</p> <p>3 A. Yes.</p> <p>4 Q. Have you talked to anyone at the Secretary of</p> <p>5 State's Office about Section 276.016(a)(1) about SB 1,</p> <p>6 either before or after it's gone into effect?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Can you clarify the question? "Why not" what?</p> <p>10 Q. Why have you not talked to anybody at the</p> <p>11 Secretary of State's Office about what</p> <p>12 Section 276.016(a)(1) means, either before or after</p> <p>13 SB 1's gone into effect?</p> <p>14 A. In regards to my concerns about being</p> <p>15 convicted of a crime or what I am allowed to do or not</p> <p>16 do under the law, it's my understanding that it's the</p> <p>17 job of the County Attorney's Office to advise me on</p> <p>18 what actions I can take.</p> <p>19 Q. Okay. And have you, in fact, talked to</p> <p>20 the Harris County Attorney's Office about SB 1,</p> <p>21 Section 276.016(a)(1)?</p> <p>22 MR. FOMBONNE: Objection.</p> <p>23 I'll instruct the witness not to answer</p> <p>24 about the substance of the discussions, but you can</p> <p>25 answer as to whether or not you did speak to us about</p>
55	<p>1 District Attorney's Office about SB 1 before SB 1 went</p> <p>2 into effect?</p> <p>3 A. No.</p> <p>4 Q. So it'd be fair to say that no one from the</p> <p>5 prosecutorial agency responsible for prosecuting you for</p> <p>6 violating SB 1 has talked to you about what SB 1 means,</p> <p>7 right?</p> <p>8 MR. FOMBONNE: Object to the form.</p> <p>9 A. Can you repeat the question, again?</p> <p>10 Q. (BY MR. HUDSON) Sure. You would agree with</p> <p>11 me that you have not talked to anyone from the</p> <p>12 prosecuting agency, the Harris County District</p> <p>13 Attorney's Office, about potential prosecution for</p> <p>14 violating SB 1 either before or since SB 1 has gone into</p> <p>15 effect?</p> <p>16 A. I don't believe I've spoken to anyone</p> <p>17 personally, huh-uh.</p> <p>18 Q. Have you spoken to anyone at the Office of the</p> <p>19 Attorney General about SB 1, either before or after it</p> <p>20 went into effect?</p> <p>21 A. Just you today.</p> <p>22 Q. Have you spoken to Ken Paxton about SB 1,</p> <p>23 either before or after SB 1 has gone into effect?</p> <p>24 A. No.</p> <p>25 Q. Have you spoken to anyone at the Texas</p>	57	<p>1 it.</p> <p>2 A. Yes, I've talked to the County Attorneys as</p> <p>3 they are my counsel in this matter.</p> <p>4 Q. (BY MR. HUDSON) Okay. How many attorneys</p> <p>5 have you talked to with the Harris County Attorney's</p> <p>6 Office about 276.016(a)(1)?</p> <p>7 A. Oh, boy. At least six attorneys.</p> <p>8 Q. They are pretty well staffed over there,</p> <p>9 right?</p> <p>10 A. I don't know how well or not well they are</p> <p>11 staffed according to other offices.</p> <p>12 MR. FOMBONNE: Can I answer that</p> <p>13 question? It's misleading, Eric. You should see our</p> <p>14 budget for next year.</p> <p>15 MR. HUDSON: Fair enough.</p> <p>16 Q. (BY MR. HUDSON) You would agree with me that</p> <p>17 the Harris County Attorney's Office does, in fact, have</p> <p>18 a legal department, right?</p> <p>19 A. Yes.</p> <p>20 Q. And they have provided legal advice -- and,</p> <p>21 again, I'm not asking you what that advice is -- but</p> <p>22 they have provided legal advice to you about complying</p> <p>23 with Senate Bill 1, right?</p> <p>24 A. Yes.</p> <p>25 Q. And, in particular, I understand that you have</p>

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1 talked to at least six attorneys about complying with
 2 Section 276.016(a)(1); is that right?
 3 A. Yes.
 4 Q. During the course of preparing for your
 5 deposition, did you look at any of the pleadings in the
 6 case?
 7 A. Can you clarify what --
 8 Q. Let me ask you this --
 9 A. Yeah --
 10 Q. I was about to say --
 11 A. -- I'm not a lawyer.
 12 Q. Yeah. Do you know what a pleading is?
 13 A. I don't know the legal definition of a
 14 pleading, but I know generally what a pleading is.
 15 Q. Okay. So here's kind of a rough-out of a
 16 pleading: It's anything that's filed in -- any of the
 17 papers filed in the case. Does that make sense?
 18 A. Yes.
 19 Q. Now, whether I'm right or wrong, can we agree
 20 that that's what I'm referring to when I'm talking about
 21 a pleading?
 22 A. Apologies. Yes.
 23 Q. Okay. Now, have you seen any of the pleadings
 24 that have been filed by Kim Ogg in this case?
 25 A. No.

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1 Q. Are you aware that Kim Ogg filed what's called
 2 a Stipulation with the trial court?
 3 A. Yes.
 4 Q. What's your understanding of the Stipulation
 5 that was filed by Kim Ogg?
 6 A. Again, having not seen the specific wording
 7 but understanding broadly and not being a lawyer, I
 8 understand it to mean that, at least while this is,
 9 essentially, an active, recurrent lawsuit, that she will
 10 be refraining from bringing charges against me.
 11 Q. So I'm not going to bring up the document, but
 12 I guess I'll ask you: You know, I understand that
 13 you're not taking actions because you're concerned about
 14 being prosecuted. Does the fact that the Harris County
 15 District Attorney's Office has represented that they
 16 don't intend to bring any prosecution until a final,
 17 non-appealable order is entered by a Court put you at
 18 ease about what you can and cannot do under Senate
 19 Bill 1?
 20 A. No.
 21 Q. Why not?
 22 A. It's the duty of the District Attorney or it's
 23 my understanding the AG can bring charges against me,
 24 so -- or there's other entities who could bring charges
 25 against me. She's got an election task force dedicated

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1 specifically to election issues like this; and so
 2 whether there is a pause in her actions or not because
 3 of this lawsuit does nothing to abate my overall fears
 4 and concerns in the core principle of why I'm bringing
 5 this case forward.
 6 Q. But you would agree with me that Kim Ogg has
 7 represented to the Court, at least, that she does not
 8 intend to bring any criminal prosecution until a final,
 9 non-appealable order has been entered in this
 10 litigation, right?
 11 A. I'll say not having seen the document and not
 12 knowing all legal terms, I can at least say that if that
 13 means she's not bringing charges against me while this
 14 lawsuit or question is active, then, yes. I'm not a
 15 lawyer. So forgive me if I don't know those exact
 16 terms.
 17 Q. Understood. It'd probably be easier just to
 18 show it to you. So just one second.
 19 (Exhibit 5 marked.)
 20 Q. (BY MR. HUDSON) I put into the chat function
 21 what I'm going to mark as Defendant -- or OAG 5. Go
 22 ahead and download that and tell me when you've had a
 23 chance to take a look.
 24 A. I've read that document now.
 25 Q. Now, do you see the document I just put on the

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1 screen?
 2 A. Yes.
 3 Q. I'll represent that this is a copy of a
 4 document that I just showed you. For purposes of citing
 5 it, this is Document Number 35, in 21-cv-1223. This is
 6 Longoria v. Paxton, and this is the Agreed Stipulation
 7 filed by Kim Ogg. Do you see that?
 8 A. Yes.
 9 Q. I'll take you down to Paragraph 2. Do you see
 10 Paragraph 2?
 11 A. Yes.
 12 Q. Follow along with me. It says, "Ogg
 13 stipulates and agrees not to enforce
 14 Section 276.016(a)(1) of the Texas Election Code
 15 challenged in the above-styled and numbered cause until
 16 such time as a final, non-appealable decision has been
 17 issued in this matter." Did I read that correctly?
 18 A. Yes.
 19 Q. Do you have any idea what a final,
 20 non-appealable decision is?
 21 A. No.
 22 Q. Do you know whether the preliminary
 23 injunction, if you're successful, is a final,
 24 non-appealable decision?
 25 A. No.

<p style="text-align: right;">62</p> <p>1 Q. Are you aware whether this case will continue 2 if a preliminary injunction is or is not entered? 3 A. Can you repeat that question, please? 4 Q. Sure. Well, I'll just represent to you a 5 preliminary injunction is exactly what it sounds like. 6 It's preliminary. It's not final. Can we at least 7 agree that "preliminary" means that it is not a final 8 decision? 9 A. Yes. 10 Q. So what you're seeking in this case is a 11 preliminary injunction at this time; is that right? 12 A. Yes. 13 Q. So, presumably, you'll want a permanent 14 injunction down the line, fair? 15 A. I don't know kind of on the legal strategy or 16 what the legal terms mean on this. Again, I'm not 17 trying to be obtuse. It sounds like some legalese. 18 Q. Well, let me see if I can make it a little bit 19 simpler. You at some point want a final ruling from the 20 judge in this case that resolves the litigation; is that 21 right? 22 A. Yes. 23 Q. And you understand that a preliminary 24 injunction does not fully and finally resolve this 25 litigation, don't you?</p>	<p style="text-align: right;">64</p> <p>1 Q. So you're concerned both because of 2 prosecutorial ability of the Harris County District 3 Attorney's Office and because you perceive that the 4 Office of the Attorney General also has some way to 5 prosecute you under 276.016(a)(1); is that right? 6 A. That is my understanding. 7 Q. And, again, you haven't spoken with anybody at 8 the Attorney General's Office about any intent to bring 9 charges against you; is that fair? 10 A. Correct. 11 Q. And the same way with Ms. Ogg, aside from this 12 stipulation, which says what it says, you haven't spoken 13 with anybody at the Harris County District Attorney's 14 Office about whether the Harris County District 15 Attorney's Office intends to bring charges against you; 16 is that fair? 17 A. Correct. 18 Q. You don't have any knowledge of anyone 19 attempting to bring criminal charges against you for 20 violating Section 276.016(a)(1); is that right? 21 A. That is correct. 22 Q. Now, let's go back to the documents. 23 Now, I understand, again, that you want 24 to send out mail-in applications; and was that -- let me 25 ask you this: Was that part of the social media</p>
<p style="text-align: right;">63</p> <p>1 A. Yeah, I can accept at a general level that's 2 what you're representing to me. How about that? 3 Q. Do you have any reason to dispute that? 4 A. I'm not a lawyer; but other than that, I've 5 got no reason other than not knowing specific legal 6 terms. 7 Q. Okay. Well, based on that understanding, 8 would you agree with me that, regardless of the outcome 9 of the preliminary injunction next week, Kim Ogg is not 10 going to prosecute you, at least until such time as a 11 final non-appealable decision has been made? 12 A. That's what she seems to represent in this 13 document. 14 Q. Okay. Does that change your mind about 15 whether you're concerned about prosecution under 16 Section 276.016(a)(1)? 17 A. No. 18 Q. Why not? 19 A. I understand that -- I believe, if I 20 understand correctly, the Attorney General's Office, 21 your office, can bring charges against me; and 22 regardless of whether Kim Ogg can bring charges against 23 me or not, it could still be against the law. Again, 24 not understanding the legal terms; but, essentially, a 25 crime is a crime.</p>	<p style="text-align: right;">65</p> <p>1 strategy that you'd like to run is sending out 2 unsolicited mail-in applications via Twitter? 3 MR. FOMBONNE: Object to the form. 4 A. I haven't contemplated, because SB 1 does not 5 allow me to, the specific messaging or content of any 6 messages that we would put out on social media. 7 Q. (BY MR. HUDSON) So your testimony today is 8 that you haven't even contemplated what kind of social 9 media campaign you would run because of SB 1? 10 A. I haven't been able to compliment -- sorry -- 11 contemplate or come up with exact wording and the exact 12 tweets and the exact messages I would put out because 13 of -- the campaign because SB 1 already prohibits me 14 from doing that. 15 Q. So your testimony today is that SB 1 prohibits 16 you from even contemplating a social media campaign? 17 A. I don't believe that SB 1 prohibits me from 18 contemplating such a campaign. 19 Q. Do you think SB 1 prohibits you from 20 conducting any form of social media campaign? 21 A. No. 22 Q. So you would agree that SB 1 doesn't prohibit 23 you from conducting social media campaigns? 24 A. Correct. 25 Q. And your testimony today is that you have not</p>

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1 contemplated what a social media campaign would look
 2 like because you're unsure about SB 1; is that fair?
 3 A. I'll clarify to say that I can't represent to
 4 you what any specific tweet, post, et cetera, might be
 5 for such a campaign; but I have, like, the intent. If I
 6 was allowed to under the law, I would otherwise do a
 7 social media campaign specifically regarding the
 8 solicitation of mail ballot applications.
 9 Q. Well, so I thought I just understood you to
 10 testify just a moment ago that SB 1 doesn't prohibit you
 11 from conducting a social media campaign.
 12 A. SB 1 does not prohibit me from conducting a
 13 social media campaign, but it would prohibit me -- or it
 14 does prohibit me from conducting one as it relates to
 15 the solicitation of mail ballot applications.
 16 Q. And as you sit here right now, you have not
 17 undertaken any effort to figure out what kind of social
 18 media campaign you could run in compliance with SB 1; is
 19 that fair?
 20 A. Yeah, so the law currently prohibits me from
 21 running a social media campaign soliciting mail ballot
 22 applications.
 23 Q. Understood. My question's a little bit
 24 different than the one you're answering. My question
 25 is specifically: You agree with me that social -- that

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1 SB 1 does not prohibit you from operating social media
 2 campaigns, fair?
 3 A. Broadly speaking, yes.
 4 Q. And SB 1 doesn't prohibit you from sending out
 5 tweets about mail-in ballots; you would agree with that,
 6 wouldn't you?
 7 A. Correct.
 8 Q. Your concern is you want to solicit people by
 9 Twitter or some other social media mechanism, and your
 10 contention is that SB 1 prohibits that; is that fair?
 11 A. That in prohibiting solicitation, yes, that it
 12 would prohibit, you know, a social media campaign as one
 13 of my forms of speech.
 14 Q. And your testimony today is that you have not
 15 attempted to figure out where the line is on
 16 solicitation to operate a social media campaign
 17 concerning mail-in balloting; is that right?
 18 A. No.
 19 Q. Okay. What is your testimony today?
 20 A. That --
 21 MR. FOMBONNE: Hang on, Isabel.
 22 Object to the form.
 23 THE WITNESS: Sorry.
 24 A. I understood your initial question to ask
 25 specifically had I considered, you know, specific

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1 messaging that I would include in a social media
 2 campaign and I have not included because it's illegal
 3 for me to just even conduct a social media campaign
 4 regarding solicitation. So if your original question --
 5 please restate it if I got it wrong -- I can't speak to
 6 an exact tweet or the exact content of every item I
 7 would put in a social media campaign.
 8 Q. (BY MR. HUDSON) Well, we have identified at
 9 least one tweet today that was a mail-in application
 10 delivered on March 5, 2021, right?
 11 A. Correct.
 12 Q. And your contention today is that you wouldn't
 13 be allowed to send out that particular tweet with that
 14 particular mail-in application because you believe that
 15 that would violate SB 1, specifically, 276.016(a)(1); is
 16 that right?
 17 A. Yes.
 18 Q. Are there any other tweets that you've sent
 19 out previously you believe you would not be allowed to
 20 send out under SB 1?
 21 A. I honestly can't remember every tweet that our
 22 account has sent out, so we would have to review those
 23 specifically.
 24 Q. Sure. Are you aware that your Counsel sent
 25 screenshots of your Twitter feed at Harris County

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1 Elections as part of your discovery responses?
 2 A. Yes.
 3 Q. I'll put into the chat function what I'm going
 4 to mark as -- I believe we're up to OAG 6.
 5 (Exhibit 6 marked.)
 6 Q. (BY MR. HUDSON) Go ahead and take a look at
 7 that, and tell me when you're finished.
 8 A. I have now seen that tweet.
 9 Q. Again, we see the logo that we talked about
 10 earlier with Harris County Elections, and then "Harris
 11 County Elections" with a blue checkmark next to it; is
 12 that right?
 13 A. Yes.
 14 Q. And, again, that signifies to you that this is
 15 the verified Harris County Elections Twitter feed; is
 16 that right?
 17 A. Yes, it is the Harris County Elections Twitter
 18 feed; but in that time, it was not run by the current
 19 Harris County Elections Administration Office.
 20 Q. Who was operating the Harris County Elections
 21 Administration Office on November 23 of 2020?
 22 A. Oh, gotcha. Sorry. You're right. By
 23 2023 [sic] we did have an EA office. Please let me
 24 correct that. I apologize.
 25 Q. All right. So this tweet, then, is from the

70	<p>1 verified Harris County Elections Office, which would be</p> <p>2 your section, right?</p> <p>3 A. Correct, yes.</p> <p>4 Q. All right. Do you think you could send this</p> <p>5 tweet out today without violating SB 1?</p> <p>6 A. Yes.</p> <p>7 Q. In the bottom right-hand corner it says</p> <p>8 Longoria 00001 for purposes of identification, and I'll</p> <p>9 represent to you that we received this from your</p> <p>10 Counsel. So you would be able to send out this tweet</p> <p>11 today as part of a social media campaign without</p> <p>12 violating 276.016(a)(1); is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And this tweet was part of a social media</p> <p>15 campaign that you ran in November of 2020, right?</p> <p>16 A. Just to clarify, this was several days after</p> <p>17 the newly office -- the new office was created. So,</p> <p>18 yes, it was sent as the new office was created.</p> <p>19 Q. Sure. My question was different. I'm</p> <p>20 asking: You agree you'd be able to send this tweet out</p> <p>21 today as part of a social media campaign without</p> <p>22 violating SB 1, right?</p> <p>23 A. Yes.</p> <p>24 Q. I'll drop in what I'm going to mark as OAG 7.</p> <p>25 (Exhibit 7 marked.)</p>	72	<p>1 vote by mail, as well as assisting with other election</p> <p>2 related services." Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. Do you think this tweet would violate SB 1 if</p> <p>5 you sent it out today?</p> <p>6 A. I honestly don't know. This one's on the edge</p> <p>7 for me.</p> <p>8 Q. Why is it on the edge for you?</p> <p>9 A. I'm just trying to decide on the overall</p> <p>10 messaging since it contains the words "applications to</p> <p>11 vote by mail."</p> <p>12 I'm waiting on you. Did you have another</p> <p>13 question?</p> <p>14 Q. Yeah, sure. I was waiting on you to tell me</p> <p>15 if there's anything else that you think would mean that</p> <p>16 this tweet violates SB 1.</p> <p>17 A. That's all I've got on my mind right now.</p> <p>18 Q. Let me ask you this: Because of SB 1, is it</p> <p>19 your testimony today that you would not send this tweet</p> <p>20 out for fear that you would be prosecuted for having</p> <p>21 sent it out?</p> <p>22 A. It's my testimony that because of SB 1, I</p> <p>23 would even have to question a tweet like this.</p> <p>24 MR. HUDSON: Objection, nonresponsive.</p> <p>25 Q. (BY MR. HUDSON) My question's a little bit</p>
71	<p>1 Q (BY MR. HUDSON) Take a look at that, and let</p> <p>2 me know once you've been able to download it.</p> <p>3 A. I have been able to download it.</p> <p>4 Q. What is this document?</p> <p>5 A. It would appear to be a tweet.</p> <p>6 Q. For the purpose of identification, down in the</p> <p>7 bottom right-hand corner it says Longoria_000023. Do</p> <p>8 you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And, again, this is a tweet sent from the</p> <p>11 verified Harris County Elections Twitter feed; is that</p> <p>12 right?</p> <p>13 A. It would appear to be so.</p> <p>14 Q. And this tweet was sent on May 17, 2021; is</p> <p>15 that right?</p> <p>16 A. It would appear on this document to be so.</p> <p>17 Q. Based on your understanding, is this a true</p> <p>18 and accurate copy of the tweet that was sent on May 17,</p> <p>19 2021?</p> <p>20 A. I don't remember, you know, all tweets that</p> <p>21 were exactly sent on May 17th; but it appears that this</p> <p>22 was a document from my staff from the election office.</p> <p>23 Q. This tweet reads, "Our eight new branch</p> <p>24 offices will be available to the public to distribute</p> <p>25 and receive voter registration forms and applications to</p>	73	<p>1 different. I'm asking: Would you not send this tweet</p> <p>2 out today because you're concerned about being</p> <p>3 prosecuted under Section 276.016(a)(1)?</p> <p>4 A. Yes.</p> <p>5 Q. And, again, that's because it uses the phrase</p> <p>6 "applications to vote by mail"?</p> <p>7 MR. FOMBONNE: Objection,</p> <p>8 mischaracterizes the witness' testimony.</p> <p>9 A. I can't say it's only those exact words, but</p> <p>10 any tweet relating to applications to vote by mail now</p> <p>11 gives me pause because of SB 1.</p> <p>12 Q. (BY MR. HUDSON) Well, I mean, the judge needs</p> <p>13 to understand what your actual concern is; and so do I.</p> <p>14 So, I mean, can you please explain to me, aside from the</p> <p>15 words "applications to vote by mail," what about this</p> <p>16 tweet gives you pause?</p> <p>17 A. Anytime now in my speeches, in social media,</p> <p>18 anytime I'm contemplating writing information regarding</p> <p>19 voting by mail just gives me pause. If you're asking me</p> <p>20 to, you know, rule on this exact tweet, just hearing</p> <p>21 that, that's now what gives me pause and concern is</p> <p>22 because of the criminal charges that could be in place</p> <p>23 if my decision on tweeting this is wrong.</p> <p>24 Q. So your testimony today is you don't know</p> <p>25 whether you would send this tweet, but you have -- it</p>

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1 gives you pause; is that fair?
 2 A. Yes.
 3 MR. FOMBONNE: Hey, we've been going
 4 almost another hour. I don't know if -- Isabel, do you
 5 want to take a break?
 6 Counsel, are you -- I don't know if
 7 you're in the middle of, like, a line of questioning;
 8 but it'd probably be a good time.
 9 (Simultaneous speakers.)
 10 MR. HUDSON: Yeah, we can take a minute.
 11 THE REPORTER: We're going off the record
 12 at 3:28 p.m.
 13 (Off the record from 3:28 to 3:45 p.m.)
 14 THE REPORTER: We're back on the record
 15 at 3:45 p.m.
 16 Q (BY MR. HUDSON) Make sure I have the right
 17 one here. I've dropped in what I'm going to mark as
 18 OAG 8.
 19 (Exhibit 8 marked.)
 20 Q (BY MR. HUDSON) Yell when you're able to
 21 download that and take a look.
 22 A. Ready.
 23 Q. Have you ever seen that document before?
 24 A. I have not -- I don't recall seeing that exact
 25 tweet.

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1 Q. Okay. For identification purposes, in the
 2 bottom right-hand corner, Longoria_000093, do you see
 3 that?
 4 A. Yes.
 5 Q. Now, this tweet, again, comes with the logo
 6 and the blue verified checkmark of the Harris County
 7 Elections Office. Would you agree with that?
 8 A. Yes.
 9 Q. All right. So this was a tweet that was
 10 issued by people under your command?
 11 A. Yes.
 12 Q. And it says, "Today the Governor signed SB 1
 13 which creates barriers for seniors and disabled voters.
 14 Attached is Administrator Longoria's statement on
 15 advocating for equitable access for seniors and disabled
 16 voters in Harris County." Did I read that correctly?
 17 A. Yes.
 18 Q. And it goes on to quote you. "Voting by mail
 19 is not simply another method to vote - for many senior
 20 voters and voters with disabilities, it's their only
 21 option to vote. SB 1 makes it a crime for me to
 22 encourage those who are eligible to vote by mail to do
 23 so, effectively making it impossible to fulfill my sworn
 24 duty as Elections Administrator." Did I read that
 25 correctly?

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1 A. Yes.
 2 Q. All right. Your testimony today is that
 3 you're not able to fulfill your oath as the Elections
 4 Administrator because of SB 1?
 5 A. Can you repeat that question, please?
 6 Q. Sure. Your testimony today is that you're
 7 unable to fulfill your sworn duty of Elections
 8 Administrator because of SB 1?
 9 A. Yes.
 10 Q. What portions of your job as Elections
 11 Administrator are you unable to fulfill because of
 12 Senate Bill 1, specifically, Chapter 276.016(a)(1)?
 13 A. I am unable to encourage, advise, recommend,
 14 and otherwise help voters in Harris County in making the
 15 best decisions for voting and in some instances, as this
 16 tweet says, for voters who their only ability to vote is
 17 to vote by mail.
 18 Q. Now, in regard to advocating for equitable
 19 access, let me ask you this: You were appointed as
 20 Elections Administrator, right?
 21 A. Yes.
 22 Q. And that's a nonpartisan position?
 23 A. Yes.
 24 Q. All right. So you're not a Democratic
 25 Elections Administrator, right?

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1 A. Correct.
 2 Q. You're not a Republican Elections
 3 Administrator, right?
 4 A. Correct.
 5 Q. Okay. You would agree with me that language
 6 about SB 1 being anti-voter is not something that's
 7 nonpartisan, is it?
 8 A. Can you restate the question?
 9 MR. FOMBONNE: Object to the form.
 10 Q. (BY MR. HUDSON) Sure. Do you see at the top
 11 of this statement where it says, "Elections
 12 Administrator Joins Lawsuit Over Anti-Voter
 13 Legislation"?
 14 A. Yes.
 15 Q. Do you think calling SB 1 anti-voter
 16 legislation is nonpartisan?
 17 A. Yes.
 18 Q. Why do you think it's nonpartisan?
 19 A. It has no allusions to being either
 20 Democratic, Republican, or affiliated with any other
 21 party.
 22 Q. So your position is that everyone calls SB 1
 23 anti-voter legislation?
 24 A. No.
 25 MR. FOMBONNE: Objection -- hold on.

78	<p>1 Mischaracterizes the witness' prior testimony.</p> <p>2 Q. (BY MR. HUDSON) Have you heard Republicans</p> <p>3 refer to Senate Bill 1 as anti-voter legislation?</p> <p>4 A. No.</p> <p>5 Q. Have you heard Democrats refer to SB 1 as</p> <p>6 anti-voter legislation?</p> <p>7 A. Yes.</p> <p>8 Q. Have you heard members of MALC refer to SB 1</p> <p>9 as anti-voter legislation?</p> <p>10 A. Yes.</p> <p>11 Q. You met with Jessica Gonzales about SB 1; is</p> <p>12 that right?</p> <p>13 A. Yes.</p> <p>14 Q. Ms. Gonzales is a Democrat, right?</p> <p>15 A. Yes.</p> <p>16 Q. Did you hear Ms. Gonzales refer to Senate</p> <p>17 Bill 1 as anti-voter legislation?</p> <p>18 A. I can't remember specifically.</p> <p>19 Q. Did you meet with Sylvia Garcia about Senate</p> <p>20 Bill 1?</p> <p>21 A. No.</p> <p>22 Q. Did you meet with Chris Turner about Senate</p> <p>23 Bill 1?</p> <p>24 A. Yes.</p> <p>25 Q. And did you hear Mr. Turner refer to Senate</p>	80	<p>1 characterize this bill.</p> <p>2 Q. Okay. Fair enough. Let me ask it to you like</p> <p>3 this: I think we've gone through the people that you've</p> <p>4 identified that you spoke with about Senate Bill 1,</p> <p>5 which is Jessica Gonzales, MALC -- I didn't ask about</p> <p>6 Carol Alvarado. Did you meet with Carol Alvarado about</p> <p>7 Senate Bill 1?</p> <p>8 A. Yes.</p> <p>9 Q. She's a Democrat, right?</p> <p>10 A. Yes.</p> <p>11 Q. Did Ms. Alvarado refer to Senate Bill 1 as</p> <p>12 anti-voter legislation?</p> <p>13 A. Yes.</p> <p>14 Q. You met with Jarvis Johnson?</p> <p>15 A. Yes.</p> <p>16 Q. Jarvis Johnson --</p> <p>17 A. Oh, sorry. To clarify, I met with Jarvis</p> <p>18 Johnson's staff, not him specifically.</p> <p>19 Q. You met with Jarvis Johnson's staff, right?</p> <p>20 A. Yes.</p> <p>21 Q. And did Jarvis Johnson's staff refer to Senate</p> <p>22 Bill 1 as anti-voter legislation?</p> <p>23 A. Yes.</p> <p>24 Q. And Jarvis Johnson's a Democrat, right?</p> <p>25 A. Yes.</p>
79	<p>1 Bill 1 as anti-voter legislation?</p> <p>2 A. I can't remember specifically.</p> <p>3 Q. Have you talked to any Republicans about</p> <p>4 Senate Bill 1?</p> <p>5 A. Yes.</p> <p>6 Q. Have you heard any Republican refer to Senate</p> <p>7 Bill 1 as anti-voter legislation?</p> <p>8 A. Can you be more specific as to the Republicans</p> <p>9 you're referring to?</p> <p>10 Q. Sure. Have you met with any Republican who</p> <p>11 currently holds an elected office about Senate Bill 1?</p> <p>12 A. Yes.</p> <p>13 Q. Have any of the elected Republicans that</p> <p>14 you've met with about Senate Bill 1 referred to Senate</p> <p>15 Bill 1 as anti-voter legislation?</p> <p>16 A. No.</p> <p>17 Q. So you would agree with me that, really, only</p> <p>18 one party is referring to Senate Bill 1 as anti-voter</p> <p>19 legislation?</p> <p>20 A. No.</p> <p>21 Q. Can you identify any Republican by name that</p> <p>22 has identified SB 1 as anti-voter legislation?</p> <p>23 A. I would say just because I can't identify any</p> <p>24 one Republican that I've spoken to, I can't speak for</p> <p>25 the overall Republican Party's platform and how they</p>	81	<p>1 Q. You met with Jaclyn Uresti, right?</p> <p>2 A. Yes.</p> <p>3 Q. And did Jaclyn Uresti refer to Senate Bill 1</p> <p>4 as anti-voter legislation?</p> <p>5 A. Yes.</p> <p>6 Q. You met with Representative Anchía; is that</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And did Representative Anchía refer to Senate</p> <p>10 Bill 1 as anti-voter legislation?</p> <p>11 A. I can't remember specifically.</p> <p>12 Q. So those are the people that you've identified</p> <p>13 that you talked about SB 1 with at the Texas Capitol; is</p> <p>14 that fair?</p> <p>15 A. I believe I said it was a subset of people</p> <p>16 that I could remember meeting with.</p> <p>17 Q. Now, you would agree with me that the</p> <p>18 testimony that you've just given is that, in your</p> <p>19 personal experience, the Republicans that you have</p> <p>20 spoken with do not refer to Senate Bill 1 as anti-voter</p> <p>21 legislation; is that right?</p> <p>22 A. No.</p> <p>23 Q. You disagree that that's what you just</p> <p>24 testified to?</p> <p>25 A. I believe you asked me what Republican elected</p>

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1 officials and if they referred to it. I do know other
 2 Republicans who are not elected officials who have
 3 referred to it as anti-voter legislation.
 4 Q. Okay. Who are those people?
 5 A. Personal friends and acquaintances.
 6 Q. Can you identify any of them?
 7 A. Not off of the top of my head. I could give
 8 you a list. I don't have it right now.
 9 Q. So, as you sit here, you can't think of any of
 10 your Republican acquaintances who refer to Senate Bill 1
 11 as anti-voter legislation?
 12 A. What I'm offering is that I believe your
 13 initial question was about the Republican elected
 14 officials that I met with and whether or not they have
 15 used the terms "anti-voter legislation" or not.
 16 MR. HUDSON: Objection, nonresponsive.
 17 Q. (BY MR. HUDSON) My question's a little bit
 18 different than the one you're answering. I'm asking:
 19 As you sit here, can you think of any of your Republican
 20 acquaintances who have referred to Senate Bill 1 as
 21 anti-voter legislation?
 22 A. The ones that come to mind are Lance Gilliam,
 23 Sr.
 24 Q. Who is Mr. Gilliam?
 25 A. A developer in the area.

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1 Q. The area of what?
 2 A. Sorry. A developer in Harris County and a
 3 friend of mine.
 4 Q. Anybody else?
 5 A. I can't remember specific names right now.
 6 Q. Okay. Do you think because SB 1 passed, you
 7 would not send out the tweet that's currently in front
 8 of you again?
 9 A. Can you repeat the question?
 10 Q. Sure. I'm trying to figure out how you've
 11 been chilled by SB 1. Do you think that this tweet
 12 could go out today from your office without violating
 13 SB 1's prohibition against solicitation of mail-in
 14 ballots?
 15 A. Yes.
 16 Q. Aside from Twitter, what goes into social
 17 media campaigns that you'd like to run?
 18 A. Facebook and Instagram are the other social
 19 media campaigns -- or -- sorry -- other social media
 20 accounts that my office has access to.
 21 Q. Of those social media accounts, would what
 22 gets posted on those accounts, either Instagram or
 23 Facebook, be substantially similar to what is posted on
 24 Twitter?
 25 A. That's a fair classification.

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1 Q. Are there any other forms of social media
 2 campaign aside from Facebook, Twitter, and Instagram
 3 that your office wants to run but doesn't because of
 4 SB 1?
 5 A. Not because of SB 1, no.
 6 Q. Why don't you run the other kind of -- well, I
 7 guess what are the other kinds of social media campaigns
 8 that you want to run?
 9 A. Other social media platforms out there that I
 10 am aware of are TikTok, LinkedIn. We don't access those
 11 accounts just because generally we are not on those
 12 platforms or haven't, you know, engaged in those
 13 platforms yet.
 14 Q. You don't want to do an election dance on
 15 TikTok?
 16 A. Not yet.
 17 Q. Fair enough.
 18 Okay. So in addition to social media
 19 campaigns, you mentioned vote by mail for 65 plus as
 20 something that you want to encourage; is that right?
 21 A. Can you repeat that again? What's that term?
 22 Q. Sure. At the beginning of the deposition I
 23 asked you: What did you do prior to SB 1 related to
 24 vote by mail, and you mentioned four things. You ran
 25 social media campaigns. You solicited votes from -- by

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1 mail for seniors 65 plus. You met with groups. And you
 2 attended public events, right?
 3 A. Correct. I believe that's what I represented.
 4 Q. Okay. So we've talked about the social media
 5 campaigns. I'm asking you now about what you did before
 6 with regard to vote by mail for 65 plus prior to the
 7 enactment of SB 1.
 8 A. On social media, you're saying?
 9 Q. No. I understood you to have given those as
 10 two distinct examples. And did I misunderstand? Did
 11 you have a social media campaign for 65 plus?
 12 A. Bear with me one more time and repeat that
 13 question all as one.
 14 Q. Sure. I understood you to say that there
 15 were four separate things that you did prior to the
 16 enactment of SB 1 that you believe you now cannot do
 17 because of SB 1. One of those was running social media
 18 campaigns, right; and I think we've exhausted what your
 19 social media campaigns are, right? I've shown you
 20 tweets. We've talked about Facebook, Instagram, and
 21 Twitter and how you would like to use those things to
 22 encourage vote by mail; and I understand that you said
 23 you don't do that now because of SB 1. Is that right?
 24 A. We don't use social media to encourage voting
 25 by mail or to solicit mail ballot applications.

<p style="text-align: right;">86</p> <p>1 Q. And I understood the second thing that you 2 told me this morning was you encouraged people 65 plus 3 to vote by mail, and I understood that to be something 4 separate from a social media campaign. Did I 5 misunderstand that earlier? 6 A. Understood. Yes, we do have social media 7 campaigns that are geared to different demographic 8 groups, seniors being one of those. 9 Q. All right. So the social media campaign 10 that you're unable to do is you cannot engage with 11 voters 65 plus about vote by mail; is that your 12 contention? 13 A. My contention is that I cannot encourage or 14 solicit mail ballot applications from those voters over 15 65. 16 Q. So, for instance, the tweets that we've looked 17 at today, you cannot send those, in your estimation, to 18 people 65 plus because of 276.016(a)(1); is that right? 19 A. I can't -- I can't send out tweets that I 20 would consider solicitation, encouragement, 21 recommendation. I do believe I'm allowed to send out 22 tweets, you know, regarding broad issues of the election 23 office. 24 Q. The third thing that you identified this 25 morning, I believe, was you met with groups; and you</p>	<p style="text-align: right;">88</p> <p>1 mentioned earlier in your testimony that you're worried 2 about being prosecuted by the Office of the Attorney 3 General; is that right? 4 A. Yes. 5 Q. And you're worried about being prosecuted by 6 the Harris County District Attorney's Office, right? 7 A. Yes. 8 Q. Because violating 276.016(a)(1) would be a 9 felony, right? 10 A. Yeah, I can't believe or -- sorry -- I can't 11 remember if it's -- what kind of felony; but, yes, there 12 is a charge or crime related to it. 13 Q. How concerned are you? 14 A. Very. 15 Q. All right. And are you equally concerned 16 about getting prosecuted by both the District Attorney's 17 Office and the Office of the Attorney General? 18 A. Yes. 19 Q. And what you're looking for through this 20 lawsuit is a promise from the Court or a guarantee from 21 the Court that you'll never be prosecuted, right? 22 A. No. 23 Q. No, that's not what you're looking for? 24 A. I don't believe this Court could ever promise 25 me that I would never be prosecuted on any claims.</p>
<p style="text-align: right;">87</p> <p>1 believe you can't meet with groups now because of 2 276.016(a)(1). Is that right? 3 A. I can't meet with groups and discuss the 4 solicitation of mail ballot applications. 5 Q. Let me ask you this: Do you think you're 6 allowed to talk about 276.016(a)(1) at all? 7 A. I can speak about the Texas Election Code 8 broadly, yes. 9 Q. Okay. So you don't have any problem talking 10 about that provision of the code; in other words, you 11 don't think that there's some bar against you talking 12 about 276.016(a)(1), right? 13 A. I think I am allowed to speak generally about 14 the Texas Election Code, including that provision. 15 Q. But you're allowed to meet with groups despite 16 276.016(a)(1), right? 17 A. Yes. 18 Q. And you're allowed to talk about 276.016(a)(1) 19 as such, right? 20 A. Yes. 21 Q. And do you think you're allowed to talk about 22 problems that you perceive with 276.016(a)(1)? 23 A. I think that is dependent on what the subject 24 matter of the discussion is. 25 Q. Let me see if I can do it like this. You</p>	<p style="text-align: right;">89</p> <p>1 Q. Under 276.016(a)(1)? 2 A. I am looking from the Court for direction on 3 that provision as it applies to me and my ability in 4 speeches. 5 Q. I guess, can you explain to me what you're 6 expecting the Court to do for you? 7 A. Sorry. I don't expect the Court to ever -- I 8 don't expect that a Court can promise me that I'll never 9 be prosecuted of a claim, right, or a crime. If you're 10 narrowing it to this claim, yes, I am seeking, right, an 11 opinion or something -- whatever the legal term is -- 12 from the Court on my ability in free speech as it 13 relates to the solicitation of mail ballot applications. 14 Q. Okay. So what you're looking for is a 15 guarantee from the Court that you're not going to be 16 prosecuted for violating 276.016(a)(1), fair? 17 A. Yes. 18 Q. And you understand that if -- the Court, 19 whether it grants a preliminary injunction next week or 20 it doesn't, that preliminary injunction's not final. 21 You understand that, right? 22 A. I believe we covered that earlier, yes. 23 Q. Okay. So do you also understand that if the 24 Office of the Attorney General and the other Defendants 25 prevail and you lose your lawsuit, even if there is an</p>

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1 injunction, you can be prosecuted for things that you do
 2 between now and a final trial, right?
 3 A. Yes.
 4 Q. Okay. And, really, what you're looking for
 5 out of this lawsuit is, assuming you win, a guarantee
 6 from the Court that you won't be prosecuted, ever, under
 7 276.016(a)(1), right?
 8 A. Can you repeat that question? How is it
 9 different from your earlier question?
 10 Q. Well, it's not -- I don't think it's
 11 necessarily different. I'm just trying to understand
 12 where you're going with the train of thought.
 13 So let me ask it again. What you're
 14 looking for from the Court is a guarantee that you're
 15 not going to be prosecuted, ever, under 276.016(a)(1),
 16 right?
 17 A. I think generally, yes, that my freedom of
 18 speech is protected.
 19 Q. Okay. Now, are you concerned that if you get
 20 a temporary ruling from the Court through a preliminary
 21 injunction, that if the Defendants prevail, you can be
 22 prosecuted in 2023 for things that you do while the
 23 Temporary Injunction's pending?
 24 A. It seems to be getting in a legal question
 25 past my capacity; but, yes, I am always scared, right,

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1 of being convicted of this crime. That is why I brought
 2 this suit.
 3 Q. Okay. So, I mean, the Temporary Injunction
 4 wouldn't resolve your fear, right?
 5 A. Again, I am getting lost in temporary versus
 6 final versus what the legal line is. My concern,
 7 period, is being convicted of a crime under
 8 276.016(a)(1) -- (1)(a) [sic].
 9 Q. And you would agree with me that until --
 10 until and unless a final injunction is entered by the
 11 Court that's final and non-appealable, you're always
 12 going to have that concern, right?
 13 A. I don't know. I'm getting lost in your
 14 question here.
 15 Q. Sure. Let me see if I can ask it to you like
 16 this: Unless and until a Court resolves in your favor a
 17 guarantee that says you can't be prosecuted under
 18 276.016(a)(1), you're always going to be concerned about
 19 prosecution, fair?
 20 A. If I understand a Preliminary or Temporary
 21 Injunction, that means that there would be a pause on a
 22 conviction or me being -- crimes brought against me,
 23 right? That's what I'm trying to get at.
 24 Q. Sure. Let me see if I can back it up like
 25 this: There is a pause if a preliminary injunction's

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1 entered, right? You understand that?
 2 A. Yes.
 3 Q. But that pause only gets us to the trial of
 4 your case. Do you understand that?
 5 A. Yes.
 6 Q. Okay. Now, you understand if the Defendants
 7 win, you could be prosecuted for things that occur after
 8 the preliminary injunction but before the final trial,
 9 assuming the Defendants win. Are you with me so far?
 10 A. I'll have to take your word that that's how
 11 the law works.
 12 Q. Okay. So let's assume we live in a world
 13 where the Defendants win. You could be prosecuted; and
 14 so you would still be concerned about prosecution,
 15 right?
 16 A. Yes.
 17 Q. And unless there's a final judgment that
 18 guarantees from the Court that you will never be
 19 prosecuted, you will always be concerned about being
 20 prosecuted under 276.016(a)(1), fair?
 21 A. No.
 22 Q. Okay. So under what circumstances can a Court
 23 rule against you and you will no longer be concerned
 24 about 276.016(a)(1) and a subsequent prosecution?
 25 A. Again, I understand the pause to mean that

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1 it's there because it is an unanswered question that I
 2 could reconsider the risk I am willing to take regarding
 3 certain actions in my duty to educate voters.
 4 Q. Could you elaborate on what that means?
 5 A. I think we're -- I understand the law to be
 6 that that pause, right, allows me to take certain
 7 answers because the Court would say that that is a
 8 question that has been contemplated. Now, what the
 9 legal definition of a final versus a temporary versus a
 10 preliminary, I think that's more of a legal question
 11 past my capacity.
 12 Q. Okay. Let me see if I can unknot this a
 13 little bit. Do you think if you get a preliminary
 14 injunction next week that you can never be prosecuted
 15 under 276.016(a)(1)?
 16 A. I think a preliminary injunction next week
 17 would allow me to take certain actions regarding the
 18 solicitation of mail ballot applications.
 19 Q. Okay. So you would take those actions despite
 20 the fact that if the Defendants are successful and it
 21 turns out that what you did was solicitation, you could
 22 still be prosecuted for it?
 23 A. As I understand it, in that moment it wouldn't
 24 be a crime; and so that changes the calculus, then, of
 25 my fears.

<p style="text-align: right;">94</p> <p>1 Q. Okay. How does it change it?</p> <p>2 A. Well, whether something is, you know, actively</p> <p>3 prosecutable, if that's a legal term, versus a final</p> <p>4 verdict. I think you seem to be hinging on this word, a</p> <p>5 final verdict; and, again, it's a legal term beyond my</p> <p>6 capacity.</p> <p>7 Q. Well, you know what the word "final" means,</p> <p>8 right?</p> <p>9 A. I think we've teased this out. I understand</p> <p>10 what the word "final" means. I don't know what it means</p> <p>11 specifically in this context or in a legal context.</p> <p>12 Q. Okay. Well, let's take it out of the legal</p> <p>13 context; and let's just talk in plain language. You</p> <p>14 understand that regardless of the outcome next Friday,</p> <p>15 your lawsuit's not over, right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And you understand that at some point</p> <p>18 down the line, there'll be a final trial in which the</p> <p>19 District Court will enter a final judgment. Do you</p> <p>20 understand that?</p> <p>21 A. Yes, yes.</p> <p>22 Q. So there is some period of time between next</p> <p>23 Friday and that trial in which, depending on what the</p> <p>24 Court does, you could or could not have a preliminary</p> <p>25 injunction entered preventing prosecution against</p>	<p style="text-align: right;">96</p> <p>1 A. Yeah, I would have to -- I would have to</p> <p>2 consult with my legal counsel on what happens after next</p> <p>3 Friday, depending on what happens after next Friday.</p> <p>4 Q. (BY MR. HUDSON) So, as you sit here right</p> <p>5 now, you don't know one way or another whether a</p> <p>6 preliminary injunction would actually give you the</p> <p>7 relief that you want?</p> <p>8 A. I would have to seek counsel from my counsel</p> <p>9 about what happens after next Friday.</p> <p>10 Q. In your capacity as the Elections</p> <p>11 Administrator, have you ever requested a legal opinion</p> <p>12 from the Office of the Attorney General?</p> <p>13 A. In my capacity, no.</p> <p>14 Q. Are you aware that that option exists?</p> <p>15 A. Yes.</p> <p>16 Q. Why have you not requested a legal opinion</p> <p>17 about the scope of 276.016(a)(1) from the Office of the</p> <p>18 Attorney General?</p> <p>19 A. I consult with the County Attorney as my</p> <p>20 representation on legal matters, and they then seek</p> <p>21 those opinions from the Attorney General in cases in</p> <p>22 which they find it relevant to do so.</p> <p>23 Q. And, to your knowledge, and without going into</p> <p>24 what's been discussed with Counsel -- and I'm not asking</p> <p>25 for anything you discussed with Counsel -- to your</p>
<p style="text-align: right;">95</p> <p>1 276.016(a)(1). Are you with me so far?</p> <p>2 A. More or less.</p> <p>3 Q. Okay. Now, let's assume we live in a world</p> <p>4 where your lawsuit's unsuccessful. So at the end, the</p> <p>5 Judge enters a final judgment and says: Ms. Longoria</p> <p>6 was incorrect, and I'm going to enter judgment in favor</p> <p>7 of the Defendants.</p> <p>8 Now, are you concerned at all that that</p> <p>9 result may happen?</p> <p>10 A. That I could lose this case?</p> <p>11 Q. Yes.</p> <p>12 A. Sure, I'm concerned I could lose this case.</p> <p>13 Q. Okay. So you understand that if you take</p> <p>14 actions based on next Friday, assuming you get a</p> <p>15 preliminary injunction, and then you ultimately lose the</p> <p>16 trial, you could be prosecuted for things that happen</p> <p>17 between next Friday and whenever the final trial is if</p> <p>18 you lose. Do you follow me?</p> <p>19 A. I don't understand that.</p> <p>20 Q. Okay. So, as you sit here today, your</p> <p>21 understanding of what happens next Friday is that</p> <p>22 anything you do after a preliminary injunction means you</p> <p>23 can't be prosecuted under 276.016(a)(1)?</p> <p>24 MR. FOMBONNE: Objection,</p> <p>25 mischaracterizes the testimony.</p>	<p style="text-align: right;">97</p> <p>1 knowledge, nobody from the Harris County Attorney's</p> <p>2 Office has requested a legal opinion on the scope of</p> <p>3 276.016(a)(1); is that right?</p> <p>4 A. I can't remember at this time specifically.</p> <p>5 MR. HUDSON: If we can go off the record</p> <p>6 for about ten minutes, I'm going to take a look at my</p> <p>7 notes. I might be close on getting finished here.</p> <p>8 MR. FOMBONNE: That's fine.</p> <p>9 THE REPORTER: We're going off the</p> <p>10 record --</p> <p>11 MR. HUDSON: Let's come back at -- go</p> <p>12 ahead.</p> <p>13 THE REPORTER: Going off the record at</p> <p>14 4:17 p.m.</p> <p>15 (Off the record from 4:17 to 4:31 p.m.)</p> <p>16 THE REPORTER: We're back on the record</p> <p>17 at 4:31 p.m.</p> <p>18 Q. (BY MR. HUDSON) I pulled back up what I</p> <p>19 believe is OAG 2. I think that's where we were with</p> <p>20 your Declaration. Do you see that on the screen?</p> <p>21 A. Yeah, which document is this, again?</p> <p>22 Q. I believe this is OAG 2. This is your</p> <p>23 Declaration.</p> <p>24 A. Okay. Got it.</p> <p>25 Q. Do you see there Paragraph 15 on your screen?</p>

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1 A. Yes.

2 Q. It says, "SB 1 actively prevents me from

3 speaking freely about mail-in voting and will continue

4 to do so." Did I read that correctly?

5 A. Yes.

6 Q. It says, "In particular, SB 1 is deterring me

7 from engaging in communications that would encourage

8 voters to consider all of their voting options, engaging

9 in outreach to voters regarding the benefits of the

10 vote-by-mail process, educating voters about their

11 rights, and helping voters to submit their respective

12 applications." Did I read that correctly?

13 A. Yes.

14 Q. All right. You go on to write, "I am

15 unwilling to risk engaging in communications with voters

16 regarding mail-in voting if it means I could be subject

17 to imprisonment or other penalties, even though I

18 believe these communications are a central part of my

19 duties as an elections administrator to increase voter

20 participation and education." Did I read that

21 correctly?

22 A. Yes.

23 Q. All right. Now, today you're concerned about

24 potentially being imprisoned or subject to other

25 penalties, right?

99

1 A. Correct.

2 Q. And you would agree with me that the outcome

3 of this case is uncertain, right?

4 A. It has not been decided, correct.

5 Q. Okay. So if imprisonment and other penalties

6 that you describe in Paragraph 15 are only delayed, not

7 permanently stopped, are you going to be -- continue to

8 be just as concerned today as you would in the future?

9 A. Yes.

10 MR. HUDSON: All right. If you guys can

11 give me just two minutes, I've got -- I think I'm about

12 ready to wrap up; but I want to take one last look at my

13 notes.

14 THE REPORTER: Do you want to go off the

15 record?

16 MR. HUDSON: If opposing counsel's fine

17 with it, two minutes.

18 MR. FOMBONNE: Yeah, that's fine.

19 THE REPORTER: We're going off the record

20 at 4:33 p.m.

21 (Off the record from 4:33 to 4:36 p.m.)

22 THE REPORTER: Back on the record at

23 4:36 p.m.

24 Q. (BY MR. HUDSON) Ms. Longoria, anything I

25 haven't asked you today you think I should have?

100

1 A. No, sir.

2 Q. Okay.

3 MR. HUDSON: We'll reserve.

4 MR. FOMBONNE: I don't know if other

5 Counsel has questions.

6 MR. LEAVITT: Yeah, Jonathan, I've just

7 got a couple.

8 MR. FOMBONNE: Okay.

9 EXAMINATION

10 BY MR. LEAVITT:

11 Q. Ms. Longoria, hi. My name's Randy Leavitt;

12 and I represent Shawn Dick, the Williamson County

13 District Attorney.

14 A. Good to meet you.

15 Q. Nice to meet you.

16 MR. LEAVITT: I'm sorry, guys. I lost

17 Wi-Fi. So if it's delayed or something, it's because I

18 don't have Wi-Fi. We're doing it just on cellular data.

19 Q. (BY MR. LEAVITT) Ms. Longoria, just a couple

20 of questions. As I read your lawsuit, you're not

21 bringing any kind of a lawsuit against Shawn Dick of the

22 Williamson County Attorney's Office, are you?

23 A. I don't believe so, no.

24 Q. Okay. And you're not seeking any attorney's

25 fees against him?

101

1 A. No.

2 Q. Nor are you seeking any relief from the Court

3 against the Williamson County District Attorney?

4 A. No.

5 Q. All right. That's all I have.

6 MR. LEAVITT: I'll pass the witness.

7 MR. FOMBONNE: I have no questions.

8 MR. HUDSON: One last thing on the

9 record: Can we get a read and sign?

10 THE REPORTER: Yes, and --

11 MR. FOMBONNE: What did you do for the

12 transcript order this morning, Eric?

13 MR. HUDSON: I didn't handle it.

14 MR. FOMBONNE: Oh, that's right.

15 MR. HUDSON: Yeah, you'll forgive me.

16 I'm -- well, we can go off the record and talk about

17 that.

18 MR. FOMBONNE: Sure, that's fine.

19 THE REPORTER: Before we go off the

20 record, Mr. Fombonne and Mr. Leavitt, do you need a copy

21 of the transcript?

22 MR. FOMBONNE: Yes, that's what I was

23 trying to clarify with Mr. Hudson. We have a hearing

24 next week for which this might be relevant, so we'd

25 request an expedited transcript if possible.

102

1 THE REPORTER: Okay. Mr. Leavitt, do you
 2 need a copy?
 3 MR. LEAVITT: We'd like the transcript as
 4 well, but we don't need a [computer glitch.]
 5 THE REPORTER: I'm sorry. Your last word
 6 cut out.
 7 MR. LEAVITT: I said we don't need a
 8 video on this one, just the transcript.
 9 MR. FOMBONNE: We don't need a video,
 10 either.
 11 THE REPORTER: This concludes the
 12 deposition at 4:38 p.m.
 13 (Deposition adjourned at 4:38 p.m.)
 14 --ooOoo--
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104

1 I, ISABEL LONGORIA, have read the
 2 foregoing deposition and hereby affix my signature that
 3 same is true and correct, except as noted herein.
 4
 5 _____
 6 ISABEL LONGORIA
 7
 8 THE STATE OF _____)
 9 Before me, _____, on
 10 this day personally appeared ISABEL LONGORIA, known to
 11 me (or proved to me under oath or through
 12 _____) (description of identity card or other
 13 document) to be the person whose name is subscribed to
 14 the foregoing instrument and acknowledged to me that
 15 they executed same for the purposes and consideration
 16 therein expressed.
 17 Given under my hand and seal of office on
 18 this ____ day of _____, _____.
 19
 20
 21 _____
 22 NOTARY PUBLIC IN AND FOR
 23 THE STATE OF _____
 24 My Commission Expires: _____
 25

103

1 CHANGES AND SIGNATURE
 2 WITNESS NAME: DATE OF DEPOSITION:
 3 ISABEL LONGORIA February 4, 2022
 4 PAGE/LINE CHANGE REASON
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
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105

1 STATE OF TEXAS)
 2 REPORTER'S CERTIFICATION
 3 I, DEBBIE D. CUNNINGHAM, CSR, hereby certify
 4 that the witness was duly sworn and that this transcript
 5 is a true record of the testimony given by the witness.
 6 I further certify that I am neither counsel
 7 for, related to, nor employed by any of the parties or
 8 attorneys in the action in which this proceeding was
 9 taken. Further, I am not a relative or employee of any
 10 attorney of record in this cause, nor am I financially
 11 or otherwise interested in the outcome of the action.
 12 I further certify that pursuant to FRCP
 13 Rule 30(f)(1) that the signature of the deponent was
 14 requested by the deponent or a party before the
 15 completion of the deposition and that the signature is
 16 to be before any notary public and returned within 30
 17 days from date receipt of the transcript. If returned,
 18 the attached Changes and Signature Page contains any
 19 changes and the reasons therefore.
 20 Subscribed and sworn to by me this day,
 21 February 7, 2022.
 22
 23
 24 _____
 25 Debbie D. Cunningham, CSR

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

ISABEL LONGORIA and CATHY
MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official
capacity as Attorney General of Texas, KIM
OGG, in her official capacity as Harris
County District Attorney, SHAWN DICK,
in his official capacity as Williamson County
District Attorney, and JOSÉ GARZA, in his
official capacity as Travis County District
Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

**APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON’S
RESPONSE TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

Exhibit B

Deposition Transcript of Cathy Morgan

February 4, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ISABEL LONGORIA and CATHY	*	
MORGAN,	*	
	*	
Plaintiffs,	*	
	*	
v.	*	Case No. 5:21-cv-1223-XR
	*	
WARREN K. PAXTON, in his	*	
official capacity as the	*	
Attorney General of Texas,	*	
et al.,	*	
	*	
Defendants.	*	

VIDEOTAPED ORAL DEPOSITION OF
CATHY MORGAN

Friday, February 4, 2022

(REMOTEY REPORTED)

VIDEOTAPED ORAL DEPOSITION OF CATHY MORGAN,
produced as a witness at the instance of the Defendants,
and duly sworn, was taken in the above-styled and
numbered cause on Friday, February 4, 2022, from
9:32 a.m. to 12:18 p.m., before Debbie D. Cunningham,
CSR, in and for the State of Texas, remotely reported
via Machine Shorthand pursuant to the Federal Rules of
Civil Procedure.

--ooOoo--

2

1 APPEARANCES

2

3 FOR PLAINTIFF/DEPONENT CATHY MORGAN:

4 BRENNAN CENTER FOR JUSTICE
 NYU School of Law
 40 Washington Square S.
 New York, New York 10012
 (T) 212.998.6100
 By: Andrew Garber, Esq.
 andrew.garber@nyu.edu
 AND
 Sean Morales-Doyle, Esq.

9 FOR PLAINTIFFS ISABEL LONGORIA
 AND CATHY MORGAN:

10

11 WEIL, GOTSHAL & MANGES
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14 FOR PLAINTIFF ISABEL LONGORIA:

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 jonathan.fombonne@cao.hctx.net
 AND
 Susannah Mitcham
 Tiffany Bingham
 Christina Beeler

20 FOR DEFENDANT WARREN K. PAXTON:

21

22 OFFICE OF THE ATTORNEY GENERAL OF TEXAS
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 P.O. Box 12548 (MC-009)
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 (T) 512.463.2100
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 will.thompson@oag.texas.gov

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1 FOR DEFENDANT SHAWN DICK:

2 HOWRY, BREEN & HERMAN, LLP
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 Austin, Texas 78705
 (T) 512.430.4844
 By: Sean Breen, Esq.
 sbreen@howrybreen.com

5

6 AND

7 LAW OFFICE OF RANDY T. LEAVITT
 1301 Rio Grande
 Austin, Texas 78701
 (T) 512.476.4475
 By: Randy Leavitt, Esq.
 randy@randyleavitt.com

10

11 VIDEOGRAPHER/ZOOM TECH:

12 Brian Christopher

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14 --ooOoo--

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1 EXHIBIT INDEX

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4 Exhibit 2 Cathy Morgan Declaration 18

5 Exhibit 3 10/5 - 10/7 Voter Information Booth Statistical Chart 43

6

7 Exhibit 4 Texas Volunteer Deputy Registrar Guide 67

8 Exhibit 5 Texas Impact Guide for Congregational Voter Information Booths 72

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10 Exhibit 6 Agreed Stipulation 80

11 Exhibit 7 1/7/22 e-mail exchange between Cathy Morgan and Michael and Nancy Rhea, Subject: Re: Some changes 88

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14 --ooOoo--

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1 (Friday, February 4, 2022, 9:32 a.m.)
 2 P R O C E E D I N G S
 3 THE REPORTER: Today's date in
 4 February 4, 2022. The time is 9:32 a.m. Central
 5 Standard Time. This is the videotaped oral deposition
 6 of Cathy Morgan, and it is being conducted remotely.
 7 The witness is located in Austin, Texas.
 8 My name is Debbie Cunningham, CSR
 9 Number 2065. I am administering the oath and reporting
 10 the deposition remotely by stenographic means from
 11 Austin, Texas.
 12 Would Counsel please state their
 13 appearances and locations for the record, beginning with
 14 Plaintiffs' Counsel?
 15 (No audible response.)
 16 THE REPORTER: Do we have Plaintiffs'
 17 Counsel present?
 18 MR. GARBER: Excuse me. I was thinking
 19 Deponent's Counsel. Andrew Garber for Plaintiff at the
 20 Brennan Center for Justice.
 21 MR. MORALES-DOYLE: This is Sean
 22 Morales-Doyle also for Plaintiffs from the Brennan
 23 Center for Justice.
 24 MR. THOMPSON: It sounds like no more
 25 Plaintiffs' Counsel to be announced. My name is Will

8

1 A. Yes, I can.
 2 Q. Okay. And I can hear you, but it's a little
 3 bit faint. And so I might ask the court reporter if she
 4 can hear you all right.
 5 THE REPORTER: It's a bit faint for me,
 6 too.
 7 THE WITNESS: Okay. I'll try to speak
 8 louder.
 9 Q. (BY MR. THOMPSON) Thank you. And,
 10 Ms. Morgan, are you familiar with the audio settings on
 11 Zoom?
 12 A. In terms of on my keyboard I am.
 13 Q. So if it would be easier for you compared to
 14 speaking up, there is an option to kind of make the
 15 microphone more sensitive on your computer. Would you
 16 like me to talk to you about how to do that?
 17 A. Certainly.
 18 Q. Okay. So in the bottom left-hand corner of
 19 your screen, there's a button that looks like a
 20 microphone; and it says "mute."
 21 A. Yes.
 22 Q. And there's a little arrow in the right-hand
 23 corner of that button. Do you see that?
 24 A. Yes.
 25 Q. Okay. Click that arrow, and then click the

9

1 Thompson. I'm from the Office of the Attorney General
 2 for the Attorney General.
 3 MR. BREEN: Good morning. Sean Breen and
 4 Randy Leavitt. Subject to the Motions to Dismiss, we're
 5 appearing on behalf of Shawn Dick, the District Attorney
 6 of Williamson County.
 7 THE REPORTER: Do we have any more
 8 announcements?
 9 (No audible response.)
 10 THE REPORTER: Then, Ms. Morgan, may I
 11 swear you in, please? Will you raise your right hand?
 12 CATHY MORGAN,
 13 having been duly sworn, testified as follows:
 14 EXAMINATION
 15 BY MR. THOMPSON:
 16 Q. Good morning, Ms. Morgan. As you may have
 17 heard, my name is Will Thompson. I'm a lawyer
 18 representing the Attorney General.
 19 Have you ever been deposed before?
 20 A. No, sir.
 21 Q. All right. Well, let's just discuss some of
 22 kind of the ground rules for a deposition, especially a
 23 deposition over Zoom. So I'd like to confirm right now
 24 that the technology is working properly. Are you able
 25 to hear me okay?

1 bottom option that says "audio setting."
 2 A. All right. And volume?
 3 Q. And about halfway down the dialogue box
 4 there's a bold thing that says "microphone," and there's
 5 kind of a slide bar where you can adjust how sensitive
 6 the microphone is. Do you see that?
 7 A. Yes.
 8 Q. Feel free to just move that over towards the
 9 right so you don't have to speak up as loudly.
 10 A. How does that sound?
 11 Q. I think that's a little bit better.
 12 MR. THOMPSON: But, Ms. Cunningham, do
 13 you have an opinion on that?
 14 THE REPORTER: It seems better to me,
 15 too.
 16 THE WITNESS: How about this?
 17 MR. BREEN: There we go.
 18 MR. THOMPSON: I think that's even
 19 better, still.
 20 THE WITNESS: All right.
 21 THE ZOOM TECH: I will also add, if you
 22 don't mind, make sure to deselect the "automatic adjust
 23 microphone volume" so that it doesn't readjust it lower.
 24 THE WITNESS: It's not -- "automatically
 25 adjust microphone volume" is not selected.

10

1 THE ZOOM TECH: You sound much better.
 2 Thank you.
 3 THE WITNESS: All right. Thank you.
 4 MR. THOMPSON: All right. So thank you
 5 for doing that. I'm sorry for the technological
 6 difficulties there.
 7 Q (BY MR. THOMPSON) So if at any time during
 8 the deposition you're not able to hear me clearly, will
 9 you please tell me that?
 10 A. Uh-huh, yes.
 11 Q. Now, I'm going to show you exhibits today --
 12 not very many of them -- but I will send them to you
 13 electronically using the chat function; and I think it
 14 makes sense to just test that right now.
 15 A. All right.
 16 Q. Is that okay with you?
 17 A. Certainly.
 18 Q. Okay. So I'm going to send you what I'll mark
 19 as Exhibit 1, and it will just be the Deposition Notice
 20 for this deposition.
 21 (Exhibit 1 marked.)
 22 Q. (BY MR. THOMPSON) And I just put it in the
 23 chat feature. So it should arrive --
 24 A. Yes.
 25 Q. -- on your screen and to your counsel as well

12

1 did not receive it, you'll let me know before we get too
 2 much further.
 3 MR. GARBER: That's correct, I have it.
 4 Thank you.
 5 Q. (BY MR. THOMPSON) Okay. So this deposition
 6 is an opportunity for us to discuss the case and I'll be
 7 asking you questions and you'll, of course, be providing
 8 answers; but it's important for the court reporter that
 9 I get all the way through my question before you start
 10 an answer and that you get all the way through your
 11 answer before I start another question. Does that make
 12 sense to you?
 13 A. Yes, it does.
 14 Q. It's also important that even though we're on
 15 video, that we give verbal questions and answers rather
 16 than shaking our heads or pointing or something because
 17 we have a court reporter. Does that make sense?
 18 A. Yes.
 19 Q. Now, we talked about you being able to hear my
 20 questions. It's also important that you understand my
 21 questions. So if you don't understand a question, will
 22 you please tell me that you don't understand it before
 23 you try to answer that question?
 24 A. Yes.
 25 Q. Okay. And if you do under- -- I'm sorry -- if

11

1 and anyone else who's on the deposition. Do you see it?
 2 A. Yes.
 3 Q. And are you able to open that document and
 4 look at it?
 5 A. Yes.
 6 Q. Okay. So can you just read the bold title on
 7 the first page to confirm?
 8 A. United State District Court, Western District
 9 of Texas, San Antonio Division.
 10 Q. That's true that is on the page. I should
 11 have been more clear --
 12 (Simultaneous speakers.)
 13 A. Isabel Longoria --
 14 Q. -- about halfway down --
 15 A. Isable Longoria and Cathy Morgan, Plaintiffs,
 16 versus Warren K. Paxton, in his official capacity as the
 17 Attorney General of Texas, et al.
 18 Q. Okay. Thank you.
 19 And then about -- a little farther down,
 20 it says Paxton's Notice of Intent to Take Deposition of
 21 Cathy Morgan. Do you see that?
 22 A. Yes, I do.
 23 Q. Okay. Great. Then our test has been
 24 successful.
 25 MR. THOMPSON: Counsel, I assume if you

13

1 you do answer a question, I'm going to assume that you
 2 understood the question. Is that fair?
 3 A. Yes.
 4 Q. All right. So now that we're through some of
 5 those kind of technical preliminaries, could you just
 6 state your name and introduce yourself?
 7 A. I'm Cathy Morgan. I live in Austin, Texas.
 8 Q. And is that your full legal name?
 9 A. My full legal name, depending how many you
 10 want, Catherine Elise Eldridge Morgan.
 11 Q. All right. What do you do for a living,
 12 Ms. Morgan?
 13 A. I'm a retired teacher.
 14 Q. I may use acronyms or initialisms for some
 15 longer phrases during the deposition today. Are you
 16 familiar with the phrase "volunteer deputy registrar"?
 17 A. Yes, I am.
 18 Q. And what does that phrase mean to you?
 19 A. That is a person who has been through training
 20 through the county and is deputized to register people
 21 to vote.
 22 Q. Okay. So if I use the term "VDR" during the
 23 deposition, we'll both understand that I'm referring to
 24 a volunteer deputy registrar, right?
 25 A. Yes.

14	<p>1 Q. I'm hopeful that this will be a short 2 deposition; but if you need a break at any time, that's 3 completely fine. We try to get through whatever 4 question is pending on the table at that moment, but 5 then we'll be able to take a break. Does that work for 6 you? 7 A. Yes. 8 Q. And are you aware of anything that would 9 affect your ability to testify truthfully today? 10 A. No. 11 Q. And I know it's early in the morning, but you 12 haven't consumed any alcohol or taken any drugs or 13 anything like that? 14 A. No. 15 Q. Okay. Have you heard of Senate Bill 1? 16 A. Yes. 17 Q. And if I refer to Senate Bill 1 as "SB 1," 18 will that make sense to you? 19 A. Yes. 20 Q. All right. What is SB 1? 21 A. SB 1 is a bill through the Senate of the state 22 legislature that has to do with voting. 23 Q. When did you first hear about SB 1? 24 A. I don't remember exactly. 25 Q. Do you have an estimate?</p>	16
15	<p>1 A. An estimate was probably in the late summer. 2 Q. So something like August? 3 A. Probably. 4 Q. Are you challenging a provision of SB 1 in 5 this case? 6 A. Yes. 7 Q. Which provision or provisions is that you're 8 challenging? 9 A. I can't give you the number. It has -- 10 Q. Can you describe it some other way? 11 A. Yes. It has to do with ability to offer a 12 person an application to vote by mail. 13 Q. So I've read your Declaration, and we'll put 14 it up here on the screen in a second. I believe it 15 refers to Section 276.016(a)(1). Does that sound right 16 to you? 17 A. I think so -- yes. 18 Q. Okay. If I refer to Section 276.016(a)(1) 19 during this deposition, will you know that I'm referring 20 to the provision you're challenging? 21 A. Yes, yes. 22 Q. Okay. When did you first consider filing this 23 lawsuit? 24 MR. GARBER: Objection. 25 Cathy, I'll just advise you to be careful</p>	17
16	<p>1 not to divulge any privileged information in answering 2 that question. 3 A. I really can't quite remember. 4 Q. (BY MR. THOMPSON) Sure. And just like 5 before, even if you don't have the exact date at hand, 6 an estimate is fine. Was it, for example, in that late 7 summer time period when you heard about SB 1? 8 MR. GARBER: Objection. 9 A. No -- well, I'm going to back up, please. 10 Please rephrase the question -- 11 Q. (BY MR. THOMPSON) Understood. 12 A. -- completely. 13 Q. I want to know when you first considered 14 filing the lawsuit that you have now filed. And what I 15 was asking was: Did you first consider filing the 16 lawsuit in August when I believe you said you had heard 17 about SB 1 for the first time? 18 A. It was not in August. It was late September 19 would be my first memory of being alarmed at 20 understanding what that part of that bill said. 21 Q. What caused you to have that alarm you 22 referred to? 23 A. I have always felt that my impetus for serving 24 as a VDR and as serving in voting booths, information 25 booths, was to give every person who is eligible to vote</p>	17
17	<p>1 a method to vote. 2 Q. Sure. I can appreciate that and we'll get 3 into some of your beliefs a little bit later in the 4 deposition, but I meant to ask a slightly different 5 question. 6 A. Okay. 7 Q. What changed to cause you to become alarmed 8 when previously you had not been alarmed? For example, 9 you might say, "My neighbor told me that this was going 10 to affect me in some way," or something like that? 11 MR. GARBER: Objection. 12 A. I honestly don't know the moment. 13 Q. (BY MR. THOMPSON) Do you know what the change 14 in circumstance was, even if you don't know when it 15 occurred? 16 A. Let me think about this for a minute. 17 Q. Sure. 18 A. Because I want to be honest and clear. 19 I don't remember the date. I don't 20 remember the time. I just know that when the 21 opportunity came up, it seemed to me to be the right 22 thing for me to do. That probably -- I can't guess. 23 I'm not going to guess. I'd have to look back at some 24 notes and maybe on my cell phone, but it was in the 25 fall.</p>	17

18

1 Q. I understand. So I understand you don't
 2 remember when the opportunity arose. Can you tell me
 3 how the opportunity arose?
 4 A. Yes. Through Bee Morehead, I believe -- I
 5 know, I was put in contact with some lawyers who were
 6 interested in talking with me and I with them.
 7 Q. Who is Bee Morehead?
 8 A. She is the director of Texas Impact.
 9 Q. What is Texas Impact?
 10 A. It is a large group in the state of Texas made
 11 up of a little over 5 million people who are people of
 12 faith and who work for -- working through the
 13 legislature for areas of common concern, as in voting
 14 rights, as in healthcare, as in education and health --
 15 things like that.
 16 Q. Who are the lawyers that Bee Morehead put you
 17 in touch with?
 18 A. The Brennan Center lawyers.
 19 Q. All right. Ms. Morgan, I'm going to mark
 20 Exhibit 2, your Declaration. I'm going to send that in
 21 the same way that I sent Exhibit 1 --
 22 A. All right.
 23 Q. -- through the chat feature.
 24 (Exhibit 2 marked.)
 25 Q (BY MR. THOMPSON) You should have just

19

1 received it.
 2 A. Uh-huh.
 3 Q. Do you see Exhibit 2 on your computer?
 4 A. Just one moment. Is it 7-2, Exhibit B?
 5 Q. Yes. This, Ms. Morgan, was attached to a
 6 filing that your lawyers made in this case; and the
 7 markings at the top indicate the case number and the
 8 docket number.
 9 A. Uh-huh.
 10 Q. And the first page says Exhibit B because it's
 11 Exhibit B to a Preliminary Injunction Motion. So why
 12 don't we skip past the first page and look at the second
 13 page. Do you see in the center it says Declaration of
 14 Cathy Morgan?
 15 A. Yes.
 16 Q. Do you recognize this document?
 17 A. Yes.
 18 Q. Can you tell me what it is?
 19 A. I cannot tell you what exactly the document
 20 does except states information about me and what I
 21 declare.
 22 Q. Sure. Let's look at the last page of the
 23 document, which is marked as 6 of 6 at the top.
 24 A. Yes.
 25 Q. Do you see a signature on that page?

20

1 A. Yes.
 2 Q. Is it your signature?
 3 A. Yes.
 4 Q. Is this a Declaration that you signed and
 5 submitted in this case?
 6 A. Yes.
 7 Q. Did you write this Declaration?
 8 A. I -- I read it and approved it.
 9 Q. Do you know who wrote the Declaration?
 10 A. I had input into it. I don't know exactly
 11 who, but the Brennan Center was advising me at that
 12 point.
 13 Q. How long did you spend reviewing this
 14 Declaration before you signed it?
 15 A. At the time I spent time.
 16 Q. Sure. How much time was that?
 17 A. Probably 10 or 15 minutes.
 18 Q. And did you make any edits to the document
 19 after you received it but before signing it?
 20 MR. GARBER: Objection.
 21 Again, Cathy, I'll just advise you to be
 22 careful not to divulge anything you talked about with
 23 your lawyers, talking about this document.
 24 A. Honestly, I don't remember.
 25 Q (BY MR. THOMPSON) I'm looking at Paragraph 9

21

1 of your Declaration. Can you see that?
 2 A. Yes.
 3 Q. It says, "I have submitted my name to be an
 4 alternate judge during the 2022 elections in Williamson
 5 County." Do you see that?
 6 A. Yes.
 7 Q. Who decides whether you will be an alternate
 8 judge?
 9 A. The person handling the volunteers here in
 10 Williamson County that are willing to be an alternate.
 11 I, after that -- after this Declaration, in the last
 12 month and a half, made a decision to be a clerk instead
 13 of an alternate judge.
 14 Q. If I understand correctly --
 15 (Simultaneous speakers.)
 16 A. I'm sorry.
 17 Q. I'm sorry. Please, go ahead.
 18 A. No, I just made that decision on my own in
 19 terms of it being a little less pressure; and I have
 20 another -- I have a lot of other pressures going on in
 21 my life, moving, for instance. So I wanted to alleviate
 22 some of that.
 23 Q. Sure. And I'm not -- certainly not
 24 criticizing you for your choice. I just want to make
 25 sure I understand exactly what you chose. So is it fair

22	<p>1 to say you're not going to be an alternate judge during 2 the 2022 election? 3 A. I will not be an alternate judge in the 4 March 1st primary. 5 Q. Okay. Have you submitted your name to be an 6 alternate judge in any other future election? 7 A. That would come up later. 8 Q. So "no"? 9 A. Not right now, no. 10 Q. Okay. And you said something about you might 11 be a clerk. Did I hear that correctly? 12 A. Yes, sir. 13 Q. What do you mean by "clerk"? 14 A. A clerk is a person who sits for Williamson 15 County behind a plexiglass screen, with a mask on; and 16 when people come in and they hand you their driver's 17 license, for instance -- that's most of the time the ID 18 that's given -- then I'm the one who scans it. And the 19 computer pops up with their name and tells me 20 information about whether they're eligible to vote and 21 then gives me their -- the number for their ballot, the 22 ballot style. It's just a style according to exactly 23 where they live, and so that ballot contains all the 24 people that they are eligible to vote for or against. 25 And then, after checking all that out and</p>	24	<p>1 Q. What made you decide to become a VDR? 2 A. I think I did look that up, and now I really 3 can't remember. The year 2014 comes up -- comes to 4 mind, but I'm not absolutely certain. 5 Q. I may not have spoken clearly. I didn't mean 6 to say when. 7 A. Oh. 8 Q. I meant to say: What made you decide to 9 become a VDR? 10 A. Because I wanted to help people do the process 11 that they need to do in order to vote. 12 Q. What was the process for you to apply to 13 become a VDR? 14 A. I signed up for training, went through 15 training and then was assigned a number and given a 16 piece of paper that says I'm now a VDR for two years. 17 Q. Was that training provided by the Secretary of 18 State's Office? 19 A. No. 20 Q. Who provided the training? 21 A. One year -- this is every other year that we 22 go through training. You have to re-up every other year 23 on the odd years. One year I went to Travis County for 24 it. Another year I went to Williamson County for it. 25 Q. Was the training substantively different</p>
23	<p>1 looking at them and it's the -- it's the person on the 2 picture, then I print the ballot, which is a ballot that 3 has -- at the top of it, it has the ballot style on it. 4 It does not have any name on it. It's rectangular in 5 terms of being more narrow and very long, maybe 6 sometimes 16 inches long or so, depending on -- well, 7 that usually is the way it is; and that ballot, then, 8 they take to the voting machine. 9 Q. I appreciate that explanation. 10 Is it fair to say that your work as a 11 clerk is a volunteer position during which you interact 12 with voters who are voting in person? 13 A. While I do volunteer to do it, I am paid some 14 money for it at the same time. 15 Q. Okay. I've heard of county clerks who are 16 elected in Texas. You're not talking about being that 17 kind of clerk, are you? 18 A. No, I'm not. 19 Q. And is -- your clerk position, will that take 20 place just on election day; or does it extend beyond 21 that? 22 A. I'm choosing to only work on election day, 23 that day. 24 Q. Okay. Thank you very much. 25 A. Uh-huh.</p>	25	<p>1 between the two counties? 2 A. No. 3 Q. Are you working as a VDR this year? 4 A. Yes. 5 Q. When was the last time that you acted as a 6 VDR? 7 MR. GARBER: Objection. 8 A. I can state a time period when I was active as 9 a VDR. The virus that we're living with has limited my 10 work substantially. I'm over 75 a little bit and so I'm 11 very careful, but I was working a voter information 12 booth in October. 13 Q. (BY MR. THOMPSON) So if I understand you 14 correctly, you haven't worked as a VDR since that time 15 in October; is that right? 16 MR. GARBER: Objection. 17 A. I'm not sure. I do give out the "take away" 18 cards, which is a card -- a registration card that a 19 person can fill out on their own and mail on their own. 20 It's not one that they fill out and give to me and I 21 tear off a receipt and then I take their card to the 22 county office. So I -- I'm fairly certain when -- when 23 people move in my neighborhood anywhere, I generally 24 take them two "take away" cards and also have my own 25 cards with me in case they want to sign up with me; and</p>

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1 I can just take their registration cards in, uh-huh.
 2 Q. (BY MR. THOMPSON) So are you saying you've
 3 handed out the "take away" cards since October?
 4 A. I believe I did to a neighbor that moved in.
 5 Q. All right. I think this might be easier if we
 6 go through Paragraph 13 of your Declaration. Do you
 7 still have your Declaration in front of you?
 8 A. Yes, I do.
 9 Q. It says in Paragraph 13, "As a VDR, my role is
 10 not to judge whether someone is eligible to vote or
 11 eligible to vote by mail. Rather, my job is to explain
 12 options to voters and help fill out forms." Do you see
 13 that?
 14 A. Yes.
 15 Q. Is it fair to say that your job as a VDR has
 16 two parts?
 17 A. Would you talk about "two parts"?
 18 Q. Sure. I'm just looking at Paragraph 13 of
 19 your Declaration; and it says, "My job is to explain
 20 options to voters and help fill out forms." So I'm
 21 thinking that your job might have two parts: One,
 22 explaining options to voters and, two, helping fill out
 23 forms. Is that fair?
 24 A. That would be fair.
 25 Q. And when you say, "help fill out forms," are

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1 you referring to forms to register to vote?
 2 A. Yes.
 3 Q. Has anybody ever complained about how you
 4 perform those tasks as a VDR?
 5 MR. GARBER: Objection.
 6 A. Would you repeat the question? I didn't hear
 7 the first part.
 8 Q. (BY MR. THOMPSON) To the best of your
 9 knowledge, has anyone ever complained about how you
 10 perform those tasks as a VDR?
 11 A. No.
 12 Q. And when you help a voter fill out a form, are
 13 you just kind of explaining the instructions of the form
 14 to the voter?
 15 A. I'm essentially making sure that they fill in
 16 all of the spaces that they're required to fill in.
 17 They'll fail -- they'll sometimes fail to check a box
 18 saying they're a U.S. citizen. So I watch for that and
 19 just head them up to that question to answer that
 20 question.
 21 Q. So when you're helping them fill out forms,
 22 your role is to make sure the form is complete; is that
 23 correct?
 24 A. Yes.
 25 Q. When you explain options to voters, have you

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1 explained a vote-by-mail option?
 2 A. The answer is yes, before December 1st of last
 3 year.
 4 Q. So before December 1st of last year, how did
 5 you explain the vote-by-mail option when you did?
 6 A. If the situation -- I can give you an example.
 7 It's easier for me to give you an example. I was
 8 staffing a voter information booth outside of our
 9 church -- strictly nonpartisan -- and a student walked
 10 by and said, "Oh, I'm registered."
 11 And I said, "Great. Are you going to
 12 vote? Here's the ballot." And I had a list of the
 13 propositions. There was no comment on them. It was
 14 just a list of the propositions we were voting on last
 15 November.
 16 And a student would say, "Oh, I'm
 17 registered in Harlingen; and I just can't get back home
 18 to vote."
 19 And I would say -- at that point, when
 20 there was still time, I would say, "You can sign up for
 21 ballot by mail since you're out of the county for this
 22 particular election."
 23 And one young woman said, "Oh, that's
 24 fabulous."
 25 That's an example.

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1 Q. I appreciate that example.
 2 So is it fair to say that when you were
 3 explaining options, including vote by mail, you were
 4 providing factual information?
 5 A. Yes.
 6 Q. You weren't telling voters what they should
 7 do; you were just telling them what they could do --
 8 A. Yes.
 9 Q. -- is that right?
 10 A. Yes.
 11 Q. You weren't saying, "You should vote by mail
 12 rather than go back to Harlingen," in that example,
 13 right?
 14 MR. GARBER: Objection.
 15 A. Honestly, I can't remember my exact words.
 16 My -- I can speak to my intent, and that was to offer
 17 them a possibility.
 18 Q. (BY MR. THOMPSON) That's fair. And was that
 19 the same intent that you had in all of your interactions
 20 where you explained the vote-by-mail option?
 21 MR. GARBER: Objection.
 22 A. I'll have to go back a few years with my sweet
 23 Mrs. Banks, who lives two blocks over. I knocked on her
 24 door -- this was probably five years ago -- don't hold
 25 me to five; but it's been a while. I knocked on her

<p style="text-align: right;">30</p> <p>1 door. She took a while. She came to the door. We 2 talked for a minute; and she said, "Please come in. I 3 would love to just sit." 4 "Okay." And I did. 5 And she said, "I'm registered to vote. 6 I'm not sure I'm going to be able to get to the polling 7 places, and my husband is bedridden. His mind is 8 clear." 9 I stayed there for 45 minutes just 10 because we enjoyed chatting about the furniture in her 11 living room and the history of it and her situation and 12 listening to what was going on. And I said, "There's -- 13 there is ballot by mail." 14 She said, "That would be wonderful. Can 15 you help me with that?" 16 And I said, "Yes." 17 So I got her -- I went to Williamson 18 County and got an application and took it to her for her 19 and for her husband. 20 Q. So in that example, your neighbor wanted to 21 vote by mail and asked you for help; is that right? 22 A. Yes. I'm certain she said -- no, I'm not 23 certain. I'm not certain. I'm going to back off on it. 24 My vague recollection from that long ago 25 is that we were having a very congenial conversation --</p>	<p style="text-align: right;">32</p> <p>1 Q (BY MR. THOMPSON) All right. Ms. Morgan, 2 welcome back. 3 Before the break we were talking about 4 your intent when you had previously explained the vote- 5 by-mail option. Do you remember that? 6 A. I remember we were talking about that. 7 Q. Now, shifting from kind of the past to the 8 future, with regard to what you would like to do going 9 forward in explaining the vote-by-mail option, would you 10 have the same intent that you just explained to me? 11 A. If I felt it safe for me personally, yes. 12 Q. And when you say, "If I felt it safe," do you 13 mean if you weren't deterred by the threat of criminal 14 prosecution for explaining the vote-by-mail option? 15 A. Yes. 16 Q. Do you contend that explaining the vote-by- 17 mail option, as you've just discussed it, qualifies as 18 soliciting the submission of an application to vote by 19 mail under Section 276.016(a)(1)? 20 MR. GARBER: Objection. 21 A. Yes. 22 Q (BY MR. THOMPSON) Why do you contend that? 23 MR. GARBER: Objection. 24 A. Define "solicit." 25 Q. (BY MR. THOMPSON) Well, actually, Ms. Morgan,</p>
<p style="text-align: right;">31</p> <p>1 she was just delightful -- and she said she really 2 wanted to vote; and I said, "You can vote by mail." 3 And she said, "Yes, I would like to do 4 that." 5 Q. Okay. So I think that the question I had 6 asked when you gave that very helpful example was: In 7 your interactions when you have explained the vote-by- 8 mail option, was it always your intent to provide 9 factual information that would help a voter do what the 10 voter otherwise wanted to do? 11 MR. GARBER: Objection. 12 A. Yes. To provide factual information, yes. 13 MR. GARBER: Will, I'll just mention -- 14 it seems like you might be a little between questions -- 15 Cathy, are you doing well? Do you want a break? Do you 16 want to keep going? 17 THE WITNESS: Maybe a three-minute break 18 to get a drink of water. 19 MR. THOMPSON: Not a problem at all. 20 MR. GARBER: All right. Thank you. 21 THE REPORTER: We're going off the record 22 at 10:07 a.m. 23 (Off the record from 10:07 to 10:11 a.m.) 24 THE REPORTER: We're back on the record 25 at 10:11 a.m.</p>	<p style="text-align: right;">33</p> <p>1 that's kind of part of the question I'm asking you is I 2 was asking whether you contend that explaining the 3 vote-by-mail option, as you've described it, qualifies 4 as soliciting the submission of an application to vote 5 by mail under Section 276.016(a)(1). 6 MR. GARBER: Objection. 7 A. My understanding is soliciting is my asking a 8 voter if they would like information about voting by 9 mail, not answering a question if a voter asks me about 10 voting by mail. 11 Q (BY MR. THOMPSON) All right. Are there any 12 other reasons you contend that explaining the vote-by- 13 mail option, as you've discussed it, constitutes 14 soliciting under 276.016(a)(1)? 15 MR. GARBER: Objection. 16 A. I might have to go to a dictionary to look up 17 "soliciting" again. 18 Q. (BY MR. THOMPSON) Sure. And I understand 19 there may be things you know while you're sitting here 20 today in the deposition and there may be things you 21 don't know, but I'm honestly just asking about the 22 things you do know. So has anyone told you that 23 explaining the vote-by-mail option constitutes 24 soliciting under SB 1? 25 MR. GARBER: Objection.</p>

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1 And, Cathy, just a warning on privilege,
 2 again. If you feel you can answer the question, go
 3 ahead.
 4 A. I was part of a Zoom meeting and that part of
 5 SB 1 was being explained and the definition of
 6 "soliciting" then, at that moment, from that person, was
 7 that soliciting was asking a person if they wanted
 8 information on ballot by mail and --
 9 Q. Do you know --
 10 A. Go ahead.
 11 Q. Do you know if the Zoom meeting you're
 12 referring to is the video that your lawyers linked in
 13 the discovery responses they sent?
 14 A. Yes.
 15 Q. And is it the same?
 16 A. Yes -- yes.
 17 Q. So this was a Zoom meeting with a lawyer from
 18 a group called Texas Impact; is that right?
 19 A. Yes.
 20 Q. Didn't that lawyer tell the audience that the
 21 meaning of "soliciting" was unclear?
 22 A. He suggested that that being unclear meant
 23 that we should caution -- we -- use caution.
 24 Q. So he didn't tell you that explaining the
 25 vote-by-mail option was soliciting. He told you it

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1 might be soliciting; is that correct?
 2 A. He said that the Courts were going to have to
 3 decide this issue.
 4 Q. If a Texas Court clarified whether explaining
 5 the vote-by-mail option constituted soliciting under
 6 SB 1, would that be helpful to you?
 7 MR. GARBER: Objection.
 8 A. I need to know how it applies to VDRs.
 9 Q. (BY MR. THOMPSON) And so if a Texas Court
 10 explained how that provision applies to VDRs, would that
 11 be helpful to you?
 12 MR. GARBER: Objection.
 13 A. I'm not sure I can answer that. I feel very
 14 strongly that all eligible citizens should have every
 15 right to vote in a way that is most encouraging to them
 16 to vote.
 17 When I was walking some of the blocks in
 18 my area and I came upon a man and I said, "Sir" -- he
 19 had two maybe nine- and twelve-year-old kids with him.
 20 I said, "Sir, are you registered to vote?"
 21 He said, "I don't believe in voting. It
 22 doesn't do any good. People with money are always going
 23 to decide what to do."
 24 And I could not talk him off that ledge,
 25 and I thought: He is giving up his voice.

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1 MR. BREEN: Object as nonresponsive.
 2 MR. THOMPSON: Same objection.
 3 Q. (BY MR. THOMPSON) Ms. Morgan, I want to make
 4 sure I understand what's going on here. You say that
 5 the meaning of "solicit" under SB 1 is unclear, right?
 6 A. My understanding of "soliciting" is asking
 7 someone if they want something.
 8 Q. And did --
 9 A. I may have to pull out a dictionary.
 10 Q. And did you get that understanding of the word
 11 "solicit" from the lawyer in the Zoom meeting we just
 12 discussed?
 13 A. I think that I had a lot of questions before
 14 that discussion -- no, I don't want to say "I think." I
 15 did have questions before that discussion.
 16 Q. To whom did you pose those questions?
 17 A. To a friend who works for a state legislator.
 18 Q. Who is that?
 19 A. Allison Heinrich.
 20 Q. And who does Allison Heinrich work for?
 21 A. John Bucy.
 22 Q. I'm afraid I don't know John Bucy. Is he a
 23 Democrat or a Republican?
 24 A. He's a Democrat.
 25 Q. Do you know what --

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1 A. He's a Representative.
 2 (Simultaneous speakers.)
 3 A. I'm sorry?
 4 Q. Do you know what part of the state he
 5 represents?
 6 A. Yes, Williamson County -- well, it's changed
 7 now; but...
 8 Q. Is he your Representative?
 9 A. Yes.
 10 Q. And so Mr. Bucy's staffer explained to you the
 11 meaning of "solicit" in SB 1?
 12 A. She looked it -- looked up that part of the
 13 bill and sent that to me. That's my best recollection
 14 of that interchange. I wanted to see the actual part of
 15 the bill, and she sent that to me.
 16 Q. All right. So aside from the Zoom meeting
 17 with the lawyer from Texas Impact and your conversation
 18 with a staffer for Representative Bucy, what other
 19 sources of information do you have that support your
 20 contention that explaining the vote-by-mail option to
 21 voters qualifies as soliciting the submission of an
 22 application to vote by mail under Section 276.016(a)(1)?
 23 A. I don't remember if I looked up the
 24 definition. It is likely that I did, but I cannot say
 25 for sure that I did.

38	<p>1 Q. So if I told you that the definition of</p> <p>2 "solicit" in the American Heritage Dictionary of the</p> <p>3 English Language is "to seek to obtain by persuasion,</p> <p>4 entreaty, or formal application," would you have any</p> <p>5 reason to disagree with me?</p> <p>6 MR. GARBER: Objection.</p> <p>7 A. I'd have to pull out my dictionary. I don't</p> <p>8 have any reason to not believe you.</p> <p>9 Q. (BY MR. THOMPSON) When you explained the</p> <p>10 vote-by-mail option with the intent you previously</p> <p>11 described of providing factual information, are you</p> <p>12 trying to persuade that person to vote by mail; or are</p> <p>13 you trying to explain the option of voting by mail?</p> <p>14 MR. GARBER: Objection.</p> <p>15 A. I'm explaining an option.</p> <p>16 Q. (BY MR. THOMPSON) So not persuading, right?</p> <p>17 A. They have to make their own decision.</p> <p>18 Q. It sounds like you're saying "not persuading,"</p> <p>19 but I need a clear answer on the record. "Yes" or "no,"</p> <p>20 are you trying to --</p> <p>21 A. No, I'm not --</p> <p>22 Q. -- persuade them to vote by mail?</p> <p>23 A. -- trying to persuade them. I'm offering them</p> <p>24 options.</p> <p>25 Q. Have you ever communicated with anyone from</p>	40	<p>1 days; and I worked either five or six of those shifts.</p> <p>2 Q. Do you have any plans to continue working at a</p> <p>3 booth by University Presbyterian Church?</p> <p>4 A. Yes. We had hoped to do it in January; but</p> <p>5 between omicron and the weather and having people who</p> <p>6 are around my age all working the booth, we decided</p> <p>7 against it.</p> <p>8 Q. I can certainly understand that. Do you have</p> <p>9 any plans to do it going forward?</p> <p>10 A. Yes.</p> <p>11 Q. When?</p> <p>12 A. It will depend on the weather and omicron.</p> <p>13 We -- generally, we would do it in the month preceding</p> <p>14 an election. We've only done it once. We've done it</p> <p>15 once, and I was the coordinator for it. But I don't --</p> <p>16 I'm not so sure if we're doing it again this spring. We</p> <p>17 haven't -- the group that I work with has not decided.</p> <p>18 Q. All right. So there's a March primary this</p> <p>19 year, right?</p> <p>20 A. Yes.</p> <p>21 Q. And we're now in February, which is a month</p> <p>22 before the primary, right?</p> <p>23 A. Yes.</p> <p>24 Q. Will there be a booth outside University</p> <p>25 Presbyterian Church this month?</p>
39	<p>1 the Texas Secretary of State's Office?</p> <p>2 A. No, no.</p> <p>3 Q. Did any county officials tell you that</p> <p>4 explaining the vote-by-mail option would constitute</p> <p>5 soliciting under SB 1?</p> <p>6 A. No.</p> <p>7 Q. Sorry. I'm just skipping a few things, now</p> <p>8 that I think we've covered them.</p> <p>9 I went through some of the documents your</p> <p>10 lawyers produced. Are you familiar with the documents</p> <p>11 that your lawyers produced in this case?</p> <p>12 A. Yes.</p> <p>13 Q. And we can put them in front of you if that</p> <p>14 would be helpful, but you may recall that a lot of them</p> <p>15 related to University Presbyterian Church. Do you</p> <p>16 remember that?</p> <p>17 A. Yes.</p> <p>18 Q. You work as a VDR at a booth located by</p> <p>19 University Presbyterian Church; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Can you tell me --</p> <p>22 A. That was for a short duration.</p> <p>23 Q. What was the duration of that?</p> <p>24 A. During the month of October, Tuesday,</p> <p>25 Wednesday, Thursday from 1:00 to 3:00 each of those</p>	41	<p>1 A. No.</p> <p>2 Q. Well, when is the next election --</p> <p>3 A. We're at Stage 5 in Austin for omicron.</p> <p>4 Q. Is Stage 5 a local designation relating to</p> <p>5 COVID risk?</p> <p>6 A. Yes, it's the highest risk.</p> <p>7 Q. When is the next election when you might have</p> <p>8 a booth outside University Presbyterian Church?</p> <p>9 A. Well, there will be a runoff. I can't peg the</p> <p>10 date right now, right at this moment; and I don't know</p> <p>11 if we would try to do something with that. I don't</p> <p>12 know.</p> <p>13 Q. Okay. How about the next election after that?</p> <p>14 A. For the fall, yes, probably we would start the</p> <p>15 voter information booth in September.</p> <p>16 Q. All right. So you might have a voter</p> <p>17 information booth in September of 2022; is that right?</p> <p>18 A. Yes, and the word is "might."</p> <p>19 Q. All right. You're not sure because you don't</p> <p>20 know about omicron and the weather and things like that?</p> <p>21 A. Uh-huh, yes.</p> <p>22 Q. Where is University Presbyterian Church?</p> <p>23 A. It is located, nicely enough, very close to</p> <p>24 the university. It's half a block off of Guadalupe,</p> <p>25 which is a road that goes by one side of the university,</p>

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1 and we are on the backside of those buildings that front
 2 Guadalupe. So we -- and we're on a corner. So we get a
 3 lot of student traffic.
 4 The amount of students -- student
 5 housing going up in what we call that west campus area
 6 is just immense. They're everywhere. The last time I
 7 drove down -- and it's been a while now because we're
 8 not in -- in worship in person right now, but there's
 9 another huge building going up. They're all -- we're
 10 surrounded by tall buildings.
 11 Q. And so I can appreciate that answer, but the
 12 person reading this may not be from Austin. Is it fair
 13 to say that the church is in downtown Austin?
 14 A. I would not call it downtown. "Downtown" --
 15 Q. Call it north of downtown Austin?
 16 A. "Downtown" indicates the Capitol area and all
 17 of the businesses around the Capitol and down to the
 18 river, and then it's kind of spread out from there. UT
 19 is north of there by several blocks, and it's kind of
 20 like its own area. So if you say "the UT area," then
 21 people will know where you're talking about. If you say
 22 "downtown," they'll go: Oh, downtown on Congress.
 23 Q. Understood. And we're talking about Travis
 24 County, right?
 25 A. Yes.

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1 Q. All right. I'm going to send you in the chat
 2 feature again what I'll mark as Exhibit 3.
 3 MR. THOMPSON: It is, for the benefit of
 4 Counsel, Bates stamped Morgan 8 through Morgan 11,
 5 (Exhibit 3 marked.)
 6 Q. (BY MR. THOMPSON) Ms. Morgan, have you
 7 received Exhibit 3?
 8 A. Yes, I've just clicked on it; and there it is.
 9 Yes.
 10 Q. Okay. Can you see a table that in the upper
 11 left-hand corner says, "How many people"?
 12 A. Yes.
 13 Q. Now, it looks to me like this is a table for
 14 Tuesday, October 5th, through Thursday, October 7th; is
 15 that right?
 16 A. Yes, that was our first week.
 17 Q. And so this kind of captures some statistics
 18 about your first week of having the voter information
 19 booth outside your church; is that right?
 20 A. Yes.
 21 Q. Okay. So towards the top it has a row that
 22 says, "Stopped by booth." Do you see that?
 23 A. Yes.
 24 Q. Does that refer to the total number of people
 25 with whom you spoke as part of your VDR activities that

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1 day?
 2 A. Yes. Many more went by. Only a few wanted to
 3 stop because of our candy. We had a big bowl of candy
 4 out.
 5 Q. And then I see a highlighted cell down in
 6 what's marked as Row 12. It says, "Vote by mail info."
 7 Do you see that?
 8 A. Yes.
 9 Q. Does that refer to the total number of people
 10 to whom you offered information about voting by mail?
 11 A. I believe so, yes -- I don't want to say "I
 12 believe." To the best of my recollection.
 13 Q. Did you prepare this table?
 14 A. Yes. It was -- it went through several
 15 iterations before we ended the four weeks, only
 16 slightly -- slightly adjusted.
 17 Q. Sure. I guess, do you have personal knowledge
 18 that the numbers in this table are correct?
 19 A. I have personal knowledge of October 5th and
 20 October 7th. I was not there on October 6th.
 21 Q. Okay. Who prepared the numbers for
 22 October 6th if it wasn't you?
 23 A. I'd have to go back and look at the schedule
 24 of who worked that day.
 25 Q. Would it be someone else from University

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1 Presbyterian Church?
 2 A. Absolutely.
 3 Q. So I'll just go through these quickly. So on
 4 Tuesday, October 5th, it looks like 22 people stopped by
 5 your booth --
 6 A. Yes.
 7 Q. -- is that right?
 8 A. Yes.
 9 Q. And six of them received information about
 10 voting by mail --
 11 A. Yes.
 12 Q. -- is that right?
 13 A. Yes.
 14 Q. Now, on Wednesday, October 11th [sic], at
 15 least according to this form, it looks like 11 people
 16 stopped by the booth; is that right?
 17 A. Let me see. October the 11th?
 18 Q. Oh, I'm sorry. I meant to say Wednesday,
 19 October 6th.
 20 A. Oh, okay. And you asked if 11 people stopped?
 21 Q. Yes.
 22 A. That's -- I'm going to explain that if I may.
 23 Q. Please.
 24 A. I'm a retired school teacher. I'm a grandma.
 25 And these are young people passing by. So I quickly

<p style="text-align: right;">46</p> <p>1 learned that students, when they realized we were there 2 and it was obvious from signs that they could register 3 to vote, they'd go -- they'd wave and go, "I'm 4 registered." 5 And so I learned to pick up my page that 6 had all the ballot propositions on it and hold it up and 7 say, "Do you know what's on your ballot?" 8 And they'd whip around and go, "What?" 9 And so then they would read it. And I 10 would say, "If these don't make sense to you" -- and 11 some of them really were hard -- were difficult to 12 interpret -- I would say, "Go to the League of Women 13 Voters." And I would give them the website to go and 14 see people who were speaking for both sides of each 15 proposition. Then I would give a page that had some 16 information about voting, like what you can take in the 17 booth and things like that, child -- your own child, 18 yes; guns, no, things like that. 19 The -- that process then had more people 20 stopping by than if you were just sitting at the table 21 without beginning to have a discussion with students. 22 So I think that's why those numbers were higher on 23 Tuesday and Thursday if you wondered. 24 Q. That's perfectly fine; but no, I don't 25 particularly need to know why the numbers were higher or</p>	<p style="text-align: right;">48</p> <p>1 stopping by the booth and 6 people receiving vote-by- 2 mail info; is that right? 3 A. Yes. 4 Q. Ms. Morgan, if you can turn to the next page 5 of the exhibit, which is marked Morgan 9, it -- 6 A. I don't know -- 7 Q. -- is a similar table. 8 A. -- why that's there. There's no numbers 9 there, but there should be. 10 Q. Well, that was going to be my question. Do 11 you have a table that has numbers in it for that week? 12 A. I will have to go search for it, but I'm quite 13 sure -- 14 Q. All right. Do you know -- I'm sorry. Go 15 ahead. 16 A. That is very strange. I don't know. 17 Q. Do you think there should be numbers for this 18 week? 19 A. Yes, and there are at some place in my files. 20 Q. All right. 21 MR. THOMPSON: And, Counsel, obviously, 22 we'll hope to get that document from you -- 23 THE WITNESS: Yes. 24 MR. THOMPSON: -- if you have it. 25 MR. GARBER: Yes. Please follow up with</p>
<p style="text-align: right;">47</p> <p>1 lower. 2 A. Okay. 3 Q. I just wanted to go through the numbers with 4 you. 5 A. Okay. 6 Q. And I'm going to keep doing that. And if 7 there's something you feel is important, that's fine; 8 but I'm not -- I promise, if I need to know, I'll ask 9 you. 10 A. All right. 11 Q. So on Wednesday, October 6th, it looks like 11 12 people stopped by the booth; is that right? 13 A. Uh-huh, yes. 14 Q. And no one is listed as having received vote- 15 by-mail information for Wednesday, October 6th; is that 16 right? 17 A. Correct. 18 Q. For Thursday, October 7th, it looks like 35 19 people stopped by the booth; is that right? 20 A. Correct. 21 Q. But for Thursday, October 7th, no one received 22 vote-by-mail information, right? 23 A. Correct. 24 Q. All right. Now, it looks like there's a total 25 in the last column for this week; and it shows 68 people</p>	<p style="text-align: right;">49</p> <p>1 any request; and we'll, of course, look into it. 2 Q (BY MR. THOMPSON) Ms. Morgan, let's turn past 3 Page Morgan 9 and look at Page Morgan 10. Do you see 4 that page? 5 A. Uh-huh, 10, yes. 6 Q. Is this table like the first table we talked 7 about, just for a different week? 8 A. Yes. 9 Q. And the week it shows is Tuesday, 10 October 12th, through Thursday, October 14th? 11 A. Correct. 12 Q. Were you working at the table during that 13 week? 14 A. I know I was, but I cannot tell you which 15 days. I would have to go look at my schedule. 16 Q. Do you know how many days of the three? 17 A. It's possible there were two days. I went one 18 day to help a person who was uncertain of what they were 19 doing, so I didn't want the VDR on site at that point to 20 be left with everything. 21 Q. So for Tuesday, October 12th, it looks like 48 22 people stopped by the booth; is that right? 23 A. Yes. 24 Q. And two people received vote-by-mail 25 information; is that right?</p>

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1 A. Yes.
 2 Q. For Wednesday, October 13th, 27 people stopped
 3 by the booth, correct?
 4 A. Yes.
 5 Q. And zero people received vote-by-mail
 6 information?
 7 A. Correct.
 8 Q. For Thursday, October 14th, 35 people stopped
 9 by the booth, right?
 10 A. Yes.
 11 Q. And five people received vote-by-mail
 12 information, correct?
 13 A. Yes.
 14 Q. Ms. Morgan, if you turn to the next page,
 15 which is marked Morgan 11, you'll see another blank
 16 table --
 17 A. Yeah.
 18 Q. -- for this same week. Do you see that?
 19 A. Yes.
 20 Q. There's no reason to doubt the numbers on the
 21 previous page, is there --
 22 A. No.
 23 Q. -- on Morgan 10?
 24 A. No.
 25 Q. Do you have any other tables that would

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1 I seem to remember that we didn't overestimate. We
 2 probably underestimated slightly, but the numbers would
 3 not be vastly different at all.
 4 Q. Do you think this is the best source of
 5 information we have for figuring out how many people
 6 stopped by the booth and received vote-by-mail
 7 information?
 8 MR. GARBER: Objection.
 9 A. Yes.
 10 Q. (BY MR. THOMPSON) Were these table prepared
 11 in the ordinary course of the task of having a voter
 12 information booth at the church?
 13 A. Yes.
 14 Q. Are the people who prepared these tables
 15 trustworthy and honest?
 16 MR. GARBER: Objection.
 17 A. My perception is that they're totally
 18 trustworthy and honest.
 19 Q. (BY MR. THOMPSON) So I did some math -- and
 20 one might be suspicious of lawyer math -- but I totalled
 21 up, according to the production, how many people stopped
 22 by the booth; and it was 178. Does that sound about
 23 right to you?
 24 A. All -- all I can honestly tell you -- yeah;
 25 but, honestly, I have a memory of around 260 total that

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1 provide these types of numbers for your voter
 2 information booth?
 3 A. Yes. I do apologize. I thought that I had
 4 put in the table that has the cumulative numbers for the
 5 four weeks. So I'll have to look that up and send it to
 6 Andrew.
 7 Q. Okay. So you think you have kind of a table
 8 that has the totals; is that right?
 9 A. Yes.
 10 Q. That's great.
 11 And with regard to both the tables that
 12 we've just looked at in your production and the table
 13 that you're referring to, are those tables all accurate?
 14 A. I would say they're probably an undercount for
 15 stopped by the booth and for people taking materials,
 16 like UKirk, which is our college student program at
 17 church. There's several things that -- let me explain.
 18 I was there in a VDR role when I was
 19 there. We always had one VDR and one person who was
 20 not. The person who was not the VDR was in charge of
 21 keeping up with this count; but as we older women tend
 22 to do, we like to talk with students, especially those
 23 of us who are former teachers. And so the person
 24 working with me might often go, "Oh, how many people
 25 just stopped by?" And so we would have to estimate, and

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1 stopped by for the four weeks. That's the only total I
 2 really have in my head.
 3 Q. And, again, according to my math, it appears
 4 that about 7 percent of the people who stopped by
 5 received vote-by-mail information. Does that sound
 6 about right to you?
 7 A. Being a former math teacher, I would have to
 8 go check you out.
 9 Q. If the --
 10 A. It's not unreasonable.
 11 Q. Sure. If you did check my math and you got
 12 7 percent or 7.3 percent, based on the production and
 13 the tables therein, would you have any reason to doubt
 14 that number?
 15 A. No.
 16 Q. So I think you've mentioned kind of two
 17 components of your work as a VDR, one being this booth
 18 outside your church and the other being leaving cards at
 19 people's doors when you go door to door; is that right?
 20 A. Yes, and other booths.
 21 Q. And other booths. Okay. So, yeah, I want to
 22 get a complete list of the activities that you include
 23 in your work as a VDR. So we've got the University
 24 Presbyterian Church booth, leaving the cards door to
 25 door; and now, you've mentioned other booths. Can you

<p style="text-align: right;">54</p> <p>1 tell me about those?</p> <p>2 A. I worked at a booth at our farmers market that</p> <p>3 is a voter registration booth.</p> <p>4 Q. Was it similar to the booth outside your</p> <p>5 church?</p> <p>6 A. It didn't have additional information on --</p> <p>7 I'm going to back up. The booth was not centered around</p> <p>8 when the next election was. It's just an ongoing booth</p> <p>9 whenever the farmers market is open that is there to</p> <p>10 register people to vote. Oftentimes those people will</p> <p>11 come up and say, "I've moved. Do I need to update my</p> <p>12 registration?"</p> <p>13 I'll say, "Are you in the same county?"</p> <p>14 Have you changed counties," that kind of thing about</p> <p>15 what to do with their voter registration card.</p> <p>16 Q. When you were working at this farmers market</p> <p>17 booth, were you providing factual information about</p> <p>18 options like we discussed before?</p> <p>19 A. Yes.</p> <p>20 Q. When was the last time you worked at the</p> <p>21 farmers market booth?</p> <p>22 A. Oh, I haven't worked since we've been inside</p> <p>23 for COVID. It's been a long time.</p> <p>24 Q. Would that be since early 2020?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">56</p> <p>1 Q. Is it fair to say that you don't have any --</p> <p>2 is it fair to say that you don't have any firm plans to</p> <p>3 do anything other than the three things we talked about</p> <p>4 on the list, but that they might happen some day,</p> <p>5 depending on the circumstances?</p> <p>6 MR. GARBER: Objection.</p> <p>7 A. Correct.</p> <p>8 Q (BY MR. THOMPSON) So earlier I think you</p> <p>9 talked about the effective date of SB 1. Do you</p> <p>10 remember that?</p> <p>11 A. I believe it was December 1st.</p> <p>12 Q. Since SB 1 took effect, have you worked as a</p> <p>13 VDR?</p> <p>14 A. Only in my neighborhood when the new people</p> <p>15 moved in.</p> <p>16 Q. Are you referring to leaving the cards door to</p> <p>17 door in your neighborhood?</p> <p>18 A. I offered to either have them fill out at the</p> <p>19 time or leave them for them. And they said, "We'll just</p> <p>20 take the cards, but you can leave." So that was fine.</p> <p>21 Q. I mean, is that the only -- sorry. When you</p> <p>22 say the new people moved in, was that one family that</p> <p>23 moved into your neighborhood or multiple --</p> <p>24 A. Yes, it was one. Although, typically my --</p> <p>25 people will say, "Oh, you've just moved in. Go see</p>
<p style="text-align: right;">55</p> <p>1 Q. Do you have any plans to work at the farmers</p> <p>2 market booth in the future?</p> <p>3 A. I have plans. We'll see what works out.</p> <p>4 Q. When is your next planned time to work at the</p> <p>5 farmers market booth?</p> <p>6 MR. GARBER: Objection.</p> <p>7 A. I don't have a plan in mind. I just know that</p> <p>8 that's an option for me to go work, and I do not like to</p> <p>9 work in bad whether.</p> <p>10 Q. (BY MR. THOMPSON) I understand. Would you</p> <p>11 say that you intend to do it someday, but you're not</p> <p>12 sure when, in light of the circumstances?</p> <p>13 MR. GARBER: Objection.</p> <p>14 A. Yes.</p> <p>15 Q. (BY MR. THOMPSON) Okay. So we've gone</p> <p>16 through those three options, the University Presbyterian</p> <p>17 Church booth, the farmers market booth, and leaving the</p> <p>18 cards when you go door to door.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Is there anything I'm missing from that list?</p> <p>21 A. I'm not going to rule out something else.</p> <p>22 Nothing else is coming to mind right at the moment; but</p> <p>23 there -- there are people, say, at my church or people</p> <p>24 in my larger neighborhood that will write me or call me</p> <p>25 and ask me questions about their voter registration.</p>	<p style="text-align: right;">57</p> <p>1 Cathy for voting, for registration."</p> <p>2 Q. So is it fair to say that you've worked as a</p> <p>3 VDR one time since SB 1 took effect?</p> <p>4 MR. GARBER: Objection.</p> <p>5 A. I'm not sure I can really safely quantify</p> <p>6 that, to be honest.</p> <p>7 Q. (BY MR. THOMPSON) Is one your best estimate?</p> <p>8 A. At this moment.</p> <p>9 Q. At this moment, yes?</p> <p>10 A. Yes.</p> <p>11 Q. During that time you worked as a VDR after</p> <p>12 SB 1 took effect, were you deterred from saying</p> <p>13 something you wanted to say by the threat of criminal</p> <p>14 prosecution for violation of Section 276.016(a)(1)?</p> <p>15 MR. GARBER: Objection.</p> <p>16 A. Yes.</p> <p>17 Q. (BY MR. THOMPSON) I didn't hear your answer.</p> <p>18 I'm sorry.</p> <p>19 A. Yes.</p> <p>20 Q. You were deterred?</p> <p>21 A. Yes.</p> <p>22 Q. What were you deterred from saying?</p> <p>23 A. I was deterred from saying, "Have you</p> <p>24 considered voting by mail?"</p> <p>25 Q. Were you deterred from saying anything --</p>

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1 (Simultaneous speakers.)
 2 Q. I'm sorry. Please go ahead.
 3 A. My sister. My sister's severely
 4 immunocompromised, severely.
 5 Q. The person you were deterred from saying that
 6 to was your sister? Is that what you're saying?
 7 A. Uh-huh, uh-huh.
 8 Q. May I get a verbal answer?
 9 A. Yes. Sorry.
 10 Q. Was there anything else you were deterred from
 11 saying?
 12 A. There was a man who wrote me. He's a member
 13 of the church, but he does not have e-mail. So he wrote
 14 me a snail mail and asked about voting by mail. Because
 15 he had asked me, then I felt confident to reply to him.
 16 Q. What did he ask you?
 17 A. He was asking about how to fill out the form
 18 or why were so many applications being rejected in
 19 Travis County.
 20 Q. And what did you reply?
 21 A. I replied that people were failing to put
 22 their license -- driver's license number or their last
 23 four digits, and I suggested putting both and putting
 24 his phone number on the card where there's an option to
 25 do that.

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1 Q. Is it fair to characterize what you told him
 2 as factual information about how to go through the
 3 process?
 4 MR. GARBER: Objection.
 5 A. It is not required; but because of the
 6 50-percent-rejection rate at one time in Travis County,
 7 it is commonly viewed by many people as the safest thing
 8 to do.
 9 MR. BREEN: Object as --
 10 Q. (BY MR. THOMPSON) Is it fair to say that --
 11 (Simultaneous speakers.)
 12 MR. THOMPSON: I'm sorry. Did you say
 13 something, Mr. Garber?
 14 MR. BREEN: I did. Breen did. I just
 15 objected to nonresponsive. She didn't answer your
 16 question.
 17 MR. THOMPSON: Thank you.
 18 Same objection.
 19 Q. (BY MR. THOMPSON) Ms. Morgan, is it fair to
 20 say that you provided that member of your church with
 21 factual information about the best way to submit an
 22 application?
 23 MR. GARBER: Objection.
 24 A. It is fair to say that I gave them factual
 25 information from what I understood.

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1 Q. (BY MR. THOMPSON) So other than the examples
 2 we've talked about, is there anything else that you
 3 want to say that you have been deterred from saying
 4 because of the threat of criminal prosecution under
 5 Section 276.016(a)(1)?
 6 MR. GARBER: Objection.
 7 A. I don't remember.
 8 Q. (BY MR. THOMPSON) How about, sitting here
 9 today, can you think of anything else that you want to
 10 say that you were deterred from saying because of threat
 11 of criminal prosecution under Section 276.016(a)(1)?
 12 A. Would you restate that question?
 13 Q. Sure. Before I do, was it that you didn't
 14 hear me or that you didn't understand the words I was
 15 using?
 16 A. I want to make sure I understand the words
 17 you're using.
 18 Q. Sure. Is there anything else besides what
 19 we've just talked about that you want to say going
 20 forward but you have been or will be deterred from
 21 saying because of the threat of criminal prosecution
 22 under Section 276.016(a)(1)?
 23 A. I don't have anything to say to this group of
 24 people with fear of that section. I would like to live
 25 in a world where it's okay to say to people, "Have you

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1 considered ballot by mail?"
 2 MR. BREEN: Object to the nonresponsive
 3 portion of the answer.
 4 Q. (BY MR. THOMPSON) Is it fair to characterize
 5 the things you want to say but may be deterred from
 6 saying as summed up in that phrase you just gave me,
 7 "Have you considered voting by mail"?
 8 MR. GARBER: Objection.
 9 A. I think I've said what I can say.
 10 Q. (BY MR. THOMPSON) That's fine. I'm not
 11 trying to make you give more examples. I just want to
 12 know if there are any other examples. I don't want to
 13 hear about them later for the first time. Does that
 14 make sense?
 15 A. Yes. My -- I will say that, as with a lot of
 16 people, things will come to mind later sometimes that I
 17 wish I had said at the time or thought of -- thought of,
 18 actually, at the time. At this moment, I -- I'm sorry.
 19 I'm not comfortable -- say it one more time. I'm going
 20 to really try this time, really try.
 21 Q. Are there any other examples of things you
 22 want to say but have been or will be deterred from
 23 saying because you're concerned about criminal
 24 prosecution under SB 1?
 25 MR. GARBER: Objection.

62	<p>1 A. I can't give you a "yes" or "no." I can only 2 say: At this moment, no. 3 MR. THOMPSON: Thank you very much. 4 Q. (BY MR. THOMPSON) Do you still have your 5 Declaration in front of you? I believe it is Exhibit 2 6 to this deposition. 7 A. Just one moment. Yes. 8 Q. Let's look at Paragraph 16. Can you see that? 9 A. Yes. 10 Q. The last sentence says, "As an appointee of 11 the county voter registrar, I understand that I am a 12 public official." Do you see that? 13 A. Yes. 14 Q. Do you contend that you're a public official 15 for purposes of Section 276.016(a)(1)? 16 MR. GARBER: Objection. 17 A. I think it enough to not talk with people -- 18 not -- not bring up the subject of vote by mail. 19 Q. (BY MR. THOMPSON) When you say you think it 20 enough, do you mean you're not sure whether you're a 21 public official? 22 A. My best understanding is that I am. 23 Q. But you're not sure? 24 A. I'm hoping that the Courts will clarify that 25 issue, but I'm going on the basis that I am a public</p>	64	<p>1 you. I'm just trying to get a sense for my other things 2 I've got going on today. 3 MR. THOMPSON: No, that's perfectly fair. 4 And, I'll be honest, this has taken longer than I 5 expected; but I don't think we have a ton more. I would 6 expect less than an hour. 7 MR. MORALES-DOYLE: Okay. Thank you. 8 MR. GARBER: And, Will, just on that 9 point, does it make sense now or in the near future to 10 just give Cathy a few more minutes' break if she wants 11 one? 12 MR. THOMPSON: Whenever she wants it as 13 far as I'm concerned. 14 MR. GARBER: Okay. 15 THE WITNESS: That would be helpful. 16 MR. BREEN: I'm going to have a few -- 17 MR. THOMPSON: Go ahead. 18 MR. BREEN: I'm going to have a few, but 19 not as many as Will. 20 MR. MORALES-DOYLE: Okay. Thank you. 21 MR. BREEN: We decided to take a break, 22 is that what we did? Looks like it. Okay. 23 MR. THOMPSON: Yeah. Ms. Cunningham, I 24 think we can go off the record. 25 THE REPORTER: We're going off the record</p>
63	<p>1 official. 2 Q. What is the basis for your understanding that 3 you are a public official? 4 MR. GARBER: Objection. 5 Cathy, just please don't discuss anything 6 privileged. 7 A. I think it has to do with the word "deputy." 8 Q. (BY MR. THOMPSON) So you're saying that you 9 think you might be a public official because your title, 10 Volunteer Deputy Registrar, includes the word "deputy." 11 Is that right? 12 A. Yes. 13 Q. Any other basis for your contention? 14 A. No. 15 Q. Do you remember that Zoom meeting you referred 16 to earlier with the lawyer from Texas Impact? 17 A. Yes. 18 Q. Do you remember that during that meeting, he 19 said it wasn't clear whether VDRs are public officials? 20 A. Yes. 21 Q. Do you have any reason to disagree with him? 22 A. No. 23 MR. MORALES-DOYLE: Will, sorry to 24 interrupt. I'm just wondering if you have a sense of 25 about how much longer you have. I'm not trying to press</p>	65	<p>1 at 10:57 a.m. 2 (Off the record from 10:57 to 11:04 a.m.) 3 THE REPORTER: We're back on the record 4 at 11:04 a.m. 5 Q. (BY MR. THOMPSON) All right. Ms. Morgan, 6 welcome back. Before the break we talked about two 7 things that informed your -- 8 THE WITNESS: Your sound -- your sound is 9 garbled. 10 MR. GARBER: Will, I apologize. We're 11 getting some feedback from you. 12 MR. THOMPSON: Oh. 13 THE ZOOM TECH: Mr. Thompson, if you just 14 toggle your microphone, that will clear it up. It's a 15 nuance with those Dell computers. 16 MR. THOMPSON: Can you hear me any better 17 now? 18 THE WITNESS: No. 19 MR. BREEN: No, it's still bad. 20 MR. THOMPSON: Let's try leaving the 21 meeting and coming back, I think. 22 MR. GARBER: Let's go off the record 23 again. 24 THE REPORTER: Going off the record at 25 11:05 a.m.</p>

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1 (Off the record from 11:05 to 11:06 a.m.)
 2 THE REPORTER: We're going back on the
 3 record at 11:06 a.m.
 4 Q (BY MR. THOMPSON) All right. Ms. Morgan, can
 5 you hear me again?
 6 A. Yes.
 7 Q. Great. I'm sorry about that.
 8 So before that interruption, we were
 9 talking about two things that informed your contention
 10 that you're a public official: One was the word
 11 "deputy" in your title of Deputy Voter -- I'm sorry --
 12 Volunteer Deputy Registrar, and the other was the lawyer
 13 from Texas Impact saying that the term "public official"
 14 was not clear; is that right?
 15 A. Correct.
 16 Q. Is there any other basis besides those two
 17 that informs your contention that you are a public
 18 official?
 19 MR. GARBER: Objection.
 20 Cathy, just be careful of privilege,
 21 please.
 22 A. I can't think of one at this moment.
 23 Q. (BY MR. THOMPSON) So the Secretary of State's
 24 Office has not told you you're a public official,
 25 correct?

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1 A. I have not called them.
 2 Q. And they haven't otherwise told you you're a
 3 public official, right?
 4 A. No.
 5 Q. And no county official has told you you're a
 6 public official, correct?
 7 A. Correct.
 8 Q. I'm going to send you what I'll mark as
 9 Exhibit 4. It is the Texas Volunteer Deputy Registrar
 10 Guide.
 11 (Exhibit 4 marked.)
 12 Q (BY MR. THOMPSON) Let me know when you've
 13 received that.
 14 A. Okay.
 15 Q. Are you able to open and see the document?
 16 A. Okay. Here it is.
 17 Q. Do you know what this document is?
 18 A. I think it's what it says it is, Texas
 19 Volunteer Deputy Registrar Guide.
 20 Q. Have you ever seen the Deputy -- the Volunteer
 21 Deputy Registrar Guide before?
 22 A. I really can't remember.
 23 Q. Do you see up at the top it says, "Texas
 24 Secretary of State"?
 25 A. Yes.

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1 Q. And can you see at the bottom of the page that
 2 it came from the Texas Secretary of State's website?
 3 A. Yes.
 4 Q. So let's flip back to page 7 of 9 in the
 5 document, and I want to look at the second-to-last
 6 question. Follow along with me while I read the
 7 question, and then I'll ask you to read the answer.
 8 A. All right.
 9 Q. I just -- excuse me. "QUESTION: I just want
 10 to hand out blank voter registration application forms
 11 and encourage people to register to vote. Can I do that
 12 without being appointed as a volunteer deputy
 13 registrar?"
 14 What is the answer printed there?
 15 A. "Yes."
 16 Q. And the answer goes on. I'm happy to read it
 17 if you'll just confirm that I'm reading it correctly.
 18 "ANSWER: Yes. Anyone can hand out blank application
 19 forms to voters for the voters to fill out and mail in
 20 themselves. If this is all you want to do, you do not
 21 have to be a volunteer deputy registrar. Also, if you
 22 are already a volunteer deputy registrar in one county,
 23 you can hand out blank forms in other counties where you
 24 are not a volunteer deputy. It is the voter's handing
 25 the application back to you to review and to deliver to

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1 the registrar that triggers the requirement to be an
 2 authorized volunteer deputy registrar."
 3 Did I read that correctly?
 4 A. Yes.
 5 Q. Do you have any reason to disagree with the
 6 answer that we just read from the Texas Volunteer Deputy
 7 Registrar Guide?
 8 MR. GARBER: Objection.
 9 A. That -- you read what's there.
 10 Q (BY MR. THOMPSON) I appreciate that. I mean
 11 in substance. There was a question, and there was an
 12 answer provided. Do you have any reason to disagree
 13 that the answer provided in the document is the correct
 14 answer to the question that was asked?
 15 A. I understand what is there.
 16 Q. I think you said you understand what's on the
 17 document. Do you agree with the answer provided in the
 18 document?
 19 MR. GARBER: Objection.
 20 A. I can only say I agree with what you read that
 21 that's what's on that document that's from the Secretary
 22 of State.
 23 Q. (BY MR. THOMPSON) Do you disagree with what
 24 the Secretary of State said in that document?
 25 MR. GARBER: Objection.

<p style="text-align: right;">70</p> <p>1 A. Can you tell me what the date is on this 2 document? 3 Q. (BY MR. THOMPSON) Yes. If you look at the 4 last page, do you see on the last page there's something 5 that says "Rev"? 6 A. Yes. 7 Q. I would interpret that to mean "revision," 8 9/11/17. 9 A. Yes. 10 Q. And -- 11 A. That was several years ago. 12 Q. -- if you look at the top of each page, you'll 13 see a date that says, "2/3/22, 4:58 PM." Do you see 14 that? 15 A. I see. 16 Q. And that's the date that the document was 17 printed to PDF from the Texas Secretary of State's 18 website. Does that look right to you? 19 A. That's what I'm reading, yes. 20 Q. Does that provide whatever information you 21 wanted about the date? 22 A. It provides to me the information on the date 23 that it was printed. 24 Q. Okay. So it's not a trick question. 25 A. Okay.</p>	<p style="text-align: right;">72</p> <p>1 A. Yes, but I also then add on my -- the 2 sentence, the next sentence. 3 Q. (BY MR. THOMPSON) Exactly. I wanted to ask 4 you about that, too. I'm trying to go in order. 5 Now, in Paragraph 21 you say, "I do not 6 know what 'while acting in an official capacity' means." 7 Do you see that? 8 A. Yes. 9 Q. Sitting here today, do you have any opinion 10 about what "while acting in an official capacity" means? 11 A. For me, I do not. 12 Q. Okay. I'm going to send you another document, 13 which I believe we're up to Exhibit 5; and it will be 14 Bates stamped Morgan 12 through Morgan 15. 15 (Exhibit 5 marked.) 16 Q. (BY MR. THOMPSON) Have you received that 17 document? 18 A. Yes, I have. 19 Q. Do you recognize this document? 20 A. It's loading right now. 21 Yes, I do recognize it. 22 Q. What is this document? 23 A. This is a document from Texas Impact that 24 describes what we did at our church in terms of a voter 25 information booth. That's me on the right in that first</p>
<p style="text-align: right;">71</p> <p>1 Q. I want to know whether you agree, disagree, or 2 have no opinion about whether the Secretary of State's 3 answer to the question we read is correct. 4 MR. GARBER: Objection. 5 A. I'm going to have no opinion on it. I need to 6 see more information. 7 Q. (BY MR. THOMPSON) What additional information 8 would you like to see in order to form an opinion? 9 A. I would like -- I would like the Courts to 10 clarify what it means to be deputy in this instance with 11 the bill -- with Senate Bill 1. 12 Q. Anything else, any other information you need 13 to form an opinion? 14 A. I can't -- I don't know at this time. 15 Q. Okay. Let's turn back to your Declaration. 16 Do you still have that? I believe it's Exhibit 2. 17 A. Let me pull it up. Yes, I have it. 18 Q. In Paragraph 16 your Declaration mentions 19 the "acting in an official capacity" requirement of 20 Section 276.016(a)(1). Do you see that? 21 A. Yes. 22 Q. Do you agree that Section 276.016(a)(1) 23 applies only when an official is acting in an official 24 capacity? 25 MR. GARBER: Objection.</p>	<p style="text-align: right;">73</p> <p>1 picture. 2 Q. If you scroll to the last page of Exhibit 5, 3 which is marked Morgan 15, there's an italicized note at 4 the bottom of the page. Do you see it? 5 A. Yes. 6 Q. Would you read that note for the record, 7 please? 8 A. Are you meaning, "What training might your 9 volunteers needs"? 10 Q. No. I'm sorry. The italics at the very 11 bottom of the page. 12 A. Oh, the italics. "This project..."? 13 Q. "This project..." 14 A. Yes. "This project was developed in 15 partnership with University Presbyterian Church of 16 Austin, Texas. Special thanks to Cathy Morgan of 17 University Presbyterian Church for creating and 18 compiling the information in this handout." 19 Q. The Cathy Morgan referred to in that note is 20 you, right? 21 A. Yes, it is. 22 Q. Did you write the document? 23 A. I -- I wrote large sections of it, and the 24 staff at Texas Impact filled in some of it. They -- 25 they took what I -- the bones that I had given them and</p>

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1 gave it a little more flesh.

2 Q. So on that same page, Morgan 15, the second-

3 to-last paragraph says, in the last sentence, "Texas law

4 is ambiguous as to whether VDRs are permitted to assist

5 individuals to apply for ballots by mail." Do you see

6 that?

7 A. Yes.

8 Q. Do you agree with that statement?

9 A. Yes, I do.

10 Q. If a Texas Court clarified that ambiguity that

11 you identified, would you consider it helpful?

12 A. Very helpful.

13 Q. Have you ever communicated with the Attorney

14 General?

15 A. No, I have not.

16 Q. Have you ever communicated before this

17 deposition with anyone from the Office of the Attorney

18 General?

19 A. No, I have not.

20 Q. Have you ever communicated with the District

21 Attorney?

22 A. No, I have not.

23 Q. Have you ever communicated with anyone from a

24 District Attorney's Office?

25 A. No, I have not.

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1 Q. Has anyone ever threatened to criminally

2 prosecute you for violating Section 276.016(a)(1)?

3 A. No.

4 Q. Has anyone ever threatened to criminally

5 prosecute you for violating any other law?

6 A. No.

7 Q. Has anyone ever threatened to seek a

8 civil penalty against you under Texas Election Code

9 Section 31.129?

10 MR. GARBER: Objection.

11 A. No.

12 Q. (BY MR. THOMPSON) Has anyone ever threatened

13 to seek a civil penalty against you under any other

14 provision of law?

15 MR. GARBER: Objection.

16 A. No.

17 THE WITNESS: I'm sorry.

18 Q. (BY MR. THOMPSON) In your Declaration -- I

19 believe it's Exhibit 2 -- there's a Paragraph 22.

20 A. Yes.

21 Q. And the third sentence begins, "The threat of

22 prosecution deters me..." Do you see that?

23 A. Yes.

24 Q. I'd like to know how big a chance of

25 prosecution it has to be for you to be deterred. So if

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1 there's any chance at all of prosecution, is that enough

2 to deter you from saying things that you think might

3 violate Section 276.016(a)(1)?

4 MR. GARBER: Objection.

5 A. I find the thought of being put in jail and

6 paying a large fine to be reason enough to hold back on

7 offering assistance -- not offering assistance, but

8 inquiring if people would like to vote by mail.

9 Q. (BY MR. THOMPSON) And I'm not trying to

10 disagree with you, Ms. Morgan. I just want to

11 understand kind of how you're thinking about it. So if

12 it's a very small chance of prosecution but the chance

13 of prosecution is still there, is that enough to deter

14 you?

15 A. Yes.

16 Q. One-in-thousand chance, you wouldn't take the

17 risk; is that fair?

18 MR. GARBER: Objection.

19 A. Probably not.

20 Q. (BY MR. THOMPSON) Do you have an opinion

21 about what the chance of prosecution is in your case if

22 you were to engage in the explanation of vote-by-mail

23 option that we've discussed today?

24 MR. GARBER: Objection.

25 A. No, I don't.

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1 Q. (BY MR. THOMPSON) In some past cases

2 plaintiffs have said that the existence of a statute

3 deters them from violating the statute, even if they

4 wouldn't be prosecuted. Does that make sense to you as

5 a concept?

6 A. No.

7 Q. It's a little bit complicated. I'm going to

8 try and explain it. You could imagine, for example,

9 that a law says you shouldn't do something; but a

10 prosecutor -- the only relevant prosecutor tells you he

11 won't prosecute you even in you violate that law. Does

12 that situation make sense to you?

13 A. No.

14 Q. Let me ask it this way: Would you violate

15 Section 276.016(a)(1) if the law still existed on the

16 books but you knew beyond a shadow of a doubt no one

17 would prosecute you for it?

18 MR. GARBER: Objection.

19 A. I don't know. I don't know.

20 Q. (BY MR. THOMPSON) Did the question make

21 sense?

22 A. Yes.

23 Q. You're just not sure whether you would violate

24 a statute even if you knew there was no threat of

25 criminal prosecution?

78	<p>1 A. I can't imagine having a statute saying that 2 everyone considers not applicable, so why care. 3 Q. I'm not sure I understand that answer. Could 4 you explain it a little more to me? 5 A. If something is a statute, then -- if a 6 statute said -- statute said, "People who run a red 7 light are going to be arrested," but you know that no 8 one's going to arrest you, so you go ahead and run a red 9 light, that just does not make sense to me. 10 Q. It doesn't make sense in the sense that you 11 wouldn't do it? Is that what you mean? 12 A. Well, either a law is a law or it's not. 13 Q. Do you think that Section 276.016(a)(1) could 14 still be a law even if all of the relevant prosecutors 15 weren't going to prosecute any violations of it? 16 MR. GARBER: Objection. 17 A. I think I've answered that. 18 Q (BY MR. THOMPSON) Perhaps you have, but I 19 didn't understand the answer. Would you mind trying one 20 more time? 21 A. I'm going to answer you with a little story. 22 My father was one of the most honest men I have ever 23 met. He was an employee of the City of Austin at a high 24 level. He had a City car. The rule was that only City 25 employees could ride in the City car. So as I walked to</p>	80	<p>1 (Exhibit 6 marked.) 2 Q (BY MR. THOMPSON) You should be receiving it 3 now. Can you see Exhibit 6 on your screen? 4 A. Oh, here it is. Yes. 5 Q. And does it say Agreed Stipulation in bold, 6 underlined text? 7 A. Yes. 8 Q. Have you seen this document before? 9 A. I'm not sure. 10 Q. Okay. Well, I want to go through just a small 11 part of it. So I'm going to read, and you can follow 12 along with me. I'm going to start right under the words 13 Agreed Stipulation; and when I get to the colon, I'm 14 going to go to Paragraph 3. Okay? 15 A. All right. 16 Q. "Plaintiffs and Defendant Jose Garza in his 17 official capacity as Travis County District Attorney 18 ("DA Garza") stipulates as follows: Paragraph 3, 19 DA Garza agrees not to enforce Section 276.016(a)(1) of 20 the Texas Election Code challenged in the above-styled 21 and numbered cause until such time as a final, non- 22 appealable decision has been issued in this matter." Do 23 you see that? 24 A. Yes, I see it. 25 Q. Do you know what that means?</p>
79	<p>1 school six blocks with it, unbelievably here, freezing 2 and snowing at that time -- I remember well -- he drove 3 by and waved; and I was pretty mad. But my father was 4 being honest. And that's kind of drilled into me. 5 So if there is a law that essentially 6 stops me from doing something, I'm not going to break 7 that law just because, oh, well, maybe no one will find 8 out. 9 MR. BREEN: Objection, nonresponsive. 10 Q (BY MR. THOMPSON) Do you know who Jose Garza 11 is? 12 A. I believe he's with Travis County. 13 Q. Do you know that you've sued Jose Garza? 14 A. I'm sorry? 15 Q. Do you know that you've sued Jose Garza? 16 A. Yes. 17 Q. Do you know that he's the District Attorney 18 for Travis County? 19 A. Yes. 20 Q. Are you aware that you and he have agreed to a 21 stipulation in this case? 22 A. Tell me about that. 23 Q. Well, I can put it in front of you as -- 24 A. All right. 25 Q. -- our next exhibit, 6, I believe.</p>	81	<p>1 A. It would seem to me to mean that DA Garza 2 would not -- would not enforce that law until a final, 3 non-appealable decision has been issued in the matter. 4 Q. Right. So in light of that stipulation, are 5 you worried that if you violate Section 276.016(a)(1) in 6 Travis County, that District Attorney Garza will 7 prosecute you while this case is still pending? 8 MR. GARBER: Objection. 9 A. I'm going to check with my lawyers to make 10 sure of my answer on that. 11 Q. (BY MR. THOMPSON) Sitting here today, before 12 you check with your lawyers, are you worried or not 13 worried about that situation? 14 A. It causes me to think about it, but I don't 15 think I have a decision at this moment. 16 Q. Is the reason that you don't have a decision 17 is you're not sure what the stipulation means? 18 MR. GARBER: Objection. 19 A. No, I just -- no. That's not it. 20 Q (BY MR. THOMPSON) What is the reason you 21 don't have a decision? 22 MR. GARBER: Objection. 23 A. Oh, I want to make sure I understand the full 24 ramification before I would proceed to offer people 25 ballot by mail without being requested.</p>

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1 Q (BY MR. THOMPSON) The time limit on the
 2 agreement is interesting to me. Do you still have the
 3 stipulation in front of you?
 4 A. Yes.
 5 Q. So looking at Paragraph 3, it says that
 6 District Attorney Garza's agreement not to prosecute
 7 applies only, quote, "until such time as a final,
 8 non-appealable decision has been issued in this matter."
 9 Do you see that?
 10 A. Yes.
 11 Q. If you violate Section 276.016(a)(1) during
 12 2022, for example, and the Court issues a final,
 13 non-appealable decision at the end of 2022, then
 14 District Attorney Garza could prosecute you in 2023 for
 15 violating the statute during 2022; is that your
 16 understanding?
 17 MR. GARBER: Objection.
 18 A. I don't know.
 19 Q (BY MR. THOMPSON) That's fair you don't know.
 20 If that were true, if it were true that
 21 DA Garza has agreed not to prosecute you for a time
 22 period, but he could prosecute you down the road for
 23 things you did while the case was pending, would you
 24 still be deterred from providing the information that
 25 you say you want to provide?

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1 MR. GARBER: Objection.
 2 A. I believe so, yes.
 3 Q (BY MR. THOMPSON) So in order to be not
 4 deterred, would you need a guarantee that you would
 5 never be prosecuted for that conduct?
 6 MR. GARBER: Objection.
 7 A. I would need to see a Court Order concerning
 8 that.
 9 Q (BY MR. THOMPSON) I want to make sure I
 10 understand the scope of the Court Order you want to see.
 11 In order to be not deterred, would you need a Court
 12 Order saying that you would never be prosecuted for that
 13 conduct?
 14 MR. GARBER: Objection.
 15 A. I would want a Court Order saying that I
 16 could -- that I could give people information without
 17 their asking about ballot by mail.
 18 Q. (BY MR. THOMPSON) I think I understand the
 19 type of Court Order you're asking for. So if you got a
 20 Court Order that didn't say that and, instead, said,
 21 "District Attorney Garza isn't allowed to prosecute
 22 Ms. Morgan for the next year, but he could bring a
 23 prosecution later in time," you would still be deterred,
 24 wouldn't you?
 25 MR. GARBER: Objection.

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1 A. I would be deterred.
 2 Q (BY MR. THOMPSON) In Paragraph 18 of your
 3 Declaration, which is Exhibit 2 to the deposition --
 4 A. Just one moment. Yes.
 5 Q. Are you there?
 6 A. Yes.
 7 Q. The first sentence in Paragraph 18 says,
 8 "Absent Section 276.016(a)(1), I would continue to
 9 encourage eligible or potentially eligible voters to
 10 vote by mail." My question is: When you say "Absent
 11 Section 276.016(a)(1)," do you mean if the Legislature
 12 repealed that provision?
 13 MR. GARBER: Objection.
 14 A. If that provision is not considered valid, if
 15 the Court says it's not valid. I don't know how else to
 16 answer that one.
 17 Q. (BY MR. THOMPSON) Sure, and it may sound like
 18 an odd question.
 19 If you're -- when you say, "Absent
 20 Section 276.016(a)(1)," the condition you're trying to
 21 set up is either that provision is no longer the law or
 22 a Court has said that you are allowed to engage in that
 23 conduct and will never be prosecuted for it; is that
 24 right?
 25 A. So those are two things?

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1 Q. Yes.
 2 A. So break them apart, please.
 3 Q. Sure. Based on your testimony so far, I
 4 think there might be two things that you're describing
 5 when you say, "Absent Section 276.016(a)(1)," in
 6 Paragraph 18. The first thing I think you might be
 7 referring to is if the Legislature repealed that
 8 provision. Is that something you intend to include in
 9 that condition?
 10 A. That would be one way, yes.
 11 Q. And the second thing I think you might be
 12 including is if you got the type of Court Order you
 13 referred to early that said, "You are allowed to do
 14 this, and you will never be prosecuted for it." Is
 15 that correct?
 16 A. If it was a Court Order, yes.
 17 Q. Is there any other thing besides those two
 18 that you're referring to with that phrase "Absent
 19 Section 276.016(a)(1)" in Paragraph 18?
 20 MR. GARBER: Objection.
 21 A. I don't know.
 22 Q (BY MR. THOMPSON) Sitting here today, can you
 23 think of anything else that's included in that phrase?
 24 A. Sitting here today, no.
 25 Q. If we scroll down to Paragraph 20 of your

86	<p>1 Declaration it says, "It is not clear to me what 2 constitutes 'solicit[ing]' a vote by mail ballot." Do 3 you see that? 4 A. Yes, I do. 5 Q. You believe that part of SB 1 is ambiguous, 6 right? 7 MR. GARBER: Objection. 8 A. Yes, I do. 9 Q. (BY MR. THOMPSON) If a Texas Court clarified 10 that ambiguity for you, you'd consider it helpful, 11 wouldn't you? 12 MR. GARBER: Objection. 13 A. It would be helpful. 14 Q (BY MR. THOMPSON) A similar question for 15 Paragraph 21. It says, "I do not know what 'while 16 acting in an official capacity' means." Do you see 17 that? 18 A. Yes, I do. 19 Q. You believe that provision is similarly 20 ambiguous? 21 MR. GARBER: Objection. 22 A. Yes, I do. 23 Q. (BY MR. THOMPSON) And if a Texas Court 24 clarified that ambiguity for you, you would consider it 25 helpful, wouldn't you?</p>	88	<p>1 Q. We've talked about how you sometimes go door 2 to door, or at least have in the past. Would you do 3 that in or near your retirement center after the move? 4 MR. GARBER: Objection. 5 A. I don't know. 6 Q (BY MR. THOMPSON) Do you have any plans after 7 you move to go back to Williamson County to go door to 8 door? 9 MR. GARBER: Objection. 10 A. I don't know on that, either. 11 Q (BY MR. THOMPSON) The last exhibit I want to 12 send you, which is Exhibit 7, I believe, is Bates 13 stamped Morgan 41. Let me know when you have it. 14 (Exhibit 7 marked.) 15 A. I have it. 16 Q (BY MR. THOMPSON) Do you recognize this 17 document? 18 A. I do. 19 Q. Does it include an e-mail from you on 20 January 7th, 2022? 21 A. It does. 22 Q. In this e-mail you refer to yourself as a 23 precinct chair in the paragraph labeled Number 1. Do 24 you see that? 25 A. Yes.</p>
87	<p>1 MR. GARBER: Objection. 2 A. I would find it helpful. 3 Q (BY MR. THOMPSON) I think earlier today you 4 mentioned that you were moving. Do you remember that? 5 A. I'm moving from this house to another abode in 6 Travis County. 7 Q. So if I recall correctly, you currently live 8 in Williamson County; is that right? 9 A. I do, barely. 10 Q. Barely. And you're moving from Williamson 11 County to Travis County; is that right? 12 A. Yes. I don't know when it will be. It will 13 be in the next year or two. 14 Q. Okay. Do you know where, more precisely than 15 Travis County, you're moving? 16 A. Yes, I'll be living in a retirement center off 17 of MoPac, near 35th Street -- 18 Q. Okay. 19 A. -- called Westminster Manor. 20 Q. What's the name of the center if you remember 21 it? 22 A. Westminster Manor. 23 Q. When you move to the retirement center, do you 24 intend to continue working as a VDR? 25 A. Yes.</p>	89	<p>1 Q. What is a precinct chair? 2 A. A precinct chair is a -- I'm going to 3 rearrange my -- just a second. Re arrange my... Okay. 4 Is a part of a political party that is more grassroots, 5 that's on the ground in neighborhoods and... Yeah, 6 yeah. 7 Q. How did you get selected to be a precinct 8 chair? 9 A. A person -- "selected" is interesting. A 10 person begged me to apply. 11 Q. And correct me if I'm wrong. I seem to 12 remember that to be a precinct chair, you have to be 13 elected; is that right? 14 A. You have to be elected if it's the season in 15 which elections would occur. For instance, I just 16 filled out -- not recently -- I filled out a form to be 17 reelected; and the elections will take place during the 18 runoff election. I don't have anyone running against 19 me, which is typical; but other times, if it's not 20 around a voting time, then the precinct chairs of 21 Williamson County, in their monthly meeting, would vote 22 on whether a new person could be a precinct -- a new 23 precinct chair. 24 MR. BREEN: Pardon me. What exhibit is 25 this?</p>

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1 THE WITNESS: I'm sorry?

2 MR. BREEN: I was just talking to Will to

3 tell me what exhibit this was.

4 MR. THOMPSON: I believe it is Exhibit 7,

5 and it is Bates stamped Morgan 41.

6 MR. BREEN: Okay. Thank you.

7 Q (BY MR. THOMPSON) You're a Democrat, right?

8 A. Yes, I am.

9 Q. So when running for reelection as a Democratic

10 precinct chair, you'll be running on a ballot during the

11 Democratic primary runoff; is that right?

12 A. Yes, sir.

13 Q. So the people voting for you will all be

14 Democrats, right?

15 A. Yes.

16 Q. You think SB 1 was a Republican bill, don't

17 you?

18 MR. GARBER: Objection.

19 A. It was a bill that came out of the Senate.

20 Q. (BY MR. THOMPSON) Do you know whether it was

21 supported by Republicans or Democrats or both?

22 MR. GARBER: Objection.

23 A. I don't have a strict lineage, but fewer

24 Democrats for sure.

25 Q (BY MR. THOMPSON) Do you remember when the

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1 Democrats in the Texas House of Representatives left the

2 state and broke quorum?

3 MR. GARBER: Objection.

4 A. Yes.

5 Q. (BY MR. THOMPSON) Was that related to SB 1?

6 MR. GARBER: Objection.

7 A. Honestly, I don't remember.

8 Q (BY MR. THOMPSON) Did you want the

9 Legislature to vote down SB 1?

10 MR. GARBER: Objection.

11 A. I haven't read all of SB 1.

12 Q (BY MR. THOMPSON) Did you want the

13 Legislature to vote for or vote against SB 1?

14 MR. GARBER: Objection.

15 A. All I can say is that this provision is

16 problematic for me, and I would want it removed.

17 Q. (BY MR. THOMPSON) You wanted the Legislature

18 to vote against this provision, at least, right?

19 A. At least that, yes.

20 MR. THOMPSON: All right. I think we're

21 probably about finished here. If we could just take a

22 three-minute break, then I'll confirm and then come back

23 on the record. Does that work for everybody?

24 MR. BREEN: Yeah. I'm going to -- I'm

25 going to have a few questions, so.

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1 MR. THOMPSON: Yeah. I'm sorry. I

2 didn't mean to say that you couldn't have questions,

3 obviously.

4 MR. BREEN: Got it.

5 THE REPORTER: We're going off the record

6 at 11:42 a.m.

7 (Off the record from 11:42 to 11:45 a.m.)

8 THE REPORTER: We're going back on the

9 record at 11:45 a.m.

10 MR. THOMPSON: Ms. Morgan, I just want to

11 thank you for your time. I know that spending your

12 morning in a deposition is probably not the most fun way

13 you could spend that morning, but we do appreciate you

14 being here.

15 THE WITNESS: Thank you.

16 MR. THOMPSON: I don't have any further

17 questions for you.

18 THE WITNESS: Thank you.

19 EXAMINATION

20 BY MR. BREEN:

21 Q. Hi, Ms. Morgan. My name is Sean Breen. How

22 are you doing this morning?

23 A. I'm doing as well as can be expected.

24 Q. Good. Thank you for being here.

25 I represent Williamson County District

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1 Attorney Shawn Dick in his official capacity. Okay?

2 A. Okay.

3 Q. Do you understand who I am and who I

4 represent?

5 A. I do.

6 Q. I have some questions for you. I'm going to

7 try to be very courteous and very respectful. If I'm

8 not, using your school teacher skills, will you let me

9 know at that time?

10 A. Definitely.

11 Q. I don't think that's going to happen, but feel

12 free. All right?

13 A. All right.

14 Q. And if you don't understand one of my

15 questions, will you let me know at that time?

16 A. Yes.

17 Q. Because I want to make sure that the answer

18 you give isn't caused by a bad question or me

19 misbehaving. All right?

20 A. All right.

21 Q. And you've been asked a lot of questions and

22 I'll try not to duplicate and I'm going to be a lot less

23 time consuming, not because I'm any better, just that

24 we've already covered most of it. All right?

25 A. Yes.

<p style="text-align: right;">94</p> <p>1 Q. Now, you are an individual who resides in 2 Williamson County; but it's in the Austin city limits. 3 Is that true? 4 A. Correct. 5 Q. And you've been appointed to serve as a 6 volunteer deputy registrar or a VDR, as that term is 7 used under the Texas Elections Code? 8 A. Yes. 9 Q. And you've been appointed to serve as a VDR in 10 both Williamson and Travis counties since 2014, right? 11 A. Yes. 12 Q. And the "volunteer" means you don't get paid 13 to do that, true? 14 A. Correct. 15 Q. And you're currently not appointed to serve as 16 an alternate election judge in either Williamson or 17 Travis counties; is that right? 18 A. Not for the March 1st elections, correct. 19 Q. So as we sit here now, you would not be an 20 alternate election judge? 21 A. No, I would not be. 22 Q. And you've applied to serve as one for the 23 2022 election cycle in Williamson County, but that 24 hasn't been appointed yet; is that true? 25 A. That's correct, at my request.</p>	<p style="text-align: right;">96</p> <p>1 A. I don't consider being a precinct chair having 2 certain guidelines and restrictions other than through 3 the political party. 4 Q. (BY MR. BREEN) And my understanding of the 5 lawsuit you've brought against my client and others 6 isn't based on you being a precinct chair; it's based on 7 you being a VDR, correct? 8 A. Right, correct. 9 Q. Now, you're not the appointed member of any 10 board or commission in the state of Texas or in 11 Williamson County or Travis County, right? 12 A. Correct. 13 Q. And you don't serve in any of the roles listed 14 in Subsection 1.005 of the Texas Election Code, do you, 15 for instance, like, County Clerk, Deputy County Clerk, 16 Elections Administer, et cetera? 17 A. No. 18 MR. GARBER: Objection. 19 Q. (BY MR. BREEN) You understand that my client, 20 Shawn Dick, is the elected District Attorney of 21 Williamson County, Texas? 22 A. I do. 23 Q. Do you know when he was elected and began 24 serving? 25 A. I don't remember, actually.</p>
<p style="text-align: right;">95</p> <p>1 Q. Now, you're not an employee, either full time 2 or part time, of the State of Texas or any State agency, 3 true? 4 A. True. 5 Q. And you're not an employee, whether full time 6 or part time, of any political subdivision of the state, 7 including Williamson County or Travis County, true? 8 A. True. 9 Q. You don't hold any elected public office in 10 the state of Texas, true? 11 A. No, unless you consider precinct chair; but 12 that's not what you usually put under that description. 13 Q. Right. So you wouldn't be considering 14 yourself as holding any kind of elected public office in 15 the state or even in Williamson or Travis counties, 16 true? 17 MR. GARBER: Objection. 18 A. Except as precinct chair. 19 Q. (BY MR. BREEN) Which you said you don't 20 consider to be an elected official, right? 21 A. I stand for election. I could have an 22 opponent. I don't at this point. 23 Q. Do you have any legal basis to consider that 24 an elected official of the state of Texas? 25 MR. GARBER: Objection.</p>	<p style="text-align: right;">97</p> <p>1 Q. And do you vote for elected officials, like 2 he, in Williamson County? 3 A. Yes, I do. 4 Q. If the record shows he's served as District 5 Attorney since 2016, do you have any reason to dispute 6 that? 7 A. No. 8 Q. Do you understand that you've sued him in his 9 official capacity as the District Attorney of Williamson 10 County, not as Shawn Dick, private citizen? 11 A. Yes. 12 Q. You understand that in your lawsuit you're 13 asserting claims and causes of action against him, as 14 the official District Attorney, and also Mr. Garza, in 15 his official capacity as the District Attorney, among 16 other people you're suing? 17 MR. GARBER: Objection. 18 A. Yes. 19 Q. (BY MR. BREEN) Have you ever been convicted 20 of any criminal offense established by the Texas 21 Elections Code? 22 MR. GARBER: Objection. 23 A. No. 24 Q. (BY MR. BREEN) Have you ever been prosecuted 25 or are you currently being prosecuted by District</p>

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1 Attorney Dick or anybody in his office for any alleged
 2 criminal violation of the Texas Election Code, whether
 3 it's Section 276.016(a)(1), or any other section?
 4 MR. GARBER: Objection.
 5 A. I've forgotten the first part of the
 6 question --
 7 (Simultaneous speakers.)
 8 Q. (BY MR. BREEN) Sure. I'll rephrase it.
 9 MR. BREEN: And just for curiosity, what
 10 is the basis for that objection?
 11 MR. GARBER: It's a multipart question.
 12 MR. BREEN: Oh, no problem.
 13 Q. (BY MR. BREEN) Here's -- I'll break it down
 14 for you. Are you currently being prosecuted by District
 15 Attorney Dick or anybody in his office?
 16 A. No.
 17 Q. Are you being prosecuted for any alleged
 18 criminal violation of the Texas Election Code by
 19 Attorney Dick or anybody else?
 20 A. No.
 21 Q. Are you being prosecuted for any criminal
 22 offense whatsoever in the state of Texas currently?
 23 A. No.
 24 Q. Have you ever been prosecuted by District
 25 Attorney Dick or anybody in his office for an alleged

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1 criminal violation of the election code?
 2 A. No.
 3 Q. Have you -- strike that.
 4 Are you currently charged or indicted by
 5 District Attorney Dick or his office for any alleged
 6 criminal violation of the Texas Election Code?
 7 A. No.
 8 Q. Have you ever been charged or indicted by
 9 District Attorney Dick or his office for any alleged
 10 criminal violation of the Election Code?
 11 A. No.
 12 Q. Have you ever been or are you currently under
 13 threat with prosecution or indictment by District
 14 Attorney Dick or his office in connection with any
 15 alleged criminal violation of the election code?
 16 A. Repeat the first part of that question.
 17 Q. Sure. Has Attorney -- District Attorney Dick
 18 or anybody in his office ever threatened you with
 19 prosecution under any alleged violation of the election
 20 code?
 21 A. Not that I know of.
 22 Q. You'd -- I'm pretty sure you'd know that if
 23 you'd been threatened, right, "yes"?
 24 A. Well, if it was a verbal threat or a written
 25 threat.

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1 Q. What other kind of threat is there?
 2 A. I wouldn't know.
 3 Q. Well, any kind of threat, including verbal,
 4 nonverbal, written, unwritten, any kind of threat
 5 whatsoever, do you have any information to indicate
 6 District Attorney Dick has ever threatened you with
 7 criminal prosecution?
 8 A. No.
 9 Q. Do you -- have you been made aware by anybody
 10 or any means that you're somehow under investigation by
 11 District Attorney Dick for alleged violation of an
 12 election code?
 13 A. No.
 14 Q. Has anybody from District Attorney Dick's
 15 office ever threatened you with an investigation or
 16 threatened you in any way about an election code
 17 violation?
 18 A. No.
 19 Q. Have you ever been contacted by any law
 20 enforcement officer of the State of Texas or the County
 21 of Williamson regarding or in connection with any
 22 alleged election code violation?
 23 A. No.
 24 Q. Are you personally aware, Ms. Morgan, of any
 25 person at all, ever, who has been prosecuted by District

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1 Attorney Dick or his office for an alleged violation of
 2 the Texas Election Code?
 3 A. No.
 4 Q. Are you aware of any threat of prosecution by
 5 District Attorney Dick or anybody in his office in
 6 connection with an alleged violation of the election
 7 code?
 8 A. No.
 9 Q. Are you aware of any person at all who's ever
 10 been charged by District Attorney Dick for an alleged
 11 violation of the very code we're here talking about
 12 today?
 13 A. No.
 14 Q. Now, have you ever personally spoken with
 15 District Attorney Dick or anybody in his office about
 16 Section 276 of the election code, its contents, or
 17 enforcement of the statute?
 18 A. No.
 19 Q. Did you ever seek any type of clarification,
 20 advice, input from District Attorney Dick or anybody in
 21 his office about Section 276 of the election code?
 22 A. No.
 23 Q. Have you ever sought such advice,
 24 clarification, or input from any official in the state
 25 of Texas about Section 276 of the election code?

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103	<p>1 saying.</p> <p>2 Q. And when you say "felt very strongly," you</p> <p>3 mean her interpretation of the law was something that</p> <p>4 she felt strongly about?</p> <p>5 A. Yes. I think at the time -- I'm going to be</p> <p>6 fair to her. I think at the time I wasn't so sure about</p> <p>7 it; and later, when I began to read what it said, I</p> <p>8 thought: Oh, I think I need to be careful and not --</p> <p>9 Q. Okay. Well, who had Marla spoken with? Was</p> <p>10 it some type of --</p> <p>11 A. I don't know.</p> <p>12 Q. -- public official?</p> <p>13 A. I don't know.</p> <p>14 Q. All right. Well, then, to be fair, it wasn't</p> <p>15 as if Marla gave you any information to indicate there</p> <p>16 was any threat of prosecution to you that was credible;</p> <p>17 isn't that accurate?</p> <p>18 MR. GARBER: Objection.</p> <p>19 A. I think that's probably correct.</p> <p>20 Q. (BY MR. BREEN) Now, did you call and seek</p> <p>21 clarification from the Texas Secretary of State's Office</p> <p>22 about this statute?</p> <p>23 A. No.</p> <p>24 Q. Did you call and seek clarification or input</p> <p>25 from the County Voter Registrar of Travis or Williamson</p>	105	<p>1 Q. And she just sent you the law. Did she send</p> <p>2 you any type of commentary?</p> <p>3 A. Not that I recall.</p> <p>4 Q. She certainly never indicated to you that you</p> <p>5 would be prosecuted for anything you were doing, did</p> <p>6 she?</p> <p>7 A. She did not say either way.</p> <p>8 Q. Well, my question to you isn't whether she</p> <p>9 said either way; it was whether she said to you, "Hey,</p> <p>10 there's a threat of prosecution" or "You may be</p> <p>11 prosecuted."</p> <p>12 A. Not that I remember.</p> <p>13 Q. She was just sphinxlike; she just sent the</p> <p>14 statute to you, and that was it?</p> <p>15 A. That was my -- that was my request of her.</p> <p>16 Q. Did you have any follow-up with her or with</p> <p>17 Senator -- or Representative Bucy about any questions</p> <p>18 you had?</p> <p>19 A. No, I did not.</p> <p>20 Q. Now, was this before you went to the Zoom --</p> <p>21 or saw the Zoom video meeting that you testified about</p> <p>22 or after the Texas Impact Zoom lawyer meeting?</p> <p>23 A. I think -- I'm not -- I'm not remembering very</p> <p>24 clearly, but I think it was after.</p> <p>25 Q. Okay. So you had already become alarmed by</p>

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1 the Zoom Texas Impact meeting at that time and sent the
 2 text to the legislator to get the exact copy of the law?
 3 A. Yes.
 4 Q. And do you remember when that was? Was that
 5 approximately late September or October of 2021?
 6 A. I don't remember. It was after the date of
 7 the Zoom meeting.
 8 Q. Okay. And I take it you never contacted the
 9 Williamson County Elections Administrator to get any
 10 kind of clarification or interpretation about the
 11 statute; is that right?
 12 A. That's correct.
 13 Q. So if I understand your testimony, the only
 14 real clarification and/or opinion you've received about
 15 the statute you're suing about, setting aside your own
 16 attorneys, would be the Zoom lawyer from Texas Impact;
 17 is that right?
 18 MR. GARBER: Objection.
 19 A. I have probably read something in newspapers,
 20 but I cannot be specific on that.
 21 Q (BY MR. BREEN) You don't recall if you did;
 22 is that true?
 23 A. No, I can't recall.
 24 Q. And what you read or may have read didn't
 25 indicate that you were going to be prosecuted in any

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1 way, did it, in the newspaper?
 2 A. It raised a question.
 3 Q. Well, when was that, after the Zoom lawyer
 4 Texas Impact meeting?
 5 A. I'm sure it was.
 6 Q. So by the time you read whatever you read in
 7 the newspaper, you had already gotten the opinion from
 8 the Texas Impact lawyer about the statute; is that
 9 right?
 10 A. Yes, that there was a question.
 11 Q. And the opinion by the Texas Impact lawyer
 12 that there may be a question or ambiguities in the
 13 statute, that person and that lawyer, other than your
 14 own, is actually the only opinion you ever got or sought
 15 before you filed a lawsuit; isn't that true?
 16 MR. GARBER: Objection.
 17 A. I really actually don't remember.
 18 Q (BY MR. BREEN) You can't remember any others
 19 besides that one; is that accurate?
 20 A. I don't remember at this moment.
 21 Q. When you say you don't remember, what you mean
 22 is you don't remember any opinion other than that Zoom
 23 Texas Watch lawyer that you can point me to now?
 24 A. It's Texas Impact.
 25 Q. Texas Impact.

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1 A. Yes.
 2 Q. Is that true?
 3 A. In substance. I really -- if I remember
 4 something later, I will try to tell you that.
 5 Q. Sure. As far as we sit here now, though,
 6 you've told me any other opinion you received, which is
 7 none, other than the one from the Texas Impact lawyer
 8 before your lawsuit, right?
 9 A. At this moment that's my answer.
 10 Q. Now, have you ever heard District Attorney
 11 Shawn Dick speak or anybody in his office speak about
 12 Section 276 of the election code, its contents, or
 13 enforcement of the statute?
 14 A. No.
 15 Q. Have you ever read or seen anything authored
 16 by District Attorney Dick or anyone in his office
 17 regarding Section 276 of the election code or its
 18 contents?
 19 A. No.
 20 Q. Have you ever seen or read anything that was
 21 attributed to District Attorney Dick or anybody in his
 22 office about Section 276 of the Texas Elections Code?
 23 A. No.
 24 Q. Have you ever seen any social media posts or
 25 tweets or Instagrams or DMs or anything like that from

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1 District Attorney Dick or anyone in his office about
 2 Section 276 of the election code and enforcement of it?
 3 A. No.
 4 Q. Has anybody from District Attorney Dick's
 5 Office ever contacted you regarding any aspect or your
 6 role or responsibilities as a VDR in Williamson County?
 7 A. No.
 8 Q. Is it true, then, from your personal
 9 knowledge, District Attorney Dick, until you sued him,
 10 had never heard of you, never threatened you, never
 11 accused you of violating the law, and never, to your
 12 knowledge, even publicly mentioned Section 276; isn't
 13 that true?
 14 MR. GARBER: Objection.
 15 A. That is correct.
 16 Q (BY MR. BREEN) And that Attorney -- District
 17 Attorney Dick never intimated or said, that you heard,
 18 formal enforcement of Section 276 was on the horizon for
 19 you or anybody else in Williamson County; isn't that
 20 true?
 21 A. That is true.
 22 Q. Now, if I understood your testimony earlier,
 23 it's clear to you that the training you've received over
 24 the years as a VDR does not call for you to go solicit
 25 or lobby somebody to vote by mail; is that right?

<p style="text-align: right;">110</p> <p>1 MR. GARBER: Objection.</p> <p>2 A. That training, I don't recall ever -- that</p> <p>3 ballot by mail was ever mentioned.</p> <p>4 Q (BY MR. BREEN) Well, of course, in your VDR</p> <p>5 training, they train you to provide all voter</p> <p>6 information to voters, right?</p> <p>7 A. They train us to register people to vote.</p> <p>8 Q. And do they also train you to provide voting</p> <p>9 information, such as websites or handouts, et cetera?</p> <p>10 A. I would have to go back to that training, but</p> <p>11 my recollection is that it only has to do with how to</p> <p>12 correctly fill out the information on the cards and what</p> <p>13 to do with them and what's -- that it is not our job to</p> <p>14 decide whether or not the person is able to vote; that</p> <p>15 our job is just to take the registration for someone</p> <p>16 else to make that decision.</p> <p>17 Q. So there was nothing in your VDR training that</p> <p>18 trained you: Hey, Ms. Morgan, you need to solicit</p> <p>19 people to vote in a certain way, true?</p> <p>20 MR. GARBER: Objection.</p> <p>21 A. Not that I recall.</p> <p>22 Q (BY MR. BREEN) That's not part of your role</p> <p>23 as a VDR, to solicit people to vote in a certain way;</p> <p>24 isn't that accurate?</p> <p>25 MR. GARBER: Objection.</p>	<p style="text-align: right;">112</p> <p>1 A. I care that they have the ability to vote in</p> <p>2 whichever way meets their circumstances and needs best.</p> <p>3 Q. And they're the person that decides which way</p> <p>4 meets their circumstances the best, true?</p> <p>5 A. True.</p> <p>6 Q. You're not, as a VDR, there to try to get them</p> <p>7 to vote in one manner or another, are you; that is, vote</p> <p>8 by mail versus vote in person? You just want them to</p> <p>9 vote?</p> <p>10 A. I would like them to vote in whichever way</p> <p>11 enables them to vote most easily.</p> <p>12 Q. Exactly, like, for instance, I think it was</p> <p>13 Mrs. Banks; that was an example you used, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And as a VDR, what your job was with</p> <p>16 Mrs. Banks was get her information; and that information</p> <p>17 happened to include that she could vote by mail, right?</p> <p>18 A. I went to her house being a VDR, also a caring</p> <p>19 neighbor. So as she told me her circumstances and how</p> <p>20 difficult it was for her to get to the polling places</p> <p>21 and since she was well over 65, then, I made the</p> <p>22 suggestion at that point, several years ago, that she</p> <p>23 consider ballot by mail. And she said, "That would be</p> <p>24 wonderful. Can you help me do that?"</p> <p>25 Q. Exactly. You said, I believe, before, you</p>
<p style="text-align: right;">111</p> <p>1 A. Define "vote in a certain way."</p> <p>2 Q. (BY MR. BREEN) Well, to vote by mail, to vote</p> <p>3 in person, to absentee vote, et cetera. Your job as a</p> <p>4 VDR isn't to solicit people to vote in a certain way;</p> <p>5 isn't that true?</p> <p>6 A. That's the training.</p> <p>7 Q. That's the training and that's the job</p> <p>8 description as a VDR and it doesn't include soliciting</p> <p>9 people to vote in a certain way, does it?</p> <p>10 MR. GARBER: Objection.</p> <p>11 A. When you're speaking of voting and being a VDR</p> <p>12 and taking that seriously, I believe that it is my</p> <p>13 responsibility to assist people in making sure they can</p> <p>14 vote whatever -- whatever way they choose and however</p> <p>15 they choose.</p> <p>16 Q. (BY MR. BREEN) Right. The key there is for</p> <p>17 them to vote how they choose, not how you want them to</p> <p>18 vote, the manner in which you want them to vote, true?</p> <p>19 A. What I care about is people voting.</p> <p>20 Q. Exactly.</p> <p>21 A. How they vote is their decision.</p> <p>22 Q. The manner in which the person votes is not</p> <p>23 your care, is it, as a VDR; that is, absentee, vote by</p> <p>24 mail, vote in person? You don't care the manner; you</p> <p>25 just want them to vote, right?</p>	<p style="text-align: right;">113</p> <p>1 told her, "You can vote by mail," right?</p> <p>2 A. Yes.</p> <p>3 Q. You didn't tell her, "You should vote by</p> <p>4 mail," did you?</p> <p>5 A. No. "You can."</p> <p>6 Q. You didn't say, "Would you vote by mail," did</p> <p>7 you?</p> <p>8 A. No.</p> <p>9 Q. You didn't say, "I'd like you to vote by</p> <p>10 mail," did you?</p> <p>11 A. No.</p> <p>12 Q. That would all be soliciting her to vote by</p> <p>13 mail, wouldn't it?</p> <p>14 MR. GARBER: Objection.</p> <p>15 A. I think what we're ask- -- what I'm asking the</p> <p>16 Court to decide is exactly what "soliciting" means.</p> <p>17 Q. (BY MR. BREEN) Right. Well, have you looked</p> <p>18 up the definition of "solicit"?</p> <p>19 A. I did at one time. It was unclear to me.</p> <p>20 Q. The definition was unclear to you?</p> <p>21 A. Unclear in this circumstance.</p> <p>22 Q. Now, back to Ms. Banks, though, what was clear</p> <p>23 was you were providing her information about voting by</p> <p>24 mail, right?</p> <p>25 A. Yes, I did.</p>

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1 Q. But you weren't asking her to vote by mail?
 2 A. No.
 3 Q. You weren't trying to get her to vote by mail?
 4 A. No.
 5 Q. That wouldn't be proper as a VDR, would it?
 6 A. It wouldn't be proper as a VDR or not.
 7 Q. It wouldn't be proper as a VDR, per your
 8 training, to try to get somebody to vote in a certain
 9 way, true?
 10 A. I don't think the training ever addressed
 11 that.
 12 Q. Well, your personal practice, then --
 13 A. Yes.
 14 Q. -- isn't to try to get somebody to vote in a
 15 certain way; it's to give them information, isn't it?
 16 A. Yes, yes.
 17 Q. Do you know that the statute itself says it's
 18 okay to provide information, general information about
 19 voting by mail, voting-by-mail process, and the
 20 timelines to a person?
 21 A. I don't remember that in the statute.
 22 Q. That's important, isn't it?
 23 MR. GARBER: Objection.
 24 A. It is important.
 25 Q. (BY MR. BREEN) That's exactly what you do as

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1 Q. And how about providing information about the
 2 vote-by-mail process, you understand what that means,
 3 right?
 4 A. Yes.
 5 Q. And the timelines associated with voting to a
 6 person or the public, you understand what that means,
 7 don't you?
 8 A. Yes.
 9 Q. And that's all, really, as a VDR you want to
 10 give people when you are giving them the information
 11 about voting by mail; isn't that true?
 12 MR. GARBER: Objection.
 13 A. That's what I want to do for people.
 14 Q. (BY MR. BREEN) But until I just read that in
 15 the statute, you didn't realize that was in the statute;
 16 is that accurate?
 17 A. That's accurate.
 18 Q. Now, you're seeking attorney fees in this
 19 case. Did you understand that?
 20 MR. GARBER: Objection.
 21 A. I -- I don't remember.
 22 Q. (BY MR. BREEN) Okay. Well, I'll represent to
 23 you that the pleadings I've seen in the case that have
 24 been filed on your behalf are seeking attorney fees from
 25 different individuals in the case, including my client.

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1 a VDR when you provide information about voting by mail,
 2 like you did to Mrs. Banks. You give her general
 3 information about voting by mail. You give her
 4 information about the mail process, and you give her the
 5 timelines; isn't that right?
 6 MR. GARBER: Objection.
 7 A. I did that.
 8 Q. (BY MR. BREEN) And did you not realize
 9 currently, as we sit here now, that 276.016 has a
 10 specific section that, even if you were somehow acting
 11 in your official capacity, you can provide that
 12 information to people?
 13 A. No.
 14 Q. You didn't know that?
 15 A. No.
 16 Q. That's important. And now that you know it,
 17 do you understand that you can provide that information
 18 to people?
 19 MR. GARBER: Objection.
 20 A. I want that clarified. I need to go read it.
 21 Q. (BY MR. BREEN) Okay. Is there anything
 22 unclear to you about the ability to provide general
 23 information about voting by mail; you understand what
 24 that means, right?
 25 A. Yes.

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1 Did you know that?
 2 A. No.
 3 Q. Are you paying for attorneys to represent you
 4 in this lawsuit?
 5 A. No.
 6 Q. Who's paying for those attorneys?
 7 MR. GARBER: Objection.
 8 A. I don't know.
 9 Q. (BY MR. BREEN) But it's not you?
 10 A. No.
 11 Q. Did somebody connect you with the attorneys
 12 that are suing on your behalf in this lawsuit?
 13 A. Yes.
 14 Q. Who?
 15 A. Bee Morehead, Director of Texas Impact.
 16 Q. Did you know that the judge in this case has
 17 the discretion to award fees, attorney fees, to the
 18 prevailing party?
 19 MR. GARBER: Objection.
 20 A. No.
 21 Q. (BY MR. BREEN) And that the prevailing party
 22 may not be you; did you know that?
 23 MR. GARBER: Objection.
 24 A. No.
 25 Q. (BY MR. BREEN) Ms. Morgan, have you

<p style="text-align: right;">118</p> <p>1 understood the questions that I asked you here today? 2 A. I think so. 3 Q. Have I been courteous to you? 4 A. Yes, you have been. 5 Q. Through my demeanor have I caused you to 6 answer questions in any way other than you wanted to 7 answer? 8 A. Not by your demeanor, no. 9 Q. Okay. By anything that you alerted me to, 10 like we had a deal at the beginning of the deposition 11 that I started, is there anything I did that caused you 12 to answer other than you wanted to? 13 A. No. 14 MR. BREEN: Thank you so much for your 15 time, ma'am. 16 I'm going to reserve the rest of my 17 questions. 18 Anybody else? 19 MR. THOMPSON: No more questions from me. 20 I think -- Mr. Garber, I didn't hear your answer. 21 MR. GARBER: I'm not going to ask any 22 questions at this time, but I wanted to give you or any 23 other defense counsel the opportunity first. 24 MR. BREEN: Thanks, Andrew. 25 MR. GARBER: Thank you, Mr. Breen.</p>	<p style="text-align: right;">120</p> <p>1 STATE OF TEXAS) 2 REPORTER'S CERTIFICATION 3 I, DEBBIE D. CUNNINGHAM, CSR, hereby certify 4 that the witness was duly sworn and that this transcript 5 is a true record of the testimony given by the witness. 6 I further certify that I am neither counsel 7 for, related to, nor employed by any of the parties or 8 attorneys in the action in which this proceeding was 9 taken. Further, I am not a relative or employee of any 10 attorney of record in this cause, nor am I financially 11 or otherwise interested in the outcome of the action. 12 I further certify that pursuant to FRCP 13 Rule 30(f)(1) that the signature of the deponent was not 14 requested by the deponent or a party before the 15 completion of the deposition. 16 Subscribed and sworn to by me this day, 17 February 7, 2022. 18 19 20 21 _____ 22 Debbie D. Cunningham, CSR 23 24 25</p>
<p style="text-align: right;">119</p> <p>1 MR. BREEN: Okay. I think this concludes 2 the depo, then. 3 THE REPORTER: Excuse me. Before we go 4 off the record, Counsel, can you state if you need a 5 copy of the transcript? 6 MR. GARBER: Yes, please. 7 MR. BREEN: Sean Breen, yes, I need a 8 copy. 9 THE REPORTER: And how about the video? 10 MR. BREEN: Yes. 11 THE REPORTER: Mr. Garber, do you need 12 the video? 13 MR. GARBER: I think we're all right with 14 just the transcript. 15 THE REPORTER: All right. This concludes 16 the deposition at 12:18 p.m. 17 (Deposition adjourned at 12:18 p.m.) 18 (Signature not requested.) 19 --ooOoo-- 20 21 22 23 24 25</p>	

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official capacity as Attorney General of Texas, KIM OGG, in her official capacity as Harris County District Attorney, SHAWN DICK, in his official capacity as Williamson County District Attorney, and JOSÉ GARZA, in his official capacity as Travis County District Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Exhibit C

Declaration of Brian Keith Ingram

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official
capacity as the Attorney General of Texas,
et al.,

Defendants.

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Case No. 5:21-cv-1223-XR

DECLARATION OF BRIAN KEITH INGRAM

I, Brian Keith Ingram, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following testimony is true and correct to the best of my knowledge and belief.

1. My name is Brian Keith Ingram. I am over 18 years old and competent to make this declaration. I currently serve as the Director of the Elections Division at the Texas Secretary of State's Office and have done so since January 5, 2012.
2. The Texas Secretary of State is the chief election officer for Texas. As the State's chief election officer, the Secretary, through the Elections Division, prepares and distributes guidance to appropriate state and local authorities in the administration of elections in Texas, and provides certain administrative support.
3. In my tenure as Director of the Elections Division, I have become familiar with the administration and operations of Texas elections, including the tasks, practices, and responsibilities that local Texas election authorities must fulfill; the deadlines local election authorities must meet; the time, money, and manpower it takes; and the laws and regulations with which local election authorities must comply to plan, coordinate, manage, and execute a successful election. This includes how those authorities handle an application for ballot by mail ("ABBM"), sometimes called a vote-by-mail application.
4. To my knowledge, before the 2020 general election, no county in Texas sent unsolicited ABBMs to all voters regardless of age. In 2020, Harris County attempted to do so. The Elections Division had advised Harris County that doing so would likely violate Election

Code § 84.0041, which prohibits providing false information on an ABBM and intentionally causing false information to be put on an ABBM.

5. The Elections Division had advised Harris County that sending unsolicited ABBMs to every registered voter could mislead unqualified voters into thinking that they were eligible to vote by mail, thereby inducing them to commit a felony. This is based on the Elections Division's experience and my personal experience operating that Division. Some voters are confused by official mailings and do not carefully review the instructions. For instance, the Elections Division receives calls from individuals who receive mail from our office indicating that they may not be registered to vote; these individuals often ask questions that are answered by our office's mailing or which otherwise indicate that they did not understand the mailing they received.
6. Some voters simply fill out a form and return it because of their belief that receipt of an ABBM sent by a government official indicates the official's certification that the voter is eligible to vote by mail. While the ABBM includes instructions on who is eligible to vote by mail, this appearance of official sanction—combined with many voters' disinclination to completely read a mailing's instructions—will lead to unqualified voters applying for a ballot by mail.
7. Government officials sending unsolicited ABBMs was a problem because some voters interpreted them as an official recommendation to vote by mail and an implicit assurance that they were qualified to do so. I would have similar concerns about any official government communication that voters were likely to interpret as an official recommendation to vote by mail and an implicit assurance that they are qualified to do so.
8. While counties, to my knowledge, had never conducted mass mailings of unsolicited ABBMs before the 2020 general election, third parties may—and often do—send unsolicited ABBMs to voters. The Elections Division is sometimes asked by third parties to review their mass mailings to ensure that they comply with the law. We have never approved such a mass mailing that went to voters who are not over the age of 65 and are automatically eligible for a ballot by mail.
9. On one occasion, the Secretary of State's office received information that a campaign sent a mass mailing of unsolicited ABBMs to voters of all ages. When our office heard of the mailing, we instructed that campaign to retract the mailing, contact the affected voters, and inform them of the eligibility requirements for voting by mail. We gave that instruction so that campaign did not cause a voter to inadvertently commit a felony and to ensure that voters are not confused about their eligibility to vote by mail.

10. Based on my experience as Director of Elections, changing the election procedures in the middle of an election cycle can create considerable confusion and frustration among voters and local election officials. For example, the U.S. District Court for the Western District of Texas ordered that the date of the primary election be changed in 2012. Until the COVID-19 pandemic, that was the most chaotic and demanding primary during my tenure as Director of Elections. I received many phone calls from voters of both political parties, independents, county administrators, and elected officials that complained about the disruptions and confusion caused by that change. Many communicated their anger and frustration that changes to the primary were being made behind closed doors without public scrutiny or accountability. Many callers expressed fear that the changes were being made to benefit one party or one candidate over another.
11. Similarly, last-minute changes to the rules governing election administration can cause voter confusion and mistrust. In June 2020, our office issued guidance about masks in the polling place in Election Advisory No. 2020-19. During the last week of early voting for the November election, a part of Governor Greg Abbott's Executive Order GA-29, which related to the use of face coverings during COVID-19, was invalidated by a district court. This ruling—which was stayed by an appellate court a day later—is just one example of last minute rule changes that confused and angered voters and poll workers.
12. If, in the middle of an election, election officials began soliciting the submission of applications to vote by mail from people who did not request applications, despite a high-profile law prohibiting that practice, I would expect at least some voters to be confused and lose trust in the election process. Voter trust is considerably lower today than it has been in the past. Further eroding voter trust could have serious consequences.

Executed on February 8, 2022.



Brian Keith Ingram

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official capacity as Attorney General of Texas, KIM OGG, in her official capacity as Harris County District Attorney, SHAWN DICK, in his official capacity as Williamson County District Attorney, and JOSÉ GARZA, in his official capacity as Travis County District Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

**APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Exhibit D

Declaration of Lupe Torres

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

ISABEL LONGORIA and CATHY MORGAN,

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Defendants.

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Case No. 5:21-cv-1223-XR

DECLARATION OF LUPE TORRES

I, Lupe Torres, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following testimony is true and correct to the best of my knowledge and belief:

1. My name is Lupe Torres, and I currently serve as the Elections Administrator in Medina County, Texas. As a part of my duties as Elections Administrator, I serve as the early voting clerk for Medina County in any general election for state and county officers, primary election, or special election ordered by the governor. *See* Tex. Elec. Code §§ 31.043, 83.002. I am therefore the election officer in Medina County primarily responsible for conducting and overseeing in-person voting as well as voting by mail. *See, e.g.,* §§ 85.052 et seq., § 86.001 et seq.
2. My experience gives me substantial insight into the procedures, administration, and various complexities of conducting elections in Texas.
3. I understand that the above-captioned lawsuit challenges a specific provision in the Texas Election Code pertaining to the unlawful solicitation and distribution of applications to vote by mail. I do not have any opinion regarding the specifics of that provision or the merits of Plaintiffs' claims. Instead, I am offering this declaration to provide the Court with information about the logistics of Texas's vote-by-mail program and how these logistics differ from in person voting.
4. In my experience, a key distinction between voting by mail and voting by personal appearance is that former is more time-consuming for both voters and the county.
5. In the case of voting by personal appearance, the voter arrives at the designated polling location on Election Day or during the early voting period. The voter then signs in,

commandeers a voting machine, uses the machine to mark the ballot, reviews his or her choices, and casts the ballot—all in a single transaction.

6. In the case of mail-in voting, the voting process occurs in stages, the entirety of which can take days to complete. As per the Texas Election Code, a person who qualifies to vote by mail under §§ 82.001–004 must first submit an application to the early voting clerk that is signed and in writing. §§ 84.001. The early voting clerk must then review and process the application and send that voter balloting materials once the balloting materials are finalized and available.
7. To help prevent fraud and inadvertent mistakes, each ballot is assigned a tracking number. The early voting clerk inputs that number into the Texas Election Administration Management (TEAM) system under the voter’s registration file. Should the voter return their ballot, cancel their ballot, or request a new ballot, the early voting clerk will document that in TEAM as well.
8. Once the balloting materials are sent, the voter has to wait several days for U.S. Postal Service to deliver the ballot materials to the voter’s address. The voter then will have the opportunity to review, fill in, and return their ballot to be counted by the statutory deadline. In Texas, a marked ballot will be counted so long as it arrives at the address on the carrier envelope not later than 5 p.m. on the day after election day and is postmarked no later than 7 p.m. on election day. *Id.* at § 86.007.
9. Assuming the ballot is timely, the early voting clerk will transport the carrier envelope, which contains the ballot, to either a Signature Verification Committee or the Early Voting Ballot Board, depending on the county, to determine whether the ballot was cast by the voter who requested the ballot. Medina County does not utilize a Signature Verification Committee and instead relies on the Early Voting Ballot Board to process, qualify, and count mail-in ballots.
10. It is standard practice for Medina County to mail absentee ballots to voters weeks in advance of an election. But because Medina County has a population under 100,000, the Early Voting Ballot Board cannot convene until after the end of the early voting period to make its determination that a mail-in ballot complied with all statutory requirements and therefore should be accepted. *Id.* at § 87.024. The Election Code, in fact, does not require the early voting clerk to deliver the ballots to the Early Voting Ballot Board until the closing of the polls on Election Day, or as soon after closing as practicable, at a time specified by the presiding judge of the board. *Id.*
11. As a consequence, Medina County begins receiving mail-in ballots well before the Early Voting Ballot Board is statutorily allowed to accept or reject the ballots, much less count them towards the candidates’ total. *See id.* at §§ 87.024, 87.0241.
12. Because ballots arrive before the Early Voting Ballot Board meets, the early voting clerk must safely store and secure the ballots during the election so as to preserve the chain of custody and foreclose the possibility of tampering. In addition, the Texas

Election Code requires each local election authority to preserve and store precinct election records, including mail-in ballots, for a minimum of 22 months after Election Day. *Id.* at § 66.058. Storing these materials can take up significant space. Medina County provides my office with a storage unit for the purpose.

13. In light of the foregoing, shifting voters from in-person to mail-in voting would, on average, increase the expense and complexity of election administration.

Executed on this 8th day of February, 2022.



Lupe Torres
Medina County Elections Administrator

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official capacity as Attorney General of Texas, KIM OGG, in her official capacity as Harris County District Attorney, SHAWN DICK, in his official capacity as Williamson County District Attorney, and JOSÉ GARZA, in his official capacity as Travis County District Attorney,

Defendants.

Case No. 5:21-cv-1223-XR

APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Exhibit E

Declaration of Jenise "Cricket" Miller

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official
capacity as the Attorney General of Texas,
et al.,

Defendants.

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Case No. 5:21-cv-1223-XR

DECLARATION OF JENISE “CRICKETT” MILLER

I, Jenise “Crickett” Miller, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following testimony is true and correct to the best of my knowledge and belief.

1. My name is Jenise “Crickett” Miller. I am over 18 years old and competent to make this declaration. I currently serve as the Election Administrator for Parker County, Texas and have occupied this position since August 2020. Prior to my appointment, I was the Elections Administrator in Hood County, Texas for nearly seven years. All told I have nearly a decade’s worth of experience in the field of elections.
2. In my role as Elections Administrator, I am responsible for the operations of the Elections Department in Parker County. I also serve as the early voting clerk for most elections in Parker County, including any general election for state and county officers, other county-wide election, primary election, or special election ordered by the governor. *See* Tex. Elec. Code §§ 31.043, 83.002. I am therefore the election officer in Parker County that is primarily responsible for conducting and overseeing in-person voting as well as voting by mail. *See, e.g.,* §§ 85.002 et seq., § 86.001 et seq.
3. I have become familiar with the administration and operations of Texas elections during my tenure as the Election Administrator for both Hood County and Parker County. This includes the tasks, practices, and responsibilities that local election authorities must fulfill; the time, money, and manpower it takes to meet these obligations; and the laws and regulations with which local election authorities must comply to plan, coordinate, manage, and execute a successful election. As such, I have substantial insight into the logistics of Texas’s vote-by-mail program and how these logistics differ from in-person voting.
4. I offer no opinions regarding the specific provision of the Texas Election Code challenged

in this lawsuit; nor do I offer an opinion regarding the merits of Plaintiffs' claims. My testimony is limited to providing this Court with information about how Texas elections, particularly Texas's vote-by-mail program, operate in practice.

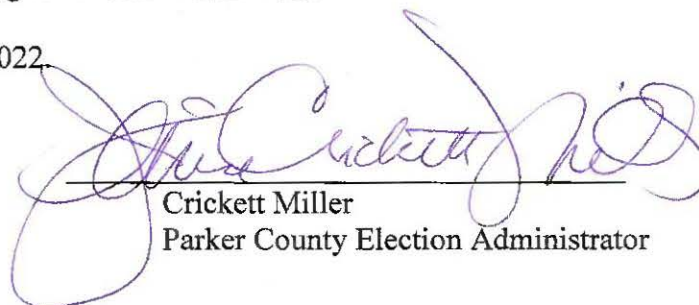
5. The chief difference between voting by mail and voting in person is that to vote by mail the voter must relinquish custody of the ballot before it is counted. In the case of voting in person, the voter retains control of the ballot until the voter receives confirmation that the ballot was accepted and added to the candidates' total. This distinction has serious implications for voters and counties since the additional steps needed to process the ballot not only impose logistical burdens, but also introduce greater possibility of error and therefore demand a greater number of safeguards to protect against disenfranchisement or fraud.
6. Voting by personal appearance reduces the chance of ballot errors. Since 2019, Parker County has utilized the Hart InterCivic Verity Voting System in its elections. This voting system employs a hybrid model that provides voters with the convenience of electronic voting, but also the added security and redundancy of having a paper trail. Voters make their selection on a digital terminal, but unlike the traditional DRE machine, the terminals do not record the voters' selections. Instead, those choices are printed on a paper ballot for voters to review and confirm. Then, once the voters are satisfied, their ballots are inserted into an optical scanner that counts the ballots and then deposits them in the ballot box. There is no doubt that the voters' ballots have been accepted.
7. The two-step process enabled by the Hart InterCivic Verity Voting System gives voters an opportunity to review their ballots and identify any mistakes. If a mistake was made, then the voter can return to the terminal, make the correction, reprint the ballot, and submit a corrected ballot to be counted. Similarly, the voting system eliminates the risk of overvoting, which is when a voter selects more candidates for office than there are seats available. The system accomplishes this two ways: first, the digital terminals prevent the voter from choosing too many candidates for a given office, and second, the optical scanners notify the voter of an error, which the voter can then cure.
8. Mail-in voting does not offer voters the same opportunities to cure problems with their ballot. If, after receiving a mail-in ballot, a voter commits a mistake, such as choosing the wrong candidate, overvoting, or creating some type of mark or blemish on the ballot, Texas law permits the voter to cancel the ballot and request a new one. However, some voters find the process inconvenient, while others do not have time for a second ballot to arrive before the receipt deadline. It is therefore commonplace for voters to submit ballots with candidate selections crossed out, ambiguous markings, or notes jotted on the side.
9. When this type of mistake occurs, the optical scanners read the marks as an overvote and will not count the voter's choice for that particular office. In such cases, the Early Voting Ballot Board will "make every effort to correctly reflect the voter's intent." *Id.* at § 87.006(a). However, there is no guarantee that the Early Voting Ballot Board will come to the right conclusion or even recognize that an error occurred, no matter how hard the Early Voting Ballot Board works.

10. Voting by personal appearance also makes it easier for the county to confirm a voter's identity than voting by mail. When a voter appears in person to vote, an election worker will request that the voter provide one form of photo identification listed in Texas Election Code § 63.0101(a), or one form of identification listed in Section 63.0101(b) accompanied by a declaration. *See id.* at § 63.001. On presentation of this documentation, an election officer shall determine whether the voter's name is on the list of registered voters for the precinct. The election officer shall also verify whether the person poised to vote is the same person that appears on the photo identification. If the voter meets these requirements, then the voter shall be accepted. *Id.* In an alternative scenario, where the voter is unable to provide the requisite identification, the voter may cast a provisional ballot and is informed of the procedures that the voter must follow to have the ballot accepted. *Id.*
11. In the case of mail-in voting, the voter is not present to tender their photo identification for election workers to review. Accordingly, the State prescribes an alternative process for verifying the voter's identity, which can impose a significant burden on the county. As per the Texas Election Code, a person who qualifies to vote by mail must first submit an application to the early voting clerk that is signed and in writing. *Id.* at § 84.001. The early voting clerk then reviews the application and confirms the information on the application by consulting the voter's registration file in the Texas Election Administrative Management (TEAM) system. *Id.* at § 86.001. The early voting clerk will then send the balloting materials to the voter, including the carrier envelope and ballot.
12. If the voter returns a marked ballot, the early voting clerk will transport the carrier envelope, unopened, to either a Signature Verification Committee or the Early Voting Ballot Board, depending on the county, to process, qualify, and count the ballot as well as verify the voter's identity. Parker County has opted to appoint a Signature Verification Committee for the March Primary Election since the Texas Election Code allows the Signature Verification Committee to begin operating a full twenty days before Election Day, whereas the Early Voting Ballot Board may only start meeting after the close of the early voting period (or four days before Election Day). *Id.* at §§ 87.024(a), 87.0241(b)(2), 87.027(f).
13. The Signature Verification Committee compares the signature on each carrier envelope with the signature on the voter's ballot application, or if needed, any known signature of the voter on file with the county, to determine whether the signatures are those of the voter. *Id.* at § 87.027(i). Then, if the committee determines that the signatures match, the committee will deliver the carrier envelope to the Early Voting Ballot Board to open and count the ballot by placing it through an optical scanner. In the event the Signature Verification Committee determines, by majority vote, that the signature is not that of the voter, the Early Voting Ballot Board will conduct a second review of the signature abiding by the same procedures. *Id.* at § 87.027(j). The Signature Verification Committee or Early Voting Ballot Board will also make sure that the identification number supplied by the voter matches the information in the TEAM database.
14. For added security, the early voting clerk will update the voter's registration file to reflect each step of the process, including whether an application to vote by mail was received by the Elections Department and approved; whether a ballot was dispatched to the voter;

whether the voter returned, canceled, or discarded the ballot; and if a marked ballot was returned, whether the Early Voting Ballot Board accepted or rejected the ballot.

15. As with in-person voting, the Texas Election Code provides a mechanism by which the voter may cure a disqualifying defect. Specifically, the Texas Election Code charges the Signature Verification Committee and the Early Voting Ballot Board with contacting the voter and giving the voter the option of: (1) correcting the defect and returning the carrier envelope, (2) canceling the mail-in ballot and voting in person, or (3) appearing in person before the early voting clerk's office not later than the sixth day after election day to correct the defect. *See id.* at §§ 87.0271, 87.0411. The Texas Election Code demands that the Election Signature Verification Committee and the Early Voting Ballot Board act within two days of discovering the defect.
16. There is also the matter of storing the ballots. If a ballot arrives before the Texas Election Code permits either the Signature Verification Committee or the Early Voting Ballot Board to convene, the early voting clerk will store the ballots in a locked area until the appropriate time. In Parker County, the Elections Department also utilizes surveillance cameras to ensure that the ballots remain secure. In addition, the Texas Election Code requires each local election authority to preserve and store mail-in ballots for a minimum of 22 months after Election Day so that they are available for audit. *Id.* at § 66.058. Storing these ballots can constitute a significant expense. Parker County rents a climate control storage facility for this purpose at \$1,200 a year.
17. All of this is to say that voting by mail poses a significant administrative burden on the county (as well as the voter), as there are multiple steps in the process, each of which consumes time, manpower, and resources.
18. Finally, there are more vulnerabilities with respect to voting by mail than voting by personal appearance. As an example, polling locations offer voters guaranteed privacy while casting their ballot. Not only is each voting booth sectioned off and surrounded by privacy screens, but poll watchers can intervene if a voter is being pressured or coerced to vote a certain way. That security does not exist when a voter votes by mail. Instead, the voter is casting his or her ballot in semi-public area such as a home or an assisted living facility, where the voter's choices may be scrutinized by others. Texas has enacted numerous laws to protect voters from this type of intimidation, but laws cannot eliminate the risk entirely. As such, there remains a serious concern that voters who vote by mail may be targeted by others seeking to influence their vote.

Executed on this 8th day of February, 2022.



Crickett Miller
Parker County Election Administrator

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

ISABEL LONGORIA and CATHY MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official capacity as Attorney General of Texas, KIM OGG, in her official capacity as Harris County District Attorney, SHAWN DICK, in his official capacity as Williamson County District Attorney, and JOSÉ GARZA, in his official capacity as Travis County District Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

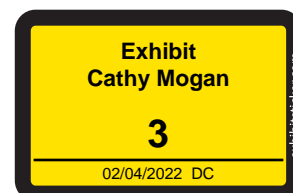
**APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Exhibit F

Voter Information Booth Statistical Chart

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	A	B	C	D	E
1	How many people....	Tues, Oct 5	Wed, Oct 6	Thurs, Oct 7	Total
2	stopped by booth	22	11	35	68
3	not sure registered	3	1	1	5
4	thought registered but not	1			1
5	thought registered in Travis			1	1
6	but not				
7	need ride to polls, etc				
8	didn't know election is in				
9	Nov				
10	don't understand				
11	"constitutional election???"				
12	asked about UPC			2	2
13	took Ukirk materials	14	14	2	30
14	Took copy of Clerk jobs at				
15	UT polls	2			2
16	Vote by mail info	6			6
17	Ballot Info	20		30	50
18	Took Voter Assistance Pg	8		25	33
19	Registered to vote	8		1	9
20			"I have heard great things about your church"		



MORGAN_00008

How many people....	Tues, Oct 19	Wed, Oct 20	Thurs, Oct 21
stopped by booth			
not sure registered			
thought registered but not			
thought registered in Travis but not			
need ride to polls, etc			
didn't know election is in Nov			
don't understand "constitutional election???"			
asked about UPC			
took Ukirk materials			
Took copy of Clerk jobs at UT polls			
Vote by mail info			
Took Props Page			
Took Voter Assistance Page			
we Registered to vote			

How many people....	Tues, Oct 12	Wed, Oct 13	Thurs, Oct 14
stopped by booth	48	27	35
not sure registered			4
thought registered but not			
thought registered in Travis but not			2
need ride to polls, etc			
didn't know election is in Nov			
don't understand "constitutional election???"			5
asked about UPC			
took Ukirk materials	15		6
Took copy of Clerk jobs at UT polls			
Vote by mail info	2		5
Ballot Info - list of props	28	27	27
Took Voter Assistance Page	22	27	22
we Registered to vote			3
Travis Voter Reg take away		7	3

How many people....	Tues, Oct 12	Wed, Oct 13	Thurs, Oct 14
stopped by booth			
not sure registered			
thought registered but not			
thought registered in Travis but not			
need ride to polls, etc			
didn't know election is in Nov			
don't understand "constitutional election???"			
asked about UPC			
took Ukirk materials			
Took copy of Clerk jobs at UT polls			
Vote by mail info			
Ballot Info - list of props			
Took Voter Assistance Page			
we Registered to vote			

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

ISABEL LONGORIA and CATHY
MORGAN,

Plaintiffs,

v.

WARREN K. PAXTON, in his official
capacity as Attorney General of Texas, KIM
OGG, in her official capacity as Harris
County District Attorney, SHAWN DICK,
in his official capacity as Williamson County
District Attorney, and JOSÉ GARZA, in his
official capacity as Travis County District
Attorney,

Defendants.

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Case No. 5:21-cv-1223-XR

APPENDIX IN SUPPORT OF DEFENDANT TEXAS
ATTORNEY GENERAL WARREN KENNETH PAXTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Exhibit G

Updated Voter Information Booth Statistical Chart

	A	B	C	D
1	How many people....	Tues, Oct 5	Wed, Oct 6	Thurs, Oct 7
2	stopped by booth	22	11	35
3	not sure registered	3	1	1
4	thought registered but not	1		
5	thought registered in Travis but not			1
6	need ride to polls, etc			
7	didn't know election is in Nov			
8	don't understand "constitutional election???"			
9	asked about UPC			2
10	took Ukirk materials	14	14	2
11	Took copy of Clerk jobs at UT polls	2		
12	Vote by mail info	6		
13	Ballot Info	20		30
14	Took Voter Assistance Pg	8		25
15	Registered to vote	8		1
16			"I have heard great things about your church"	
17				
18				

How many people....	Tues, Oct 12	Wed, Oct 13	Thurs, Oct 14	Total
stopped by booth	48	27	35	110
not sure registered			4	
thought registered but not				
thought registered in Travis but not			2	
need ride to polls, etc				
didn't know election is in Nov				
don't understand "constitutional election???"			5	5
asked about UPC				
took Ukirk materials	16		6	22
Took copy of Clerk jobs at UT polls				
Vote by mail info	1		5	6
Ballot Info - list of props	28	27	27	82
Took Voter Assistance Page	22	27	22	71
we Registered to vote			3	3
Travis Voter Reg take away		7	3	10

How many people....	Tues, Oct 19	Wed, Oct 20	Thurs, Oct 21		
stopped by booth	16	20	9		45
Took Props Page	7	18	6		31
Took Voter Assistance Page	4	16	2		22
Vote by mail info					
Where to vote			3		3
took Ukirk materials	1	4	1		6
not sure registered	1		1		2
we registered to vote		3	1		4
thought registered but not					
thought registered in Travis but not					
didn't know election is in Nov			1		1
don't understand "constitutional election???"					
asked about UPC			1		1
Took copy of Clerk jobs at UT polls					
Address change info			1		1
Plans to vote at home	1				1

How many people....	Tues, Oct 26	Wed, Oct 27	Thurs, Oct 28
stopped by booth	18	20	38
Took Props Page	12	18	30
Took Voter Assistance Page	7	18	25
Vote by mail info			
Where to vote		2	2
took Ukirk materials	1	9	10
not sure registered			
we registered to vote	1	2	3
thought registered but not thought registered in Travis but not			
didn't know election is in Nov			
don't understand "constitutional election???"			
asked about UPC		2	1
Took copy of Clerk jobs at UT polls			3
Address change info		3	1
Plans to vote at home			4
		heard good things about our church Another student asked about UPC, upbringing strict faith A student asked about the college goup. When Frank took showed him the north courtyard, they met the choir director. The student will rehearse with the choir tonight!!	

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APPENDIX IN SUPPORT OF DEFENDANT TEXAS
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Exhibit H

Texas Volunteer Deputy Registrar Guide

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INCLEMENT WEATHER NOTICE: Due to impending inclement weather, the Texas Secretary of State's offices will be closed on Thursday, February 3rd, 2022. Staff remain available by phone and e-mail, and electronic filing and searching are available on SOSDirect 24/7. Electronic filing is also available via SOSUpload 24/7.



Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

Texas Volunteer Deputy Registrar Guide

[Office of the Secretary of State](#)

www.sos.state.tx.us

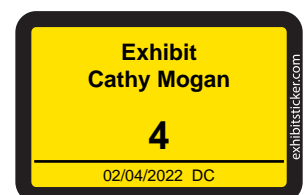
Elections Division

1.800.252.VOTE (8683)

Dear Volunteer Deputy Registrar:

In 2017, the 85th Texas Legislature enacted, and the Governor signed, House Bill 2324 effective September 1, 2017. To be eligible to vote, a person must be registered 30 days before Election Day. House Bill 2324 amended Section 13.042(c) of the Texas Election Code (the "Code") to provide that when you receive a completed application after the 34th day before the date of an election and on or before the last day for a person to timely submit a registration application for that election as provided by Section 13.143 of the Code, you must deliver the application to the county voter registrar no later than 5 p.m. of the next regular business day after the date to timely submit a registration application for that election as provided by Section 13.143 of the Code.

As a reminder, Senate Bill 142, which took effect June 20, 2015, provides an optional training method for the appointment of volunteer deputy registrars. Instead of holding in-person training sessions, a county **may** adopt a procedure that allows a person to review [training materials \(PDF\)](#) and [examination \(PDF\)](#) questions on the Secretary of State's website. After the person reviews the training materials and examination questions, the person must appear in person at the voter registrar's office, during regular business hours, to take the examination. Upon satisfactory completion of the examination, the voter registrar must appoint the person as a volunteer deputy registrar, and advise them of any county-specific procedures for completing the duties of a volunteer deputy registrar. Finally, the voter registrar must advise the newly appointed volunteer deputy registrar that the only requirements for voter registration are those prescribed by state law or by the Secretary of State.



Also as a reminder, House Bill 621, which became effective September 1, 2015, provides voter registrars the authority to terminate the appointment of a volunteer deputy registrar who has been determined to have intentionally destroyed or physically altered a voter registration application, or has engaged in any other activity that conflicts with their responsibilities as a volunteer deputy registrar.

The acceptance of the duties of volunteer deputy registrar places you in a position of trust and responsibility to the citizens you will register to vote.

Please become familiar with this guide and carry it with you while you perform your duties. If, in the course of your service, a question should arise which you are unable to answer, please contact your county voter registrar or the Elections Division for assistance.

Thank you for your service to the State of Texas.

Office of the Secretary of State
Elections Division

VOLUNTEER DEPUTY REGISTRAR GUIDE

Volunteer Deputy Registrars are entrusted with the responsibility of officially registering voters in the State of Texas. They are appointed by county voter registrars and charged with helping increase voter registration in the state.

Qualifications

To be appointed a volunteer deputy registrar, a person must:

- be at least 18 years old;
- be a United States citizen;
- not have been determined by a final judgment of a court exercising probate jurisdiction to be
 1. totally mentally incapacitated, or
 2. partially mentally incapacitated without the right to vote;
- never have been convicted of failing to deliver a voter application to a voter registrar;
- not have been finally convicted of a felony, or, if convicted, must have
 1. fully discharged the sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court, or
 2. been pardoned or otherwise released from the resulting disability to vote;
- not have been finally convicted of identity theft under Section 32.51 of the Penal Code; and
- be a resident of the State of Texas.

How to Become a Volunteer Deputy Registrar

- Contact the voter registrar in your county.
- The voter registrar will provide you with information about how training will be offered and completed.
- Upon satisfactorily completing training and examination, if required, the voter registrar will appoint you as a volunteer deputy registrar and advise you of any county-specific procedures for processing voter

registration applications and that the only requirements for voter registration are those prescribed by state law or by the Secretary of State.

- The voter registrar will issue you a certificate of appointment and give you a receipt book or voter registration applications with a tear off receipt.
- You may not receive another person's voter registration application until you have completed the training developed or approved by the Secretary of State.

Length of Appointment

You may be appointed a volunteer deputy registrar at any time. However, your term expires on December 31 of the even-numbered year.

Your appointment as a volunteer deputy registrar **may** be terminated by the appointing authority if it is determined that you:

- failed to properly review a voter registration application;
- intentionally destroyed or physically altered a registration application; or
- engaged in any other activity that conflicts with your responsibilities as a volunteer deputy registrar.

Your appointment as a volunteer deputy registrar **will** be terminated by the appointing authority if:

- you are finally convicted of an offense under the law relating to delivery of completed voter registration applications to the registrar; or
- you are finally convicted of an offense under the law relating to performance-based compensation for voter registrations.

All election materials issued to a volunteer deputy registrar, including the certificate of appointment, receipt books, receipts, VR applications and other forms in the volunteer deputy registrar's possession, must be returned or accounted for upon termination of appointment.

Role of a Volunteer Deputy Registrar

Checklist

Before you get started, be sure you have the following:

- A certificate of appointment;
- Plenty of voter registration applications;
- A pen;
- A receipt book; and
- This guide

Distributing and Accepting Applications

You may distribute and accept a voter registration application from any resident of the county who:

- is a citizen of the United States;
- is at least 17 years and 10 months old to register, and must be 18 years of age by Election Day;
- has not been finally convicted of a felony, or if a felon, must have completed all of the punishment, including any term of incarceration, parole, supervision, period of probation, or must have received a pardon; and
- must not have been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.

You may also distribute and accept applications from current registered voters who wish to change or correct information on their voter registration certificate (such as name or address) by checking the “change” box on the application.

Your county voter registrar should provide you with applications containing the county return address. If your county voter registrar does not have enough applications to provide to you, you may print blank applications for volunteer deputy registrars from the Secretary of State’s website. These applications should only be distributed to applicants residing in the county. Should you receive generic applications containing the Secretary of State’s return address, you can distribute to anyone residing in any county; however, you can only accept applications from those registering within the county in which you were appointed.

Assisting Applicants

- You may help a person fill out the application if he/she cannot read, or has a physical disability.
- If an applicant cannot sign his/her name on the application, the applicant may make a mark on the signature line. Print the name of the applicant beside the mark. Sign your name and address as the witness and state the reason the applicant is unable to sign.
- You may allow another registered voter (or anyone who has submitted a registration application) to fill out and sign an application for his/her spouse, parent or child. That person must sign the application as "agent" and state the relationship to the applicant on the application. The "agent" must have the permission of the applicant to do this.

Reviewing the Applications

While the applicant is still in your presence, you must review the application for completeness. The following sections of the voter registration application must be completed:

- Section 1: Applicant must select why they are submitting the application (new application, change to current information or request for replacement). Applicant must also answer citizenship and age question;
- Section 2: Full name, including any middle, maiden, or former name;

- Section 3: Residence address must be a street address or a description of the location of the residence;
- Section 4: Valid mailing address, if mail can't be delivered to the residence address;
- Section 5: City and County of Former Residence in Texas;
- Section 6: Date of birth, including month, day, and year;
- Section 9: Texas Driver's License No., Texas Personal I.D. No. or last 4 digits of social security number. If the applicant hasn't been issued any of these items, he or she must check the box in this section affirming this statement; and
- Section 10: Signature of applicant and date of signing. Be sure the applicant has read the statements that he/she is signing regarding qualifications to register and if an agent is registering for an applicant, be sure the agent provides his/her relationship to the applicant.

You CANNOT:

- determine if the applicant is actually qualified to register to vote or
- make the applicant provide his/her gender or telephone number.

Registration Receipt

For each completed voter registration application, fill out a receipt in duplicate and give each applicant the original receipt. The duplicate receipts must be delivered to the voter registrar along with the applications. You may wish to keep copies or stubs for your records. **You should not keep copies of the completed voter registration applications because these documents contain information that is confidential by law**

Delivery of Applications and Receipts

You must deliver completed registration applications and receipts in person to the voter registrar no later than 5 p.m. on the 5th day after the date you receive them. FAILURE TO DELIVER AN APPLICATION IN A TIMELY MANNER IS A CRIMINAL OFFENSE.

SPECIAL NOTE: To be eligible to vote, a person must be registered 30 days before Election Day. House Bill 2324 (85th Legislature, RS, 2017), effective September 1, 2017, amended Section 13.042(c) of the Texas Election Code (the "Code") to provide that when you receive a completed application after the 34th day before the date of an election and on or before the last day for a person to timely submit a registration application for that election as provided by Section 13.143 of the Code, you must deliver the application to the county voter registrar no later than 5 p.m. of the next regular business day after the date to timely submit a registration application for that election as provided by Section 13.143 of the Code.

When is the Registration Effective?

- Tell the applicant that he/she can vote as soon as the 30th day after submitting the application. This 30-day waiting period starts when the volunteer deputy registrar receives the application form.

- If the applicant is under the age of 18, the registration will become effective on the 30th day after the voter registrar gets the application or on the applicant's 18th birthday, whichever comes later.

How long is the Registration Effective?

Tell the applicant that the registration will be automatically renewed every even-numbered year unless:

- the voter moves to another address; or
- the voter receives a final felony conviction and has not completed the sentence, probation or parole or been otherwise pardoned or released from the resulting disability to vote. Note: "deferred adjudication" does not constitute a "final felony conviction."

Address Changes

If the voter moves within the county, he/she must update the address on the registration by:

- making the change on the back of the voter registration certificate and mailing it to the county voter registrar;
- submitting a new application to the voter registrar and check the box for "change"; or
- writing a letter to the voter registrar explaining the change of address.

If the voter moves to another county, he/she must register to vote in the new county of residence.

Name Changes

Voters can make necessary name changes by:

- providing the name change on the back of his/her voter registration certificate and mailing it to the county voter registrar;
- submitting a new application to the voter registrar and check the box for "change"; or
- writing a letter to the voter registrar explaining the name change.

Frequently Asked Questions

Q: Must I personally be registered to vote in order to serve as a volunteer deputy registrar?

A: No. Pursuant to Section 13.031(d)(3) of the Code to be eligible for appointment as a volunteer deputy registrar, a person must meet the requirements to be a qualified voter under Section 11.002 of the Code, except that the person is not required to be a registered voter.

Q: I have been designated a deputy registrar from County X. I will be at an event that will have attendees from County X along with County Y and County Z. May I register people from County Y and County Z?

A: No. Volunteer deputy registrar status is conferred on a county-by-county basis. To accept applications for Y or Z counties, you would have to become a volunteer deputy registrar for those counties. You could certainly give applications to the attendees from County Y and County Z and direct them to mail the

application to the appropriate county voter registrar's office. Under Section 13.044 of the Code, a person commits a Class C misdemeanor by acting as a volunteer deputy registrar when he or she does not have an effective appointment as a deputy registrar.

Q: May I photocopy a completed application before turning it in to the county voter registrar?

A: No. Section 13.004(c-1) of the Code requires the county voter registrar to ensure that certain information, such as the telephone number, on a registration application is redacted from photocopies of voter registration applications from her office. In our opinion, this means that a photocopy of an application must come directly from the county voter registrar's office, so that he or she may ensure the required information has been blacked out or otherwise obscured. With that said, we believe that a volunteer deputy registrar may photocopy the receipt. You may also copy the relevant information from the application in writing just as you would be able to do if you went to the registrar's office and pulled a copy of the original application.

Q: I am a candidate and/or working for a campaign. May I serve as a volunteer deputy registrar?

A: Yes. There is no prohibition against a candidate or a campaign worker serving as a deputy registrar, as long as they otherwise meet the "Qualifications" described above and have been officially appointed as a volunteer deputy registrar. Similarly, there is no prohibition against a volunteer deputy registrar registering voters at a campaign rally or event. While working a rally or public event, a volunteer deputy registrar must offer registration to anyone who requests it.

Q: Is there any way for me to become a statewide volunteer deputy registrar?

A: No. Volunteer deputy registrar appointments are made on a county-by-county basis. Section 13.032 of the Code provides that a county may not refuse to appoint a resident of the county as a volunteer deputy registrar. A voter registrar may not refuse to appoint a volunteer deputy registrar on the basis of sex, race, color, creed, or national origin or ancestry.

Q: Is there a minimum age to become a volunteer deputy registrar?

A: Yes. A person must be at least 18 years of age to become a volunteer deputy registrar.

Q: I just want to hand out blank voter registration application forms and encourage people to register to vote. Can I do that without being appointed as a volunteer deputy registrar?

A: Yes. Anyone can hand out blank application forms to voters for the voters to fill out and mail in themselves. If this is all you want to do, you do not have to be a volunteer deputy registrar. Also, if you are already a volunteer deputy registrar in one county, you can hand out blank forms in other counties where you are not a volunteer deputy. It is the voter's handing the application back to you to review and to deliver to the registrar that triggers the requirement to be an authorized volunteer deputy registrar.

Q: What if someone says he or she is already registered?

A: You may wish to advise the person that the new application form will be treated as an update if the old registration is in the same county and the voter is providing new information. If the person moved to a new county, he or she will need to register to vote in the new county.

Q: As a volunteer deputy registrar, may I appoint others to assist me in registering voters?

A: No. Each volunteer deputy registrar must be appointed directly by the county voter registrar or that registrar's deputy in the voter registrar's office.

Q: May a volunteer deputy registrar bundle completed applications and submit them to the voter registrar by mail?

A: No. There are two methods for a volunteer deputy registrar to submit applications to the county voter registrar. First, the applications may be submitted by personal delivery by the volunteer deputy registrar. Second, the volunteer deputy registrar may give his or her applications to another volunteer deputy registrar for personal delivery to the county voter registrar.

Q: I failed to submit the applications to the county voter registrar within the allotted period. What should I do now?

A: Submit them to the county voter registrar as soon as possible. Under the law, the voter's registration is not impacted by your late delivery to the voter registrar. However, you should deliver them as soon as possible. Further delay will create problems in getting the lists ready in time for early voting and election day. **The registration process cannot be completed until you deliver the application.** The registration is still effective and the voter still receives the effective date of submission to you.

Q: How long do I have to keep my receipt books?

A: It is not addressed in the Code, but we would suggest that you should retain the receipt books for 22 months following the election closest to the effective date of the applications. Please communicate with your county voter registrar, who may have their own timeline of retaining the receipt books.

Q: What if I was appointed but still have not gone through the training?

A: Until you have completed the training, you may not receive any person's voter registration application. For more information, contact the Secretary of State's office or the Voter Registrar (who may be the County Clerk, Elections Administrator, or Tax Assessor-Collector) in your county.

Q: If I have previously taken the volunteer deputy registrar examination and have received a certificate of appointment in one county, but would like to be appointed as a volunteer deputy registrar in another county, am I required to take the examination again in the new county?

A: No, you are not required to retake the examination in the new county if you previously took the exam and received a certificate of appointment in another county. You should complete and submit a Request for

Appointment as a Volunteer Deputy Registrar with the new county. The voter registrar in the new county will appoint you as a volunteer deputy registrar and advise you of any county-specific procedures for completing the duties of a volunteer deputy registrar.

Published by the Elections Division of the Office of the Secretary of State
This pamphlet is available in large print, or CD upon request.

SECRETARY OF STATE

Elections Division

P.O. Box 12060

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RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Exhibit I

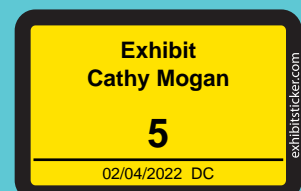
Texas Impact Guide for Congregational Voter Information Booths

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Living Our Faith Through Voter Outreach

a how-to guide for congregational voter information booths



MORGAN_00012

Texas Faith votes

equipping Texans for faithful election leadership

HOW-TO: Voter Information Booth

Project At-a-Glance

Volunteers from the congregation staff a table or booth that provides voter information to members of the community in the weeks leading up to an election.

Timeline

Three to four weeks in advance

- Identify the particular community or neighborhood your booth will serve
- Choose where to locate your booth
- Assess how many volunteers/volunteer hours you can count on, and scope your hours of operation accordingly
- Create a checklist of supplies and materials needs
- Decide what information and services you will offer
- Identify any volunteer training needs and make a plan to address them

Two to three weeks in advance

- Launch volunteer recruitment
- Assemble printed materials like handouts
- Arrange for volunteers to get trained if necessary

One to two weeks in advance

- Create a staging area where you can keep your materials and supplies
- Purchase snacks, water, or other items you want to hand out
- Nail down volunteer shifts and responsibilities for tasks, including record-keeping

After the election

- Organize your planning notes and lists so you'll have a head start for next time
- Have volunteers complete an evaluation form
- Write an article for your church newsletter about your outcomes
- Tell Texas Impact about your great work!

Before you proceed with this or any other project, be sure you understand your congregation's process for deciding to undertake projects, especially projects that involve outreach to people outside the congregation.

Questions to Guide Your Planning

What are our congregation's goals for this project?

Some possible goals might be:

- Register new voters
- Provide information to help folks who are already registered to understand what's on the ballot
- Provide information to help voters navigate the process, such as information on what materials are allowed in the voting booth
- Help eligible voters understand how to vote by mail
- Highlight your congregation's presence in the community
- Learn more about your congregation's neighborhood context
- Provide nonpartisan civic leadership

What community or population will your booth serve?

If your house of worship is near a high-traffic area, like a university campus; transit stop; medical center; or supermarket, you probably will want to set up your booth on your own grounds. If your house of worship is not near a high-traffic area, you might consider working with local election officials and advocates like League of Women Voters to identify areas in your community that could benefit from voter information.

Where will you locate your booth?

You will want to locate your booth where it is visible and accessible. You probably will need to request permission if you want to locate your booth anywhere other than on your congregation's grounds.

What will your hours of operation be and how many volunteers will you need?

Your hours of operation will depend a lot on what community you are serving. For example, if you intend to serve shift workers or college students, it's important to know when the shift changes or breaks occur, when the majority of your target audience will be walking past your booth.

What supplies and materials will you need?

In addition to chairs for volunteers and a table, you'll probably want signage and handouts. You may also choose to use a pop-up canopy—if you do, be sure you also have sandbags or weights to secure it.

You may want to provide water, snacks, or other items that require a cooler. You may want items like banners or a tablecloth. Depending where your booth is located, you might need a way to transport

your materials and supplies from a car to the location, and you might need to make provision for parking while you load and unload.

If you intend to offer “check your voter registration” services, you will need a phone, tablet, or laptop computer that is able to get online reliably.

What information and services will you offer?

Common types of information you could offer include:

- Checking voter registration status using the Secretary of State’s database
- Registering new voters, and helping registered voters change their county of residence
- Providing applications for mail-in ballots—note that if you provide the applications, it’s helpful to provide stamped envelopes as well, along with a list of county election office addresses that applicants can use to send their application to their county of record
- “What’s on the ballot?” handouts
- Information about the voting process like a list of polling locations; hours and dates of early voting in your county; what to bring with you when you go vote (like your ID); and what to leave at home (like your phone)
- How to sign up to work elections in the future
- How to sign up to help voters who need assistance with transportation, translation, or other services
- How to sign up to serve as a poll watcher or poll monitor
- How to report a problem at a polling location
- How to get involved with your congregation

What training might your volunteers need?

The more information your volunteers have, the more comfortable they will feel talking with folks at your booth, so it’s a good idea to hold a volunteer training session and to make sure that every shift has at least one volunteer who feels like a “pro.”

There are a couple of tasks that volunteers **MUST** be trained for. If you intend to register voters, at least one volunteer at each shift must be trained as a Volunteer Deputy Registrar (VDR) in your county. If you will be helping individuals look up their voter registration status, your volunteers must be trained to look up voters using the Secretary of State’s website. If you intend to provide applications for ballot by mail, it is advisable that at least one volunteer at each shift **NOT** be a VDR. Texas law is ambiguous as to whether VDRs are permitted to assist individuals to apply for ballots by mail.

Finally, it’s important to keep good records, including how many people visit your booth, how many of various handouts you distribute, and who your volunteers are. You should be sure all volunteers understand the record-keeping system.

This project was developed in partnership with University Presbyterian Church of Austin, Texas. Special thanks to Cathy Morgan of University Presbyterian Church for creating and compiling the information in this handout.

Due to a technical error, I was unable to upload a pdf of Exhibit J through CM/ECF. Exhibit J—the report of the Commission on Federal Election Reform: Building Confidence in U.S. Elections—can be downloaded from <https://www.legislationline.org/download/id/1472/file/3b50795b2d0374cbef5c29766256.pdf>.

/s/ William T. Thompson
WILLIAM T. THOMPSON

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